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Tuesday
December 14, 1982

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Environmental Protection Agency

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Federal Reserve System

Flood Insurance
Federal Emergency Management Agency

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Food and Nutrition Service

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Federal Maritime Commission

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

FEDERAL LABOR RELATIONS AUTHORITY; GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY; AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Part 2429

Processing of Cases; General Requirements

Correction

In FR Doc. 82–33530 appearing at page 55379 of the issue for Thursday, December 9, 1982, the heading should read as set forth above.

1505-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, and 273

[Amendment No. 235]

Food Stamp Program; Eligibility Criteria and Reduction or Termination of Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rulemaking.

SUMMARY: This interim rule implements several food stamp provisions of the Omnibus Budget Reconciliation Act of 1982. The provisions of the Act incorporated in this rule include: (1) A change in the definition of a household; (2) establishment of a definition of disability to include disabled veterans and disabled spouses and children of veterans; (3) the use of both the gross and net income eligibility standards for households with no elderly or disabled members; (4) changes in the resource provisions for certain retirement plans; (5) the elimination of issuances of less than $10 for initial months; (6) a change in the definition of "initial month"; (7) the extension of an option to State agencies to accept participation in Aid to Families with Dependent Children (AFDC) as satisfaction of the Food Stamp Program's resource test for certain households; (8) a restriction on the eligibility of students; and (9) provisions allowing State agencies to more promptly reduce benefits or terminate households based on written information provided by the households. These changes are intended to reduce Program costs and to simplify administration.

DATES: The provisions of this interim rule shall be effective December 14, 1982. Except for the provisions which simply extend options to State agencies, State agencies shall implement the changes made by this rule no later than February 1, 1983. To be assured of consideration in the development of the final rule, comments on this rule must be received by March 14, 1983.

ADDRESS: Comments should be addressed to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Room 708, 3101 Park Center Drive, 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."

Certain provisions of this rulemaking (those affecting disabled elderly persons and disabled veterans and their disabled, surviving spouses and children) are effective retroactively to September 8, 1982. All of the other provisions of this rule are effective on the date of publication. This schedule of effective dates is consistent with the mandate of Section 193 of the Omnibus Budget Reconcilation Act of 1982 (Pub. L. 97–253, enacted on September 8, 1982). We believe 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. Overall, the changes will cause a small increase in State administrative burden, and will affect a moderate number of households.

Paperwork Reduction Act

This regulation does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Introduction

The Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253) was enacted on September 8, 1982. Subtitle E of Title I of the Act, entitled the Food Stamp Act Amendments of 1982 (1982 Amendments), makes the changes in the Food Stamp Program promulgated in this interim rule. (The 1982 Amendments also make a number of other changes which have been or will be addressed in other regulations.) The changes made by this interim rule are described below.

Household Composition

Veterans and their suviving spouses/children: Under existing regulations elderly and disabled persons receive special consideration in the areas of household definition, income eligibility, and income deductions. Such special consideration is limited to those persons who are 60 years of age or older or receive supplemental security income benefits or social security payments.

This definition of elderly and disabled persons excluded disabled recipients of veterans benefits from special consideration. To rectify the resulting inequity, Section 145 of Pub. L. 97–253 incorporates into law an expansion of the definition of "elderly and disabled" to include disabled veterans and their disabled surviving spouses and children.

The provision of law defines who are disabled veterans, surviving spouses, or surviving childern for food stamp purposes. Disabled veterans are those people who have permanent disabilities rated as "total" (100%) by the Veterans' Administration (VA), or are considered by the VA to be in need of regular aid and attendance, or permanently housebound.

Some veterans with disabilities rated less than "total" receive the maximum benefits awarded for total disability if the VA considers then to be totally unemployable. The intent of the new legislation is to give persons receiving veterans disability benefits the same consideration as persons receiving disability benefits under the Social Security Act. (See H.R. Report No. 97–687, 97th Congress, 2d session, 44 (1982).) Employability is a major factor for someone to be considered permanently disabled under the Social Security Act. Thus, it is reasonable to assume that a veteran receiving total disability benefits based on unemployability would compare to someone with a Social Security Act disability and should be included under the intent of the law.

Therefore, the interim rule (§ 271.2) provides that disabled veterans with disabilities rated total, or receiving the benefits of a total rating, would be entitled to the special considerations given other disabled persons for Food Stamp Program purposes.

Under the statute, a disabled surviving spouse or child of a veteran would be eligible for the same special consideration given other disabled persons if they have a disability considered permanent under the Social Security Act and are receiving, or are approved to receive, compensation for a service-connected death or pension benefits for a nonservice-connected death. A surviving spouse or child can qualify for the special consideration without a disability under the Social Security Act when they are receiving additional compensation or pension benefits based on a VA determination that the spouse is considered in need of regular aid and attendance or permanently housebound, or a VA determination that the surviving child is permanently incapable of self-support.

Congress reported that the following is a list developed by the Social Security Administration (SSA), revised periodically, which some State agencies use (under contracts with SSA) to determine what impairments constitute permanent disability for social security Act disability purposes. (See H.R. Rep. No. 97–687, page 45.)

(1) Permanent loss of use of both hands, both feet, or one hand and one foot.

(2) Amputation of leg at hip.

(3) Amputation of leg or foot because of diabetes mellitus or peripheral vascular diseases.

(4) Total deafness, not correctable by surgery or hearing aid.

(5) Statutory blindness, except if due to cataracts or detached retina.

(6) IQ 59 or less, established after attaining age 16.

(7) Spinal cord or nerve root lesions resulting in paraplegia or quadriplegia.

(8) Multiple sclerosis in which there is damage of the nervous system because of scattered areas of inflammation which recurs and has progressed to varied interference with the function of the nervous system, including severe muscle weakness, paralysis, and vision and speech defects.

(9) Muscular dystrophy with irreversible wasting of the muscles with a significant effect on the ability to use the arms and/or legs.

(10) Impaired renal function due to chronic renal disease (documented by persistent adverse objective findings) resulting in severely reduced function which may require dialysis or kidney transplant.

(11) Amputation of a limb, current age 55 or older.

The Department does not intend that personnel responsible for making Social Security disability determinations also be responsible for working disability determinations for the Food Stamp Program. Congress intends that State agencies will determine by observation that the surviving spouse or child has one of the listed permanent disabilities or will make the determination based on a statement from a physician or licensed or certified psychologist. (H.R. Rep. No. 97–687, page 45). The Department also intends, that State agencies verify disability for a veteran based on observation, or a statement from the VA.

Siblings living together: The 1981 Amendments to the Food Stamp Act (Pub. L. 97–35) and 7 CFR 273.1(a) provided that parents and children living together must be considered as one household for Food Stamp Program purposes. Section 142 of Pub. L. 97–253 expands the provision to provide that siblings living together must also be considered as one household.

The 1981 Amendments further provided that parents and children living together could be considered as separate households if they purchase and prepare meals separately, but only if at least one parent is 60 years of age or older or is disabled. Public Law 97–253 expands this portion of parent/child rule to siblings purchasing and preparing meals separately when at least one of the siblings is elderly or disabled.

The commonly know definition of the term "sibling" is a brother and sister related by blood. Thus, natural or half brothers and sisters would be subject to this provision. The Department is also including brothers and sisters related through adoption or marriage (step brothers and sisters) in the definition of "sibling". Since adopted and step children are treated the same as natural children under current regulations requiring parents and children living together to be considered as one household, the definition of "sibling" in these rules is consistent with the current policy.

Elderly/Disabled Living with Others: Section 142 of Pub. L. 97–253 expands the definition of a household to provide that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other permanent physical or mental nondisease-related disabilities may be a separate household even if living and eating with others. The statute limits this exception to those cases where the income of the individuals with whom the elderly, disabled person resides does not exceed 165 percent of the poverty level. Congress believes that, whenever possible, elderly persons should be able to remain in private homes rather than be institutionalized (H.R. Rep. No. 97–687, page 43). Providing an opportunity for elderly/disabled persons to be eligible separately and apart from others with whom they live, who themselves have limited income, relieves some of the financial burden imposed on such households. This assistance could mean the difference between an elderly

relative or friend living at home or being institutionalized.

The key factor in determining whether or not disability would qualify a household for separate status under this provision is inability to purchase and prepare meals. In the majority of cases, someone with a disability considered permanent under the Social Security Act can be assumed to be incapable of purchasing and preparing meals. However, because disability under the Social Security Act as well as other disability programs is based on inability to work, State agencies should not in every case automatically assume the disability constitutes inability to purchase/prepare meals.

The Department has not specified by regulation what consititutes disability under the Social Security Act. State agencies should obtain and use the most current list issued by the Social Security Administration of what constitutes permanent disability for Social Security purposes. The Department does not intend that personnel responsible for making Social Security disability determinations also be responsible for working disability determinations for the Food Stamp Program. State agencies can use an applicant's doctor's statement for determining what constitutes an nondisease-related severe, permanent disability.

If it is obvious to the State agency that the person could not purchase and prepare his/her own meals as easily as a nondisabled person, separate household status should be granted. However, when the inability to purchase and prepare meals is not obvious to the State agency, the State agency shall request the individual to provide a statement from a physician that they are unable to purchase and prepare their own meals.

Another factor in determining a person's food stamp eligibility under this provision is the income of the others with whom the elderly, disabled person resides. The law states the income must be less than 165% of the poverty level. The law gives the Department the authority to decide how to calculate the income of the others. The rules provide that the gross income of the others with whom the elderly, disabled person resides shall be used and determined as if they were applying for participation. The income of the elderly, disabled person and his/her spouse is not included in the calculation by statute. Also, the elderly, disabled person and his/her spouse are not to be considered household members for this purpose.

The gross income of the others would then be compared to the Program's gross monthly income eligibility standard to determine if the income is within the 165% limit placed on this provision. The elderly, disabled person and his/her spouse would not be considered as household members for this comparison. Handling the income of the others in this manner will simplify certification procedures for the others should they wish to participate once the elderly, disabled member is considered eligible for separate household status. The following table reflects the gross monthly income limits based on 165% that would be applicable for use under this provision of law:

Household size	48 States and D.C., Guam, and the Virgin Islands	Alaska	Hawaii
1	644	808	742
2	856	1,072	985
3	1,067	1,336	1,228
4	1,279	1,600	1,472
5	1,491	1,864	1,715
6	1,702	2,128	1,958
7	1,914	2,392	2,202
8	2,216	2,656	2,445
Each additional member	+212	+264	+244

To the extent that expenses are shared among the two households, once separate household status is established, State agencies will prorate and attribute allowable expenses to determine income deduction amounts, as appropriate, to whomever incurs the expense.

Household Claim for Separate Status

In the conference report to accompany Pub. L. 97–253 (H.R. Rep. No. 97–759, page 63), the conferees expressed their expectation that eligibility workers could effectively question all claims of "separateness" and that burden of proof for establishing "separateness" would be placed on the household, not the State agency. The interim rule (§ 273.1(f)(2)(i)) incorporates this language in the regulations.

Students

Section 161 of Pub. L. 97–253 amends the Food Stamp Act to further restrict food stamp participation by post-secondary students. Prior to passage of this amendment, the Food Stamp Act authorized eligibility for students with a dependent spouse or school-age dependent children. Pursuant to the amendment, participation of students with dependents is now limited to those with dependent children under the age of six; or those with dependent children age six but under age 12 for whom adequate child care is not available. The interim rule (§ 273.5) reflects the restrictions. The Department intends that State agencies determine availability of adequate child care on a case-by-case basis.

The law also provides that students receiving benefits from the Aid to Families with Dependent Children Program may participate. The interim rule (§ 273.5) has been revised to include this category of eligible students.

Retirement Accounts

Current regulations provide a resource exclusion for funds in pension plans. An exclusion is specifically provided for funds in plans with interest penalties for early withdrawal, such as Keogh plans and individual retirement accounts (IRA's).

Section 151 of Pub. L. 97–253 mandates a change regarding the resource exclusion for retirement accounts. The new statutory provision requires that savings and retirement accounts be included in household resources, regardless of whether there is a penalty for early withdrawal. The Conference Report on Pub. L. 97–253 (H.R. Rep. No. 97–759, p. 64) explains that this statutory change is intended to include as resources only savings accounts, IRA's, and Keogh plans which involve no contractual relationship with other individuals. The statutory change does not affect the current exclusion for other types of retirement or pension plans such as those which provide for groups of employees.

The new statutory provision does not require a change in current policy regarding savings accounts. Under the current policy, savings accounts are counted as resources unless they are inaccessible, jointly held or specifically excluded under other statutes.

Unlike the policy on savings accounts, the current policy regarding IRA's is reversed by the new statute. Therefore, this rule requires that funds in IRA's be counted as resources. The rule provides that the amount to be counted as a resource shall be equal to the total amount in the IRA minus the amount that would be lost as penalty for early withdrawal of the entire account. This provision is made to ensure that only the funds actually available to the household are counted as resources. As for verification generally, the household has primary responsibility for obtaining verification of the amount in the IRA and the penalty that would be applied for early withdrawal.

With regard to Keogh plans, the language in the Conference Report on Pub. L. 97–253 indicates that Congress recognized that two types of Keogh

plans exist and that each type should be treated differently. Keogh plans are retirement plans established by self-employed persons. Many Keogh plans are established for individual self-employed persons. Other Keogh plans are established for both the self-employed person or persons and employees.

This interim rule requires that the funds in a one-person Keogh plan, minus the amount that would be lost as penalty for early withdrawal of all funds in the plan, be included in household resources. (The provision accounting for amounts that would be lost to penalties is included for one-person Keogh plans for the same reasons that it is included for IRA's, as discussed above.) On the other hand, Keogh plans involving more than one person normally will be excluded as resources, because they involve the "contractual relationship with other individuals" referred to in the Conference Report. However, if the Keogh plan is such that individual participants may make withdrawals without affecting the other parties in any way (i.e., without any contractual obligation to the other participants), then the household member's funds in the Keogh plan will be counted as a resource.

The interim rule provides further that the exclusion for Keogh plans involving more than one person will be permitted only if the other persons involved in the plan are not household members. For example, a husband and wife living together could not have excludable Keogh plan unless a person who is not a household member also participates in the Keogh plan. The Department believes that this provision is necessary in order to prevent abuse of the resource exclusion for Keogh plans involving more than one person. In addition, the provision is consistent with the intent of Congress that funds in retirement accounts that are accessible to the household be counted as resources. (See § 273.8(c)(1) and (e)(2).)

Income Eligibility Standards

Under current regulations, two different income eligibility standards are used. For households with elderly or disabled members, a net income standard equal to 100 percent of the Federal income poverty guidelines is used to determine eligibility. Net income means the total of nonexcluded earned and unearned income (gross income) minus the earned income, standard, medical, dependent care, and excess shelter cost deductions. For all other households, eligibility currently is determined based on a gross income standard equal to 130 percent of the Federal income poverty guidelines.

Under the provisions of section 146 of Pub. L. 97–253, households with no elderly or disabled members are subject to *both* the gross and the net income eligibility tests. To be eligible, these households must meet both the net and the gross income standards. The eligiblity requirements for households with elderly or disabled members remain unchanged. Only the net income eligibility standards will be used for households with elderly or disabled members. Also as under current regulations, benefit level determinations for all households will continue to be based on net income.

This change will entail very little additional workload for State agencies. When a household with no elderly or disabled members applies, the State agency will first calculate the household's gross income. As under current regulations, if the household does not meet the gross income eligibility standards, the application will be denied. If the household does pass the gross income test, just as under current regulations, the State agency will have to calculate the household's net income in order to determine the benefit level. At this point the State agency will need to perform the additional task of comparing the net income with the net income eligibility tables. If the household does not meet the net income standards, then the application will be denied. If the household does meet the net income standards and is otherwise eligible, then benefits will be determined based upon net income.

In addition to this change, the interim rule reflects the stipulation in Section 146 of Pub. L. 97–253 that the Program's income standards shall be those defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). This stipulation does not constitute a change in the standards; it is merely a technical change to reflect the statutory reference to the standards. They are the same as the income standards which have been used up to the present, and they are to be adjusted to reflect changes in the Consumer Price Index as under current provisions. In this interim rule, the standards are referred to as the Federal income poverty guidelines, and the references to the OMB income guidelines have been removed. (See § 273.9(a) and § 273.10 (a) and (e).)

Initial Months

Current regulations provide for the proration of initial month benefits to correspond to the date of the month on which the household applies. Under the proration system, households receive benefits (for the initial months) from the day of application through the end of the month. Households do not receive benefits for the days prior to the date of application.

Proration of benefits only occurs for initial months. Current regulations define "initial months" in the following manner. For a household which has not participated in the Food Stamp Program previously, the first month for which benefits are issued is the initial month. For a household which has participated previously, the initial month is the first month for which an allotment is issued following any period of more than a month during which the household was not certified for participation. This provision for households which have participated previously allows households which fail to reapply in a timely manner to receive a full month's benefit (with no proration), as long as they reapply within one month of the end of their certification periods. The provisions regarding proration of initial month benefits were mandated in Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981.

Section 163(b) of Pub. L. 97–253 changes the definition of "initial month" as it bears on a household which has participated previously. Under the new definition, an initial month for such a household includes the first month for which an allotment is issued following *any period of time* during which the household was not certified for participation, provided that the household does not have an application pending. Consequently, if a household reapplies any time after the last day of its certification period, then its benefits will be prorated. Such a household is to receive benefits from the date of reapplication through the end of the month.

The new provisions may be clarified by the following examples:

1. A household's certification period ends on March 31, but the household does not reapply until April 3. If the household is eligible, its April benefits will be prorated for the period April 3 through April 30.

2. A household's certification period ends on May 31, and the household submits its application for recertification on the same date. In this case, even though the application for recertification may not actually be approved until mid-June, there is no gap between certification periods. Therefore, June would not be an initial month and the household allotment would not be prorated.

Section 163(a) of Pub. L. 97–253 makes another change with regard to initial month benefits. The new statute provides that if the calculation of initial month benefits would result in an allotment of less than $10, then no benefits shall be issued. This provision will apply to all initial month benefits. The current $10 minimum benefit for one- and two-person households will no longer apply to initial month benefits. For subsequent months in the certification period, however, the $10 minimum benefit provision for one- and two-person households will continue to be in effect.

This interim rule reflects the new statutory provisions changing the definition of initial month and eliminating prorated benefits of less than $10 in an initial month. This rule also requires that, in determining initial month benefits, State agencies round the result of proration down to the nearest lower dollar increment. Under existing regulations, prorated benefits are rounded to the nearest dollar level; that is, benefits are rounded down if they end in 1 through 49 cents and are rounded up if they end in 50 through 99 cents. Under this rule, all prorated benefits, from 1 through 99 cents, will be rounded down to the next lower dollar level. This change is made to reflect Section 143 of Pub. L. 97–253, which requires similar downward rounding for unprorated allotments and for adjustments in the Thirfty Food Plan amounts, the standard deduction, and the ceilings for the dependent care and excess shelter cost deductions. Also to be consistent with Section 143, this rule provides for downward rounding of benefit levels which have been reduced as a result of a reduction, suspension, or cancellation of benefits in the event of a short-fall in appropriations for the Program. The downward rounding provisions for Thrifty Food Plan amounts and for allotments in non-initial months were incorporated in a final rule issued on September 14, 1982 at 47 FR 40397. The downward rounding procedures for the deductions were incorporated in a separate final rule issued on November 19, 1982, at 47 FR 52328. (See § 273.10 (a) and (e).)

Categorical Eligibility

Section 153 of Pub. L. 97–253 extends to State agencies the authority to consider households in which all members receive assistance through Aid to Families with Dependent Children (AFDC) and whose income meets the gross income eligibility standards to have satisfied the Food Stamp Program's resource test. This provision waives only the resource test: These households must continue to meet all other Food Stamp Program eligibility standards (including the net income standards). Under this provision, only households in which all members are included in an AFDC assistance unit may be extended categorical resource eligibility. In addition, such households may be extended categorical resource eligibility only if they meet the gross income eligibility standards. This provision is incorporated in this interim rule. (See § 273.8(a).)

Two examples may be helpful in understanding this provision:

1. A household comprised of a mother and children, all included in an AFDC assistance unit, may be considered to have met the food stamp resource eligibility requirements if the household meets the gross income standards.

2. A household comprised of a mother, children, and another person, with only the mother and children included in an AFDC assistance unit, is ineligible for categorical resource eligibility regardless of the household's gross income. This household must be subject to the regular Food Stamp Program resource limitations to determine eligibility.

Immediate Adverse Action

Section 171 of Pub. L. 97–253 has amended Section 11(e)(10) of the Food Stamp Act to give State agencies a new option in taking adverse action against participants. Currently, except for a few specific kinds of changes, a State agency must notify a household at least ten days before the agency acts to reduce or terminate a household's benefits. The new option allows the State agency to notify the household as late as the date on which the household is scheduled to receive its allotment.

Through this option, the State agency can quickly reduce or terminate benefits. This has two effects. First, it reduces the Program's cost. Advance notice and slower action mean higher benefits for a household for an extra month. Quicker action, therefore, means lower Program costs. Second, it simplifies the Program's administration. The State agency would not have to notify the household, then suspend the action, issue the next allotment, and finally put the action into effect. It would take the action and notify the household.

However, there are three conditions which must be met before the State agency can take immediate action. These three conditions are required by the law. The first condition is that the reported change on which the adverse action is based must come from the household. The State agency may not take immediate action, unless otherwise provided in the regulations, based upon a change reported by an employer, a collateral contact, or by computer matching (such as wage matching or benefit matching).

The second condition is that the household must report the information in writing. The State agency may not take immediate action based upon a telephone call or a conversation.

The final condition is that the reported information must clearly require the State agency to reduce or terminate benefits. That is, the State agency must know, from the household's written information, if the household is ineligible or the exact amount of its reduced benefit.

This procedure is an optional one. The Department is not requiring the State agency to immediately reduce or terminate a household's benefits. However, the State agency may do so if it chooses.

The Department is allowing an alternative only with regard to the length of the period of advance notice of adverse action. All other requirements of reducing or terminating benefits remain intact. The household is still entitled to a notice, although it is not advance notice, and to a fair hearing.

In addition, the household will be entitled to continued benefits if it requests a fair hearing within the time period set by the State agency. That time period would be the State agency's adequate notice period for its public assistance caseload, so long as that period is at least ten days long. The household's time for requesting continued benefits begins when the State agency sends the notice. If the household has already received its benefits when it requests a fair hearing, the State agency will reinstate the benefits to the old amount. Both the Senate and House of Representatives Agriculture Committees specifically stated that the household would retain the right to a fair hearing and continued benefits. (See Senate Report No. 97–504, page 55, and H.R. Rep. No. 97–687, page 54.)

The Department is requiring the State agency to reinstate continued benefits within five working days of the date the household requests a fair hearing. This is the same requirement the Department uses in its Monthly Reporting and Retrospective Budgeting system. (See § 273.13(a)(3).)

Implementation

The provisions regarding disabled elderly persons contained in § 273.(a)(1)(iv) and (a)(3)(iv) and the

provisions regarding disabled veterans and their spouses/children in § 271.2 were made effective on September 8, 1982, by Section 193 of Pub. L. 97–253. For this reason, elderly/disabled persons who requested and were denied separate household status or other special considerations granted disabled persons on or after September 8, 1982, will be entitled to benefits retroactive to the dates of their applications for separate household status or other special considerations. In any event, however, State agencies must implement these provisions no later than February 1, 1983.

All of the other changes made by this rule, except those which simply extend new options to State agencies, also must be implemented by Feburary 1, 1983. Of course, State agencies may choose to implement the provisions immediately upon publication.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-Social programs.

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 programs-Social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 271, 272, and 273 are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.2, the definition of "Elderly person" is removed and a new definition of "Elderly or disabled member" is added in alphabetical order to read as follows.

§ 271.2 Definition

* * * * *

"Elderly or disabled member" means a member of a household who: (1) Is 60 years of age or older; (2) receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, XIV, or XVI of the Social Security Act; (3) is a veteran with a service-connected disability rated or paid as total under title 38 of the United States Code or is considered in need or regular aid and attendance or permanently housebound under such title of the Code; (4) is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered to be permanently incapable of self-support under title 38 of the United States Codes; or (5) is a surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code *and* has a disability considered permanently under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and children who are receiving the compensation or benefits states or have been approved for such payments, but are not receiving them.

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (g) is amended by adding a new paragraph (55), as follows:

§ 272.1 General terms and conditions

* * * * *

(g) *Implementation.* * * *

(55) *Amendment No. 235.* Except for the provisions which simply extend options to State agencies, State agencies shall implement the changes made by Amendment No. 235 no later than February 1, 1983. Elderly/disabled persons who requested and were denied separate household status or other considerations granted disabled persons on or after September 8, 1982, will be entitled to benefits retroactive to the dates of their applications for separate household status or other special considerations.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.1:

a. A new paragraph (iv) is added to paragraph (a)(1).

b. Paragraph (a)(3)(i) is revised.

c. A new paragraph (iv) is added to (a)(3).

The additions and revision read as follows:

§ 273.1 Household concept.

(a) *Household definition.*

(1) * * *

(iv) An individual who is 60 years of age or older living with others (and the spouse of such individual) who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a nondisease-related, severe, permanent disability. However, the income (all income included under 273.9(b)) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165% of the Food Stamp Program's gross monthly income eligibility standard.

* * * * *

(3) * * *

(i) Parents living with their natural, adopted, or step children or such children living with such parents, unless at least one parent is elderly or disabled as defined in § 271.2;

* * * * *

(iv) Siblings (natural, adopted, half or step brothers and sisters), unless at least one sibling is elderly or disabled as defined in § 271.2.

4. In § 273.2, paragraph (f)(2)(i) is revised to read as follows:

§ 273.2 Verification.

* * * * *

(f) *Verification.* * * *

(2) *Verification of questionable information.* * * *

(i) *Household Composition.* States agencies shall verify factors affecting the composition of a household, if questionable. Individuals who wish to be a separate household from those with whom they reside shall be responsible for proving a claim that they are a separate household to the satisfaction of the State agency. Individuals described in § 273.1(a)(1)iv), who wish to be a separate household, shall also be responsible for obtaining the cooperation of the individuals with whom they reside in providing necessary income information to the State agency, and for providing (at State agency request) a physician's statement that they cannot purchase and prepare their own meals. For any household member claiming a permanent disability that is questionable (not apparent) to the State agency, under clause (5) of the definition of "elderly or disabled member" in § 271.2, the household shall provide (at State agency request) a statement from a physician or licensed or certified psychologist to assist the State agency in making a disability determination.

* * * * *

5. In § 273.5:

a. Paragraphs (b)(1)(iii) and (iv) are revised and a new paragraph (v) is added to (b)(1).

b. Paragraphs (b)(3) and (b)(4) are removed, and paragraph (b)(5) is redesignated as (b)(3).

The revisions and addition read as follows:

§ 273.5 Students.

* * * * *

(b) *Eligibility Requirements.*

(1) * * *

(iii) Be responsible for the care of a dependent household member under the age of six.

(iv) Be responsible for the care of a dependent household member who has reached the age of six but is under age twelve where the State agency has determined that adequate child care is not available.

(v) Receiving benefits from the Aid to Families with Dependent Children Program.

* * * * *

6. § 273.8:

a. Paragraph (a) is amended by adding a new sentence at the end of the paragraph.

b. Paragraph (c)(1) is revised.

c. Paragraph (e)(2) is amended by placing a period after the word "policies" in the first sentence, removing the remaining language and adding a new sentence in lieu thereof.

The additions read as follows:

§ 273.8 Resource eligibility standards.

(a) *Uniform standards.* * * *

However, the State agency may consider households in which all members receive AFDC benefits and whose income does not exceed the gross income eligibility Standards described under § 273.10(a)(1) to have satisfied the resource eligibility criteria of this section.

* * * * *

(c) *Definitions of resources.* * * *

(1) Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, stocks or bonds, lump sum payments as specified in § 273.9(c)(8), funds held in individual retirement accounts (IRA's), and funds held in Keogh plans which do not involve the household member in a contractual relationship with individuals who are not household members. In counting resources of households with IRA's or includable Keogh plans, the State agency shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan; and

* * * * *

(e) *Exclusions from resources.* * * *

(2) * * * The cash value of pension plans or funds shall be excluded, except that Keogh plans which involve no contractual relationship with individuals who are not household members and individual retirement accounts (IRA's) shall not be excluded under this paragraph.

* * * * *

7. In § 273.9:

a. Introductory paragraph (a), and paragraphs (a)(1) and (a)(2) are revised.

b. Introductory Paragraph (a)(3) is amended by replacing the word "OMB's" with the word "the Federal income poverty".

c. Paragraphs (a)(3) (i) and (ii) are amended by replacing the word "OMB" with the words "Federal income poverty".

The revisions read as follows:

§ 273.9 Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(1) The gross income eligibility standards for the Food Stamp Program shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(ii) The income eligibility standards for Alaska shall be 130 percent of the Federal income poverty levels for Alaska.

(iii) The income eligibility standards for Hawaii shall be 130 percent of the Federal income poverty levels for Hawaii.

(2) The net income eligibility standards for the Food Stamp Program shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam, and the Virgin Islands shall be the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(ii) The income eligibility standards for Alaska shall be the Federal income poverty levels for Alaska.

(ii) The income eligibility standards for Hawaii shall be the Federal income poverty levels for Hawaii.

* * * * *

8. In § 273.10:

a. Introductory paragraph (a)(1)(ii) is amended by removing the third sentence and adding in lieu thereof two new sentences.

b. Introductory paragraph (a)(1)(iii) is amended by replacing the period at the end of the first sentence with a colon and removing the word "When" and all that follows through "$6:".

c. Paragraph (a)(1)(iii)(C) is revised.

d. Paragraph (a)(2) is amended by removing the second sentence and adding in lieu thereof three new sentences.

e. Paragraph (e)(2)(i)(A) is amended by removing the first word in the first sentence, "Households", and all that follows through the words "titles I, II, X, XIV, or XVI of the Social Security Act" and adding in lieu thereof the words "All households".

f. Paragraph (e)(2)(i)(B) is revised.

g. Paragraph (e)(2)(i)(C) is amended by removing the word "either", and by replacing the word "or" with the words "and/or".

h. Paragraph (e)(2)(ii)(B) and (e)(2)(ii)(C) are revised.

i. Introductory paragraph (e)(2)(iii) is revised.

j. Paragraph (e)(2)(iv) is amended by replacing the words "paragraph (a)(1)" with the words "paragraph (a)(1) or (e)(2)(ii)(B)".

k. Paragraph (e)(2)(vi)(A) is amended by revising the second sentence.

l. Paragraph (e)(2)(vi)(B) is amended by replacing the words "paragraph (e)(2)(vi)(C)" with the words "paragraphs (a)(1), (e)(2)(ii)(B), and (e)(2)(vi)(C)".

The revisions read as follows:

§ 273.10 Determining household eligibility and benefit levels.

(a) *Month of application.* (1) *Determination of eligibility and benefit levels.* * * *

(ii) * * * As used in this subsection, the term initial month means the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation. However, if the household submits an application for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month. * * *

* * * * *

(iii) * * *

(C) If after using the appropriate formula the result ends in 1 through 99 cents, the State agency shall round the product down to the nearest lower whole dollar. If the computation results in an allotment of less than $10, then no issuance shall be made for the initial month.

* * * * *

(2) *Application for recertification.* * * * If an application for recertification is submitted after the household's certification period has expired, then that application shall be considered an initial application and benefits for that month prorated in accordance with paragraph (a)(1)(ii) of this section. In addition, if the household submits an application for recertification prior to the end of its certification period but is found ineligible for the first month following the end of the certification period, then the first month of any subsequent participation shall be considered an initial month. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month.

* * * * *

(e) *Calculating net income and benefit levels.* * * *

(2) *Eligibility and benefits.* * * *

(i) * * *

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, compared to the gross monthly income standards defined in § 273.9(a)(1) for the appropriate household size to determine eligibility for the month.

* * * * *

(ii) * * *

(B) If the calculation of benefits in accordance with paragraph (e)(2)(ii)(A) of this section for an initial month would yield an allotment of less than $10 for the household, no benefits shall be issued to the household for the initial month.

(C) Except during an initial month, all eligible one- and two-person households shall receive minimum monthly allotments of $10 and all eligible households with three or more members which are entitled to $1, $3, and $5 allotments shall receive allotments, of $2, $4, and $6, respectively, to correspond with current coupon book determinations.

(iii) For an eligible household with three or more members which is entitled to no benefits (except because of the proration requirements of paragraph (a)(1) and the provision precluding issuances of less than $10 in an initial month of paragraph (e)(2)(ii)(B)) of this section:

* * * * *

(vi) * * *

(A) * * * State agencies shall multiply the Thrifty Food Plan amounts by the percentage specified in the FNS notice; if the result ends in 1 through 99 cents, round the result up to the nearest higher dollar; and subtract the result from the normal Thrifty Food Plan amount.

* * * * *

9. In § 273.13, new paragraph (a)(3) is added to read as follows:

§ 273.13 Notice of adverse action.

(a) *Use of notice.* * * *

(3) The State agency may notify a household that its benefits will be reduced or terminated, no later than the date the household receives, or would have received, its allotment, if the following conditions are met:

(i) The household reports the information which results in the reduction or termination.

(ii) The reported information is in writing.

(iii) Based solely upon the household's written information, the State agency can determine the household's allotment or ineligibility.

(iv) The household retains its right to a fair hearing.

(v) The household retains its right to continued benefits by requesting a fair hearing within the time period provided by the notice of adverse action.

(vi) The State agency continues the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

* * * * *

(91 Stat. 958, (7 U.S.C. 2011–2029))

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

Dated: December 9, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-33824 Filed 12-13-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, California; Termination of Grade, Size, and Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule terminates grade, size, and container marking requirements currently in effect for California Tokay grapes. This action recognizes the fact that the California Tokay grape season has ended and continued regulation of such grapes is unnecessary under the circumstances.

EFFECTIVE DATE: December 9, 1982.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. 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 terminates handling requirements as the Tokay grape shipping season is completed, and therefore will not directly affect producers or handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

California Tokay Grape Regulation 18 currently requires that fresh shipments of Tokay grapes meet the grade and size specifications of U.S. No. 1 Table, with specific color requirements for berries on the lower portion of the bunch. In addition, each container of grapes must bear a Federal-State Inspection Service lot stamp number indicating that the grapes have been inspected. The current regulation is effective on a continuing basis unless modified, suspended, or terminated. This regulation is being terminated because adverse weather in the production area has curtailed

harvesting and packing of Tokay grapes and the 1982 season is effectively complete.

Recently, the Act was amended to include table grapes under section 8e. Under that section, whenever specified commodities are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically-produced commodity. Under the circumstances, it is unnecessary to continue regulation of shipments of California Tokay grapes or promulgate regulation of shipments of California Tokay grapes or promulgate regulations on imports of Tokay grapes during the current season.

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 final rule is based and the effective date necessary to effectuate the declared policy of the Act. The final rule removes restrictions on the handling of California Tokay grapes. It is necessary to effectuate the declared purposes of the Act to make this final rule effective as specified.

List of Subjects in 7 CFR Part 926

Marketing agreements and orders, Tokay grapes, California.

PART 926—[AMENDED]

§ 926.319 [Removed]

Therefore, the provisions of § 926.319 California Tokay Grape Regulation 18 are hereby terminated and § 926.319 is removed from the Code of Federal Regulations.

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

Dated: December 9, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-33825 Filed 12-13-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 82-24]

Adjustable-Rate Mortgages

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule

SUMMARY: State-chartered banks are permitted by Title VIII of the Garn-St Germain Depository Institutions Act of 1982 to make or purchase loans in accord with the Office of the Comptroller of the Currency's regulations relating to alternative mortgage transactions. The purpose of this notice is to identify those portions of the Office's regulations that are deemed inapplicable to state banks and, where necessary, to modify the regulations for use by state banks. This notice is required by that Act.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: David Nebhut, Financial Economist, Economic and Policy Analysis Division, 202–447–1825; or Jerome L. Edelstein, Attorney, or Francis S. Rath, Attorney, Legal Advisory Services Division, 202–447–1880.

SUPPLEMENTARY INFORMATION: Title VIII of the Garn-St Germain Depository Institutions Act of 1982, provides that state banks may make real estate loans with adjustable-rate features in accordance with this Office's regulations, relating to alternative mortgage transactions. The Act also requires that the Office identify, describe, and publish any portions of its regulations that are inappropriate for state banks. The Office has reviewed its Adjustable-Rate Mortgage Regulation, 12 CFR Part 29, and its other regulations relating to real estate lending, and identified the following provisions as inappropriate for state banks:

—The requirement in 12 CFR 29.5(d)(2)(1) that the original loan term not exceed 30 years. This requirement is imposed so that loans made or purchased by national banks in accordance with the regulation will comply with 12 U.S.C. 371(a) which requires that the term of a residential mortgage loan not exceed 30 years. State banks may be subject to different statutory limitations on the term of a loan. Such state statutory requirements will continue to control the maximum loan term;

—The authority provided by 12 CFR 29.9 enabling national banks to make certain types of mortgage loans, with the prior approval of the Office, that do not conform to the ARM regulation. Section 29.9 is inapplicable to state banks because it requires a case-by-case review of each loan program, and the loan programs are subject to termination or modification by the Office at any time. The Office does not have the examination and supervisory authority over state banks to administer such a review program;

—The transition period provided by 12 CFR 29.10. Section 29.10 is inapplicable to state banks because, under the Act, they are not required to comply with the Office's ARM regulation. State banks may continue to make ARM loans under the provisions of state law, even if state law does not conform with 12 CFR Part 29. Consequently, no transition period is necessary.

—The Appendix to Part 29 which refers only to national banks in the suggested forms. Any reference in these forms to the lender as a "national bank" should be replaced by a reference to the lender as a state bank.

The Office is also adding to its ARM regulation a provision specifying which provisions of the regulation will apply to state banks as well as national banks.

The Office is also clarifying that 12 CFR Part 29 applies to the making or purchasing of loans secured by liens on mobile homes, even when such loans are characterized as "credit sales". National and state banks should read the term "loan" as "credit sale" wherever appropriate.

In making this notice, the Office has identified regulations which it has issued, and modified portions of its ARM regulations which are inapplicable to state banks. Regulations relating to real estate lending found at 12 CFR 7.2000 *et seq.*, designed to assure compliance by national banks with federal law are also identified as being inapplicable to state banks, and on these matters state banks should refer to otherwise applicable state law.

The Office is not soliciting public comment with regard to these final amendments under authority of 5 U.S.C. 553(b), which authorizes waiver of public comment where public comment is impracticable or unnecessary. Such notice is impracticable because of the statutory deadline for publication of this notice and unnecessary because of the technical nature of the contents of this rulemaking. The amendments are made effective immediately pursuant to 5 U.S.C. 553(d)(2), which authorizes waiver of a delayed effective date. A delayed effective date is impracticable because of the statutory deadline governing publication of this notice.

Regulatory Impact Analysis

Pursuant to section 8(a)(2) of Executive Order 12291 (the "Order"), it has been determined that it is impracticable to comply with the requirements of section 3(c)(3) of the Order. Publication of this rule is required to be accomplished by December 14, 1982 under section 807(b)

of the Garn-St Germain Depository Institutions Act of 1982. Compliance with section 3(c)(3) of the Order would conflict with that statutory requirement. Publication of this document at an earlier date was not deemed necessary because extensive revisions to 12 CFR Part 29 were expected to be in effect by December 14, 1982. These revisions would have rendered this document unnecessary. Publication of these revisions, however, has not yet occurred, but is expected to occur in the near future.

Pursuant to section 3(g)(1) of the Order, it has been determined that the amendments do not constitute a major rule within the meaning of section 1(b) of the Executive Order. The amendments modify existing regulations to make them appropriate for use by state banks in making adjustable-rate mortgage loans, under the authority of Title VIII of the Depository Institutions Act of 1982. The amendments will have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not affect costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Analysis

No regulatory flexibility analysis of these amendments is required under the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) because no general notice of proposed rulemaking is required prior to implementation of these amendments.

List of Subjects in 12 CFR Part 29

Adjustable-rate mortgages, State banks.

PART 29—[AMENDED]

Accordingly, and pursuant to its authority under section 807(b) of Title VIII of the Garn-St Germain Depository Institutions Act of 1982, the Comptroller of the Currency amends 12 CFR Part 29 as follows:

1. The authority for Part 29 is revised as follows:

Authority: 12 U.S.C. 1 *et seq.*; sec. 708, Pub. L. 96–221, 94 Stat. 188 (12 U.S.C. 93a); sec. 711, Pub. L. 93–383, 88 Stat. 716 (12 U.S.C. 371(g)); and sec. 807(b), Pub. L. 97–320 (Garn-St Germain Depository Institutions Act of 1982).

2. Section 29.5(d)(2) is revised as follows:

§ 29.5 Rate changes.

* * * * *

(d) * * *

(2) Changing the rate of amortization, including utilization of a period or periods of negative amortization, is permissible only if (1) the payment is adjusted at least every 5 years to a level sufficient to amortize the outstanding principal at the interest rate then in effect over the remainder of the original loan term, which may not exceed 30 years in the case of national banks, and which may not exceed the limitations of state law in the case of state banks; and (2) the amount of negative amortization, if any, permitted during any such 5-year period does not exceed 1.0 percent of the principal outstanding at the beginning of that period multiplied by the number of whole consecutive 6-month periods included in the interval between payment changes. In no event may the amount of negative amortization allowed under the preceding sentence exceed 10.0 percent of the principal outstanding at the beginning of the period.

3. Section 29.11 is added as follows:

§ 29.11 Adjustable-rate mortgages by State banks.

State banks may, under authority granted by section 804(a)(1) of the Garn-St Germain Depository Institutions Act of 1982, make, purchase, and enforce adjustable-rate mortgages in accordance with the following provisions of this part: §§ 29.1, 29.2, 29.4, 29.5, 29.6, 29.7, and 29.8.

Dated: December 6, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-33949 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0423]

Regulation T; Private Mortgage Pass-through Securities as OTC Margin Bonds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board hereby adopts an amendment to Regulation T that specifies the characteristics of "private" mortgage pass-through securities (i.e., not guaranteed by agencies of the United States government) that may be used as collateral for margin credit at brokers and dealers on a "good faith" basis. An addition will be made to the definition of "OTC margin bond" to recognize the unique features of these instruments. Unlike a typical corporate bond, the principal balance of this security declines each month as mortgages backing the security are amortized or prepaid. The proposed criteria, therefore, will require (1) an original issue of $25,000,000 (rather than an outstanding principal amount at the time credit is extended) that may be sold in separate series, (2) current filings with the Securities and Exchange Commission, and (3) the passing through of mortgage interest and principal payments by the servicing agent according to the terms of the offering.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Robert Lord, Attorney, Division of Banking Supervision and Regulation (202) 452–2781, or David Seiders, Senior Economist, Division of Research and Statistics, (202) 452–2694, at the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On September 30, 1982, the Board proposed for public comment an amendment to Regulation T that would permit private mortgage pass-through securities meeting specified criteria to be used as collateral for margin credit at securities brokers and dealers (47 FR 43070, September 30, 1982).

The proposed amendment added a provision to the definition of "OTC margin bond" (on which broker-dealers may extend "good faith" credit) to include mortgage pass-through securities meeting minimum initial issue size, disclosure and financial requirements.

Some of the comments received indicated an uncertainty about whether the Board's proposed addition to the "OTC margin bond" definition would include certain mortgage-backed bonds. The Board wishes to make clear that the term "private mortgage pass-through security," as used in this amendment, encompasses mortgage-backed bonds with cash flow patterns closely related to repayments (or prepayments) of mortgages used as collateral. These bonds sometimes are referred to as "cash flow" or "pay-through" bonds.

The Board specifically requested comment on whether the proposed $25 million minimum original issue size requirement was an appropriate criterion to establish marketability of the security for margin account purposes. Reactions to this question

were mixed. The Federal National Mortgage Association suggested that the proposed minimum initial issue size was inadequate for assuring that the collateral would be liquid. On the other hand, the Mortgage Bankers Association, the National Association of Home Builders, the American Continental Mortgage Company and Salomon Brothers suggested that a lower minimum initial issue size would be appropriate.

The Board believes that the $25 million original issue size is appropriate, for the time being, to establish marketability and is, therefore, adopting that criterion. As the market develops, this requirement may be reexamined. The Board notes that it still has under review general questions about the issue size criteria for all OTC margin bonds in connection with the overall revision of Regulation T.

The Board also requested specific comment about the likelihood that brokers would liquidate mortgage pass-throughs to meet margin calls when there were other types of securities in a customer's account. Most of the respondents believed that other securities would be liquidated before mortgage pass-through securities. One brokerage firm, on the other hand, indicated that mortgage pass-throughs are at least as liquid as other securities, and that brokers would not necessarily make any distinction between the two for liquidation purposes. Comments also noted that an investor usually is given the opportunity to choose which securities are to be liquidated in order to meet margin calls.

A clarifying language change was also made in paragraph (i)(2)(iii) to indicate that the responsibility of a broker or dealer for reasonably ascertaining the servicing agent's contract compliance relates to material servicing responsibilities.

Final Regulatory Flexibility Analysis

The Board believes this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

PART 220—[AMENDED]

Pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), the Board hereby amends Regulation T (12 CFR Part 220) by revising § 220.2(i) as set forth below:

§ 220.2 Definitions.

* * * * *

(i) The term "OTC margin bond" means:

(1) A debt security not traded on a national securities exchange which meets all of the following requirements:

(i) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding;

(ii) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Act; and

(iii) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments; or

(2) A private mortgage pass-through security (not guaranteed by an agency of the U.S. government) meeting all of the following requirements:

(i) An aggregate principal amount of not less than $25,000,000 (which may be issued in series) was issued pursuant to a registration statement filed with the Securities and Exchange Commission under section 5 of the Securities Act of 1933;

(ii) Current reports relating to the issue have been filed with the Securities and Exhange Commission; and

(iii) At the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest, principal payments and other distributions are being passed through as required and that the servicing agent is meeting its material obligations under the terms of the offering.

By order of the Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33818 Filed 12-13-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-239]

Customs Regulations Amendment Relating to the Customs Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This notice changes the field organization of the Customs Service by establishing a new port of entry at Columbia, South Carolina, in the Charleston, South Carolina, Customs district. The change is made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public. Furthermore, it will enable Customs to keep pace with the growth of Customs-related activities in the Columbia area.

EFFECTIVE DATE: January 13, 1982.

FOR FURTHER INFORMATION CONTACT: Renee De Atley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

According to an application filed by the Central Planning Council of South Carolina requesting the establishment of a new Customs port of entry, Columbia, South Carolina, is rapidly becoming the center of distribution in the Southeast. Since 1975, the Columbia area has attracted many new manufacturing firms, including major electronic and high technology industries, and other leading corporations producing a variety of products for distribution in the United States and abroad. Despite recent adverse economic conditions nationally, Columbia continues to enjoy an expanding economy, including attracting a large industry which has just begun construction of a 600 million dollar manufacturing plant, representing the single largest investment ever made by a private company in the state of South Carolina. Two other new industries will begin production by the end of 1982, and all have indicated that they would take advantage of Customs services if the port facility begins operation. Since 1977, more than 130 firms have expanded operations in the Columbia Metropolitan area. Industrial employment increased by 3,000 jobs in 1980 and continues to grow.

Accompanying this industrial growth and expansion, has been a dramatic increase in the volume of merchandise imported into the Columbia area. Presently, there are over 100 importers and more than 200 exporters located in the area to be served by the new port facility. There were at least 2,000 entries of goods from foreign markets into the area in 1981 with duties collected exceeding $6,700,000. Due to expansions, new industrial locations, and the establishment of a new port facility,

these figures are expected to increase substantially.

Importing firms in the area presently use 18 ports of entry. Charleston, Charlotte, and Atlanta, are the most frequently used ports. Industry located in the Columbia area is burdened by the distance from existing ports of entry. Columbia Metropolitan Airport is 101 miles from the Greenville-Spartanburg Airport, 105 miles from Charleston, 213 miles from Atlanta, and 105 miles from Charlotte. No port of entry is within 100 miles. Thus, transporting merchandise from these locations to Columbia substantially increases distribution and transportation costs and delays delivery of the merchandise to its ultimate destination. In addition, this requires local industry to employ staff or agents to handle their shipments at great expense.

Following a review of Customs activity in the area, Customs determined that establishing a Customs port of entry at Columbia would: (1) Reduce distribution and transportation costs and reduce the travel time for imported goods destined for Columbia and the central region of South Carolina; (2) facilitate the processing of imported goods coming into the region; and (3) enable Customs to obtain more efficient use of its personnel, facilities, and resources in providing service to importers.

Accordingly, to keep pace with the expanding needs of Customs-related activities in Central South Carolina and to provide better service to carriers, importers, and the public, Customs published a notice in the **Federal Register** on July 27, 1982 (47 FR 32445), proposing to establish a new port of entry at Columbia, South Carolina, in the Charleston, South Carolina, Customs district.

Discussion of Comments

Nineteen comments were received in response to the notice. All but one commenter favored the change. The commenter opposing the change contends that all shipments into Columbia would first arrive at some other port thus duplicating Customs work since the first port of arrival or entry would have to complete the processing of the in-transit documentation.

Currently, the majority of international cargo destined for Columbia is arriving at six locations. Customs anticipates that at four of these locations, the workload will decrease and at only one location will it increase due to the processing of in-transit documentation.

The commenter states that the application requesting the establishment of a port of entry at Columbia is not from the importing community but from an organization with a parochial interest, who he believes was not a proper party to make the request.

The application was submitted by the Central Planning Council of South Carolina. Customs has indicated in various public notices that a recognized civic organization such as a chamber of commerce, port authority, or city government can make a request for consideration of service. Customs believes that the Central Planning Council is representative of the above and therefore is a proper party in interest.

Lastly, the commenter asks on what basis does Columbia meet Customs minimum criteria for the establishment of a port of entry.

One aspect of Customs mission is to provide service to the public when and where it is required. The establishment of new ports of entry in various locations throughout the country is a necessary response to the public demand for increased Customs service. Further, Customs does have minimum workload and facility standards for the establishment of new ports of entry which are applied to prevent the unjustified proliferation of new ports. Revised criteria for establishing Customs ports of entry and stations were set forth as T.D. 82–37 in the **Federal Register** of March 9, 1982 (47 FR 10137). Prior to establishing ports of entry, Customs carefully reviews the data submitted in support of each application to verify that it meets the criteria. The Columbia application was reviewed and an independent Customs analysis of the potential Customs workload at Columbia verified that it met Customs minimum standards for the establishment of a new port of entry at the time the application was submitted. For example, the projected workload in the Columbia area exceeded the established criterion; it met the minimum population criterion; the area is serviced by more than two major modes of transportation; and it will provide suitable office space for the Government at no cost.

The commenter explains that while the above standards have been met, he doubts that airlines would institute direct international arrivals to Columbia since the Columbia Metropolitan Airport does not presently service international passenger flights.

Although the application did not include scheduled international passenger arrivals, this was not necessary because it met the other criteria mentioned above.

Accordingly, Customs has determined that it is in the public interest to establish a port of entry at Columbia, South Carolina, as proposed.

Changes in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449), a new Customs port of entry is established at Columbia, South Carolina, in the Charleston, South Carolina, Customs district. The geographical limits of the port of entry encompass all of the territory in Richland and Lexington Counties, South Carolina.

List of Subjects in 19 CFR Part 101

Organization and functions (Government agencies).

Amendment to the Regulations

PART 101—[AMENDED]

§ 101.3 [Amended]

To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding "Columbia, South Carolina, including all of the territory in Richland and Lexington Counties, South Carolina, (T.D. 82–239)." directly below "CHARLESTON, including the territory described in T.D. 76–142." in the column headed "Ports of entry" in the Charleston, South Carolina district.

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.), it is certified that the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands and consolidates Customs

ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the Charleston, South Carolina, district area, it is not expected to be significant because the establishment of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: December 10, 1982.

David Q. Bates,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-33925 Filed 12-13-82; 8:45 am]

BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-119; Re: Notice No. 420]

Establishment of Carmel Valley Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in California known as "Carmel Valley." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7602).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. David Armanasco, General Manager of Durney Vineyard, located in Carmel, California, petitioned ATF for the establishment of a viticultural area in Monterey County, California, to be known as "Carmel Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 420) in the **Federal Register** on August 26, 1982 (47 FR 37588) proposing the establishment of the Carmel Valley viticultural area.

General Description

The Carmel Valley viticultural area consists of approximately 19,200 acres. There are 120 acres of grapevines growing in the area, with other plantings of approximately 110 acres projected to begin within the next five years. There are two grape growers in the area. One other landowner in the area is planning to plant grapevines within the next five years. There is one winery in the area owned by the petitioner.

The Carmel River was discovered in 1603 by Sebastian Vizcaino and the name "Carmel" has applied to the area since that time. The village of Carmel Valley is 91 year old. The Carmel Valley viticultural area is within the watershed of the Carmel River and within a larger area commonly known by the name Carmel Valley. Grapevines have been grown commercially by the petitioner in Carmel Valley since 1968.

Geographical Features

The Carmel Valley viticultural area runs from the village of Carmel Valley southeasterly along the Carmel River and Cachagua Creek for a distance of approximately ten miles. The northeastern boundary is Tularcitos Ridge, which readily distinguishes the area from areas northeast of it by topography and the ridge's effect on the climate of the valley. Southwest of the area is the Los Padres National Forest where agricultural land use is restricted by the U.S. Department of Agriculture. The smaller northwestern and southeastern boundaries are less well defined geographically.

The Carmel Valley viticultural area is distinguished from the surrounding area by climate and soil types. Utilizing the *Amerine-Winkler* method, Carmel Valley has different cumulative heat summation during the grape growing season than nearby areas, as follows: Carmel Valley 2317 degree-days (Region I), Salinas Valley 2148 degree-days (Region I), King City 3085 degree-days (Region III). The petitioner claims that, although Carmel Valley and nearby Salinas Valley are both Region I heat summation areas, the higher elevation in Carmel Valley curbs the marine fog incursion producing more sunny days in Carmel Valley than in Salinas Valley. This phenomenon distinguishes the area from the surrounding area, but not in quantitative terms.

Carmel Valley's normal annual precipitation ranges from 16.5 to 22.5 inches which readily distinguishes it from Monterey County's overall normal annual precipitation of 10 inches.

Carmel Valley has soils which are significantly different from the immediate surrounding area, and which are particularly well-suited to viticulture, as follows:

San Benito (SdF) clay loam, 30–50% slopes
San Benito (SdG) clay loam, 50–75% slopes
Junipero (JaF) loamy sand, 30–50% slopes
Junipero (JbG) sandy loam, 30–75% slopes
Junipero-Sur (Jc) complex, 50–85% slopes
Santa Lucia (SfF) shaly clay loam, 30–50% slopes
Cieneba (CcG) fine gravelly sandy loam, 30–70% slopes
San Andreas (SgC) fine sandy loam, 30–75% slopes
Sheridan (SoG) coarse sandy loam, 30–75% slopes
Santa Lucia-Reliz Association (Sg) loamy and shallow loamy complex, 30–75% slopes

No Comments Received

In addition to publishing a notice of proposed rulemaking in the **Federal Register**, ATF notified the petitioner, the two other landowners interested in grape growing, and other interested parties by a direct mailing of a reprint of the notice. No comments were received during the 30 day comment period. Accordingly, the Carmel Valley viticultural area is established as proposed.

The boundary of the Carmel Valley viticultural area is described in § 9.58.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With E.O. 12291

In compliance with Executive Order 12291 the Bureau has determined that this regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information:

The principal author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.58 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.58 Carmel Valley.

Par. 2 Subpart C is amended by adding § 9.58. As added, § 9.58 reads as follows:

§ 9.58 Carmel Valley.

(a) *Name.* The name of the viticultural area described in this section is "Carmel Valley."

(b) *Approved maps.* The approved maps for determining the boundary of the Carmel Valley viticultural area are five U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Mt. Carmel, Calif., dated 1956;

(2) Carmel Valley, Calif., dated 1956;

(3) Ventana Cones, Calif., dated 1956;

(4) Chews Ridge, Calif., dated 1956; and

(5) Rana Creek, Calif., dated 1956.

(c) *Boundary.* The Carmel Valley viticultural area is located in Monterey County, California. The boundary is as follows:

(1) The beginning point is the northeast corner of Section 5 in Township 17 South, Range 2 East.

(2) The boundary follows the Los Laurelles Land Grant boundary south, then easterly, to the north-south section line dividing Section 9 from Section 10 in Township 17 South, Range 2 East.

(3) The boundary follows this section line south to the southwest corner of Section 22 in Township 17 South, Range 2 East.

(4) From this point, the boundary follows section lines in Township 17 South, Range 2 East—

(i) To the southeast corner of Section 22,

(ii) To the southwest corner of Section 26,

(iii) To the southeast corner of Section 26,

(iv) To the southwest corner of Section 36.

(5) From this point, the boundary follows the Los Padres National Forest boundary east, then south, then east to the southwest corner of Section 9 in Township 18 South, Range 3 East.

(6) The boundary follows the section line east to the southeast corner of the same section, where the section line rejoins the Los Padres National Forest boundary.

(7) The boundary follows the Los Padres National Forest boundary to the north-south section line dividing Section 11 from Section 12 in Township 18 South, Range 3 East.

(8) The boundary follows this section line north to the township line dividing Township 17 South from Township 18 South.

(9) The boundary follows this township line west to the north-south section line dividing Section 34 from Section 35 in Township 17 South, Range 3 East.

(10) The boundary follows this section line north to the Los Tularcitos Land Grant boundary.

(11) The boundary follows the Los Tularcitos Land Grant boundary northwesterly to the Carmel River.

(12) The boundary follows the Carmel River northerly to the Los Tularcitos Land Grant boundary.

(13) The boundary follows the Los Tularcitos Land Grant boundary northeasterly to the unsurveyed township line (approximate location denoted by a line of red dashes) dividing Township 16 South form Township 17 South.

(14) The boundary follows the unsurveyed township line west to the beginning point.

Signed: November 22, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 2, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33940 Filed 12-13-82: 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 209

Shipping Safety Fairways, Gulf of Mexico

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is deleting the regulations which establish shipping safety fairways in the Gulf of Mexico. The shipping safety fairway regulations have been repromulgated by the Coast Guard in accordance with the authorities in the Ports and Waterways Safety Act, (PWSA).

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Washington, D.C. 20314 or call (202) 272-0200.

SUPPLEMENTARY INFORMATION: The existing shipping safety fairways in the

Gulf of Mexico were promulgated by the Corps of Engineers in 33 CFR 209.135. The fairways were established by the Corps under authority granted by the Outer Continental Shelf Lands Act (67 Stat. 463; 43 U.S.C. 1333 (e)) to issue permits for structures on the Outer Continental Shelf. The Corps established the shipping safety fairways as specific areas where fixed structures would not be permitted.

In 1978, the Ports and Waterways Safety Act was amended to delegate authority to the Department of Transportation and the Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. In accordance with the PWSA, the Coast Guard completed requisite studies and on 13 May 1982, published final regulations in the **Federal Register** (47 FR 20580–81) establishing the Gulf of Mexico Shipping Safety Fairways in 33 CFR Part 166. Although there were minor changes made to the text in paragraphs (b) and (c), paragraph (d) *The areas* was reprinted verbatim.

In addition, the Corps published interim-final rules in the **Federal Register** on 22 July 1982 (47 FR 31794 et al.) which contains the regulatory program of the Corps of Engineers, including in § 330.5 a list of activities permitted by the regulations. Offshore oil and gas structures located within OCS lease areas are included in these nationwide permits.

In view of the above, the regulations which establish the Gulf of Mexico Shipping Safety Fairways in § 209.135 are unnecessary and should be revoked. We are however, retaining paragraph (b) *Permits* which contains the conditions under which the nationwide permit in 33 CFR 330.5 (a) (8) is issued.

The Department of the Army has determined that notice of proposed rulemaking and public procedures thereto are unnecessary and that these amendments should become effective upon publication in the **Federal Register**. The Department of the Army has also determined that this document does not contain a major rule requiring a regulatory impact analysis under EO 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices. This amendment will not have a significant economic impact on a substantial number of entities and thus does not require the preparation of a regulatory flexibility analysis.

List of Subjects in 33 CFR Part 209

Electric power, Navigation (water), Sunshine Act, Water pollution control, Waterway.

Dated: November 26, 1982.

Brian J. Branagan,

Colonel, Corps of Engineers, Acting Executive Director of Civil Works.

PART 209—[AMENDED]

Accordingly, the Department of the Army is revising 33 CFR 209.135 as set forth below.

§ 209.135 Shipping safety fairways and anchorage areas, Gulf of Mexico

Permits. (a) Department of the Army permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403) and (92 Stat. 635; 43 U.S.C. 1333(e)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the Outer Continental Shelf. The Department of the Army will grant no permits for the erection of structures in the area designated as fairways, since structures located therein would constitute obstructions to navigation. Exception: The temporary placement of anchors may be allowed by these regulations.

(b) The Department of the Army may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met.

(1) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(2) Drilling rigs must be at least 500 feet from any fairway boundary or whatever distance necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(3) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within the fairway.

(4) Drilling rigs may not be placed closer than 2 nautical miles of any other drilling rig situated along a fairway boundary, and not closer than 3 nautical miles to any drilling rig located on the opposite side of the fairway.

(5) The permittee must notify the District Engineer, U.S. Geological Survey, Bureau of Land Management, U.S. Coast Guard, National Oceanic and Atomspheric Administration and the U.S. Navy Hydrographic Office of the approximate dates (commencement and completion) the anchors will be in place to insure maximum notification to mariners.

(6) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(c) The Department of the Army may grant permits for the erection of structures within an area designated as an anchorage area, but the number of structures will be limited by spacing, as follows: The center of a structure to be erected shall be not less than two (2) nautical miles from the center of any existing structure. In a drilling or production complex, associated structures shall be as close together as practicable having due consideration for the safety factors involved. A complex of associated structures, when connected by walkways, shall be considered one structure for the purpose of spacing. A vessel fixed in place by moorings and used in conjunction with the associated structures of a drilling or production complex, shall be considered an attendant vessel and its extent shall include its moorings. When a drilling or production complex includes an attendant vessel and the complex extends more than five hundred (500) yards from the center of the complex, a structure to be erected shall be not closer than two (2) nautical miles from the near outer limit of the complex. An underwater completion installation in an anchorage area shall be considered a structure and shall be marked with a lighted buoy as approved by the United States Coast Guard.

(33 U.S.C. 403 and 43 U.S.C. 1333(e))

[FR Doc. 82-33477 Filed 12-13-82; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Special Regulations, Areas of the National Park System; Saint Croix National Scenic Riverway, Minnesota-Wisconsin; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On March 1, 1982, the National Park Service published in the **Federal Register** (47 FR 8605) a proposed rule to designate those locations within the Saint Croix National Scenic Riverway where snowmobiles may be used for recreational purposes when the river is frozen. This is that portion

normally used during the open water season by motor boats. The objective of the regulation is to provide for the preservation and enjoyment in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road policy of the Department of the Interior. Comments received during the public review and comment period ending on March 31, 1982, prompted the revision now published as the final rule.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Gustaf P. Hultman, Superintendent, Saint Croix National Scenic Riverway, P.O. Box 708, Saint Croix Falls, Wisconsin 54024, Telephone: (715) 483–3287.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), issued on February 9, 1972 (37 FR 2877), directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and in the case of national parks, not adversely affect scenic, natural, and aesthetic values. In response to Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) the Secretary of the Interior issued a Departmental memorandum of May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice of special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for the visitor to see, sense, and enjoy the special qualities of the park in winter; natural, cultural, scenic, and aesthetic values; safety consideration; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces, which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulation in the Code of Federal Regulations.

This regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in additional recreational opportunities along a portion of the Saint Croix National Scenic Riverway when weather conditions are such that the Saint Croix River is frozen. The designated permitted area of snowmobile use will be the frozen river from Saint Croix Falls to the Highway 35 crossing near Riverside and that section from the Boomsite to the Highway 243 bridge near Osceola, Wisconsin. Operation off the river is prohibited except at places where a township, county, or state road terminates at the river and in those locations authorized for such use by the National Park Service as part of an approved trail system within the riverway boundary. This exception to the established snowmobile policy of the Service is based on traditional use.

During the thirty (30) day public review and comment period, the Service received a total of 56 written comments. Of those, 19 supported the proposal; 8 being from individuals, 9 from State and local organizations, and 2 from State and local government agencies. Opposing the proposal were 28 individuals, and 8 State and local government agencies.

Analysis of the opposing comments revealed that the concerns expressed related to a coincident plan by the Minnesota Department of Natural Resources to develop a hiking trail near the village of Franconia, Minnesota. Specifically, opposition focused on the potential noise and congestion in the area resulting from the combined effects of the two trails. That portion of the snowmobile route from Franconia downstream (south) 4 miles to the Highway 243 bridge near Osceola, Wisconsin, has been deleted from the final regulation in response to these objections.

Drafting Information

The following persons participated in the writing of this regulation: Gustaf P. Hultman, Superintendent; Henry T. Hughlett, Chief, Resource Management and Visitor Protection; Arnold J. Long, District Ranger; Ron Aldorfer, District Ranger; and Albert L. Seidenkranz, Public Information Office, Saint Croix National Scenic Riverway.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act, 43 U.S.C. 4332, the Service has prepared an Environmental Assessment. Copies of the Environmental Assessment and the Finding of No Significant Impact are available at the address noted above.

This rulemaking contains no provisions that would entail the collection of information in such manner as would be subject to the Paperwork Reduction Act (94 Stat. 2812; 44 U.S.C. 3501 *et seq.).*

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193; February 19, 1981), and that this rulemaking would not have a "significant economic effect on a substantial number of small entities," within the meaning of the Regulatory Flexibility Act (94 Stat. 1164; 5 U.S.C. 601 *et seq.).* Snowmobiling is an established activity in this region. Promulgation of the regulations are expected to have a positive, albeit limited, economic impact.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535 as amended; 16 U.S.C. 3))

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

In consideration of the foregoing, § 7.9 of Title 36 of the Code of Federal Regulations is amended by adding a new paragraph (b) as follows:

§ 7.9 St. Croix National Scenic Rivers.

* * * * *

(b) Snowmobiles—After consideration of existing special situations, i.e., depth of snow or thickness of ice, and depending on local weather conditions, the superintendent may allow the use of snowmobiles on the frozen surface of the Saint Croix River on those sections normally used by motor boats during other seasons, between the Boomsite and Highway 243 near Osceola, Wisconsin, and Saint Croix Falls to Riverside, Wisconsin, and in those areas where county or other established snowmobile trails need to cross the riverway or riverway lands to connect

with other established snowmobile trails.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

November 5, 1982.

[FR Doc. 82-33623 Filed 12-13-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2241-5]

Approval and Promulgation of Implementation Plans; San Joaquin Valley Air Basin Nonattainment Area Plan; State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On August 21, 1981 the Environmental Protection Agency (EPA) took actions on the San Joaquin Valley Air Basin Nonattainment Area Plan (NAP) with regard to the requirements of Part D, "Plan Requirements for Nonattainment Areas," of the Clean Air Act. EPA approved with conditions the Kern County nonattainment area portion of the NAP for ozone (O_3), carbon monoxide (CO), sulfur dioxide (SO_2), and total suspended particulate (TSP), and the entire San Joaquin Valley Air Basin NAP for TSP. The conditions of approval required that the State of California submit specific material as State Implementation Plan (SIP) revisions to correct deficiencies which were identified in the NAP.

The purpose of this notice is to advise the public that certain of these conditions have been fulfilled by the State. EPA is therefore taking final action to approve the material, incorporate it into the SIP, and revoke the applicable conditions.

EFFECTIVE DATE: February 14, 1983.

ADDRESSES: Copies of the State's submittal are available for public inspection during normal business hours at the EPA Region 9 Office and at the following locations.

The Office of the Federal Register, 1100 L Street, NW., Washington, D.C. 20408;

Public Information Reference Unit, Environmental Protection Agency Library, 401 M Street, SW., Washington, D.C. 20460;

California Air Resources Board, 1102 Q Street, Sacramento, CA 95812; or

Kern County Air Pollution Control District, 1601 H Street, Suite 250, Bakersfield, CA 93301.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; Attn: James C. Breitlow (415) 974-7650.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1981 (46 FR 42450), EPA conditionally approved the NAP for O_3, CO, SO_2 and TSP. The reader is referred to that **Federal Register** notice for a detailed discussion of EPA's findings. Today's notice discusses conditions of EPA's approval of the NAP which required the State to submit corrective material by October 1 and December 31, 1981.

This action does not address deficiencies in the permit program, tertiary oil production emission estimates, emission reduction estimates for steam drive controls, O_3 and CO demonstrations of attainment, O_3 demonstration of reasonable further progress, and control measures that replace vehicle inspection and maintenance. The State has not submitted corrections to the SIP in these areas, except for the permit program, which will be addressed in a separate action. This action also does not address conditions applicable to SO_2; a request to redesignate SO_2 to attainment will be addressed in conjunction with the applicable conditions in a separate action.

Description

On July 30, 1981, March 4, 1982, and August 6, 1982 the State submitted materials to satisfy many conditions of approval promulgated in the August 21, 1981 rulemaking. These portions respond directly to the conditions and, in so doing, update the NAP. The State submittals are as follows:

July 30, 1981—Rule 414, "Effluent Oil Water Separators," and Rule 410.3, "Volatile Organic Compound Emissions from Degreasing Operations Which Use Organic Solvents Exempted from Rule 410."

March 4, 1982—Refined TSP emission inventory, documentation for the TSP design value, TSP modeling analysis, schedule and commitment for study of nontraditional TSP sources, commitment to submit annual budget information, demonstration of emission reductions, for cutback asphalt paving materials (for Rule 410.5), and commitment, schedule and monitoring procedures for transit improvement.

August 6, 1982—Rule 411, "Storage of Petroleum Distillates or Light Crude Oil."

Discussion

EPA's conditions, the State's responses, and EPA's actions are described below. The conditions are grouped and numbered in the same manner as they appeared in the August 21, 1981 rulemaking (beginning at 46 FR 42457). A more detailed discussion of EPA's findings is included in the Technical Support Document available at the address indicated above.

1. *Ozone, Carbon Monoxide, Total Suspended Particulates, Sulfur Dioxides (Kern County):*

Condition 2—Commitment to submit annual implementing agency fiscal and personnel commitments to implement the Kern County portion of the NAP.

State Action—On March 4, 1982 the State submitted the necessary commitments.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

2. *Ozone (Kern County):*

Condition 5—Demonstration that Rules 414, 410.5, 411, and 410.3 represent reasonably available control technology (RACT), or amendment of the rules so that they are consistent with Control Techniques Guidelines (CTG) documents, or demonstration that the rules will result in volatile organic compound (VOC) emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

State Action—On July 30, 1981 the State submitted amended Rules 414 and 410.3, and on August 6, 1982 submitted Rule 411. These rules now represent RACT. On March 4, 1982 the State submitted a demonstration that Rule 410.5 will result in VOC emission reductions which are within five percent of the reductions achievable by implementation of CTG recommendations.

EPA Action—This material corrects the deficiencies for Rules 414, 411, 410.3 and 410.5. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition for these rules.

Condition 6—Evidence of local adoption of legally enforceable commitments, implementation schedules, and monitoring procedures for transit improvement consistent with reasonable further progress (RFP).

State Action—On March 4, 1982 The State submitted copies of the local government's proposed budget, service expansion update and short-range transit plan.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

3. *Carbon Monoxide (Kern County):*

Condition 1—Documentation of the emission reduction estimate for emissions from petroleum refineries.

State Action—On June 22, 1981, the State submitted a request to redesignate the CO nonattainment area in Kern County to include only the Bakersfield metropolitan area.

EPA Action—On January 25, 1982, EPA published its approval of the redesignation. Since no refineries are located in the redesignated nonattainment area, the condition is no longer pertinent and therefore revoked.

Condition 3—This condition and the State action thereon are identical to Condition 6 (ozone) above. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

4. *Total Suspended Particulates (San Joaquin Valley Air Basin):*

Condition 1—Refined emissions inventory which includes estimates of emissions from traditional and nontraditional (secondary aerosols and windblown dust) sources for the San Joaquin Valley Air Basin.

State Action—On March 4, 1982 the State submitted updated and refined emissions inventories which include emission estimates from traditional TSP sources and from the nontraditional sources of wind blown dust and gaseous precursors to secondary aerosol particulates.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

Condition 2—Documentation for the design value and a modeling analysis, using the new inventory data, which shows the emission reductions necessary to provide for attainment of the TSP standard.

State Action—On March 4, 1982 the State submitted the necessary documentation and modeling analysis.

EPA Action—This material corrects the definiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

Condition 3—Commitment and schedule to study and adopt nontraditional particulate matter control measures, and a commitment to implement those measures necessary for attainment of the standard.

State Action—On March 4, 1982 the State submitted the necessary schedule and a commitment.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

Condition 4—Commitment to submit annual implementing agency fiscal and personnel commitments to implement the NAP for the San Joaquin Valley Air Basin.

State Action—On March 4, 1982 the State submitted the necessary commitment.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

Regulatory Process

EPA has determined that good cause (see Administrative Procedure Act, 5 U.S.C. 553(b)) exists to approve the above items without providing further notice and opportunity to comment since the revisions merely satisfy certain conditions of approval. EPA has already provided opportunity to comment on the appropriateness of the conditions in the September 15, 1980 proposed rulemaking notice.

Conditional approval of the Kern County portion of the NAP for each pollutant (O_3, CO, TSP and SO_2) will be continued until EPA publishes in the **Federal Register** final approval or disapproval of all the conditional approval items applicable to such pollutant (including the permit program, which applies to all four pollutants), as required in the August 21, 1981 final rulemaking notice (46 FR 42450).

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8704.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

(Sec. 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(101)(ii)(C), (123) and (124)(xi) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(101) * * *

(ii) * * *

(C) New or amended Rules 414 and 410.3.

* * * * *

(123) Supplemental material for the Kern County Nonattainment Area Plan submitted on March 4, 1982, by the Governor's designee.

* * * * *

(124) * * *

(xi) Kern County APCD.

(A) New or amended Rule 411.

* * * * *

2. Section 52.232, paragraph (a) is amended by removing and reserving paragraphs (a)(5)(ii), (iii)(E) and (F), and (iv)(C), and (6)(i)–(iv) as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(5) * * *

(ii) [Reserved]

(iii) * * *

(E) [Reserved]

(F) [Reserved]

(iv) * * *

(C) [Reserved]

* * * * *

(6) * * *

(i) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

(iv) [Reserved]

* * * * *

[FR Doc. 82-33889 Filed 12-13-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6462]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Florida: Leon	Unincorporated areas	120143A	June 4, 1973, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Dec. 20, 1974	Dec. 15, 1982.
Iowa:					
Linn	Cedar Rapids, city of	190187B	Aug. 13, 1971, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Aug. 2, 1974 and Jan. 26, 1982	Do.
Do	Unincorporated areas	190829B	Jan. 5, 1979, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	June 3, 1977	Do.
Michigan:					
Norfolk	Bellingham, town of	250232B	July 25, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	June 28, 1974 and Apr. 8, 1977	Do.
Plymouth	Hanover, town of	250266B	July 9, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	July 26, 1974 and Aug. 23, 1977	Do.
Monroe	Milan, township of	260152B	Oct. 2, 1975, emergency; Aug. 2, 1982, regular; Dec. 15, 1982, suspended.	May 24, 1974 and June 25, 1976	Do.
Grand Traverse	Traverse City, city of	260082B	Aug. 8, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	May 24, 1974 and Nov. 14, 1975	Do.
Minnesota: Marshall	Argyle, city of	270268B	Apr. 24, 1974, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	May 3, 1974 and June 11, 1976	Do.
New Jersey:					
Ocean	Barnegat, township of	340396C	Dec. 17, 1973, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	June 4, 1976, May 31, 1974 and Mar. 14, 1980.	Do.
Bergen and Hudson.	Hackensack Meadowlands District	340570A	Jan. 3, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Oct. 8, 1976	Do.
Ocean	Lakehurst, borough of	340377B	June 25, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	June 28, 1974 and Feb. 6, 1976	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Morris	Roxbury, township of	340362B	June 12, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Mar. 29, 1974 and Aug. 6, 1976	Do.
New York:					
Columbia	Chatham, village of	361523B	Nov. 13, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Dec. 6, 1974 and May 21, 1976	Do.
Washington	Fort Edward, town of	360885A	Apr. 16, 1974, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Feb. 7, 1975	Do.
Columbia	Valatie, village of	361508B	May 27, 1976, emergency; Dec. 1, 1982, regular; Dec. 15, 1982, suspended.	Oct. 15, 1974	Do.
Saratoga	Northumberland, town of	360725B	July 2, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	June 21, 1974 and July 30, 1976	Do.
Ohio:					
Licking	Hebron, village of	390333B	July 23, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	May 3, 1974 and May 21, 1976	Do.
Licking and Knox	Utica, village of	390338A	June 18, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Apr. 2, 1976	Do.
Pennsylvania: Lackawanna.	South Abington, township of	421758A	June 29, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Jan. 24, 1975	Do.
Texas: Wichita	Iowa Park, city of	480660B	July 9, 1975, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Apr. 5, 1974 and Mar. 12, 1976	Do.
Wisconsin:					
Pierce and Croix	River Falls, city of	550330C	Mar. 30, 1972, emergency; Dec. 15, 1982, regular; Dec. 15, 1982, suspended.	Oct. 12, 1973 and May 19, 1981	Do.
Rock	Beloit, city of	555544B	Nov. 27, 1970, emergency; July 9, 1971, regular; Dec. 15, 1982, suspended.	July 10, 1971 and Apr. 23, 1976	Do.
Minnesota: Marshall	Grygla, city of	270269A	May 24, 1974, emergency; Sept. 30, 1982, regular; Dec. 15, 1982, suspended.	Aug. 8, 1975	Do.
Indiana: Dearborn	Unincorporated areas	180038B	Apr. 3, 1975, emergency; Sept. 16, 1982, regular; Dec. 30, 1982, suspended.	Apr. 7, 1978	Dec. 30, 1982.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 2, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-33619 Filed 12-13-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6464]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a signficant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 Lost of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Oregon: Lake County	Lakeview, city of	410116	740806, emergency; 821116, regular	740524
Arkansas: Saline County	Saline county [2]	050191	780922, emergency; 821117, regular	770809
California: Orange County	Fountain Valley, city of	060218	720128, emergency; 821117, regular	740329
Connecticut: Fairfield County	Wilton, town of	090020	740731, emergency; 821117, regular	740315
Iowa:				
Black Hawk County	Black Hawk County [2]	190535	751020, emergency; 821117, regular	771025
Linn County	Palo, city of	190442	760625, emergency; 821117, regular	750919
Illinois:				
Boone County	Boone County [2]	170807	740501, emergency; 821117, regular	770429
Will County	Lockport, city of	170703	750422, emergency; 821117, regular	740308
Do	Plainfield, village of	170771	750521, emergency; 821117, regular	741129
Stephenson County	Winslow, village of	170644	750630, emergency; 821117, regular	740315
Kansas:				
McPherson County	Galva, city of	200497	770316, emergency; 821117, regular	750815
Lyon County	Lyon County [2]	200201	750528, emergency; 821117, regular	770628
Maryland: Cecil County	Charlestown, town of	240021	750220, emergency; 821117, regular	740920
Michigan:				
Kalamazoo County	Comstock, township of	260427	770118, emergency; 821117, regular	751010
Wayne County	Lincoln Park, city of	260234	740516, emergency; 821117, regular	740503
Missouri: Lincoln County	Winfield, city of	290213	740418, emergency; 821117, regular	731228
New Jersey:				
Gloucester County	Deptford, township of	340199	750616, emergency; 821117, regular	740809
Hudson County	Hoboken, city of	340222	750422, emergency; 821117, regular	740628
Atlantic County	Somers Point, city of	340017	730525, emergency; 821117, regular	740109
Sussex County	Stanhope, borough of	340456	750616, emergency; 821117, regular	740517
Gloucester County	Washington, township of	340213	740201, emergency; 821117, regular	740531
New York:				
Nassau County	Great Neck, village of	361519	741218, emergency; 821117, regular	740726
Do	Rockville Centre, village of	360488	740531, emergency; 821117, regular	740628
Do	Russell Gardens, village of	361583	760422, emergency; 821117, regular	0
New York: Suffolk County	The Branch, village of	361551	750707, emergency; 821117, regular	750124
Ohio: Shelby County	Sidney, city of	390507	741203, emergency; 821117, regular	740524
Oklahoma: Seminole County	Seminole, city of	400192	740520, emergency; 821117, regular	740607
Pennsylvania: Snyder County	Union, township of	422040	760210, emergency; 821117, regular	750718
Texas: Tarrant County	Grapevine, city of	480598	741003, emergency; 821117, regular	740628
West Virginia: Brooke County	Wellsburg, city of	540015	741218, emergency; 821117, regular	740517
Michigan: Alpena County	Alpena, city of	260010	730828, emergency; 821119, regular	750117
New Jersey: Cumberland County	Fairfield, township of	340168	720623, emergency; 821119, regular	740510
Pennsylvania:				
Pike County	Palmyra, township of	421968	810520, emergency; 821119, regular	741213
Perry County	Tuscarora, township of	421960	760414, emergency; 821119, regular	750117
Arkansas:				
Grant County	Poyen, town of	050278	760723, emergency; 821123, regular	750711
Desha County	Reed, town of	050070	750703, emergency; 821123, regular	740816
California: Del Norte County	Crescent City, city of	060039	750402, emergency; 821123, regular	740503
Oklahoma: Okfuskee County	Weleetka, town of	400139	751105, emergency; 821123, regular	740614
Texas:				
Van Zandt County	Grand Saline, city of	480634	750724, emergency; 821123, regular	740510
Do	Van, city of	480636	750618, emergency; 821123, regular	740830
Illinois: Cook County	Evanston, city of	170090	750325, emergency; 821126, regular	740621
New Jersey:				
Monmouth County	Farmingdale, borough of	340296	750311, emergency; 821126, regular	740315
Cumberland County	Lawrence, township of	340171	750721, emergency; 821126, regular	741018
Pennsylvania: Cumberland County	Upper Mifflin, township of	421589	760204, emergency; 821126, regular	741115
Oklahoma: Pontotoc County	Allen, town of	400174	750926, emergency; 821130, regular	740628

[1] Key for reading 4th column: First two digits designate the year, middle two designate the month, and last two designate the day.
[2] Unincorporated areas.
Total is: 45.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 2, 1982.

David McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-33665 Filed 12-13-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 73

[BC Docket No. 81-897; FCC 82-519]

Amendment of the Commission's Rules Regarding Applications for Voluntary Assignments or Transfers of Control

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action deletes the FCC's rule which required a broadcast license to be held for at least 3 years before assignments are transferred. This action establishes a one year holding period following initiation of program tests for stations whose initial construction permits are granted after comparative hearings. Related changes are made in FCC Forms 314 and 315. This action is taken to eliminate unnecessary regulation.

DATE: Effective December 14, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Mass Media Bureau, (202) 632-7542.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 0

Commission organization.

47 CFR Part 73

Television and radio broadcast.

Adopted: November 18, 1982.

Released: December 2, 1982.

In the matter of; Amendment of § 73.3597 of the Commission's Rules (Applications for Voluntary Assignments or Transfers of Control); report and order; proceeding terminated.

By the Commission: Chairman Fowler issuing a statement; Commissioner Quello concurring in the result; Commissioner Dawson concurring in part and dissenting in part and issuing a statement; Commissioner Rivera concurring and issuing a statement.

Introduction

1. Before the Commission is our *Notice of Proposed Rule Making*, 47 FR 985, published January 8, 1982, and the comments filed in response to that *Notice*.[1] In the *Notice*, the Commission proposed elimination of § 73.3597 (a) through (d) of its Rules, which comprise what is commonly known as the "three year rule." The rule requires an application for broadcast license assignment or transfer submitted prior to completion of a three year holding period to be designated for hearing unless specified extenuating circumstances are present or a waiver petition is found to be meritorious.

Background

2. The Commission observed in the *Notice* that the "three year rule" was adopted in March, 1962,[2] in response to two related concerns: (a) the possibility that the annual turnover of a large number of broadcast licenses reflected "trafficking" in broadcast interests;[3] and (b) the fear that frequent station sales might be causing programming deterioration. We noted that twenty years had passed since the rule was adopted, a period during which the broadcast marketplace had changed substantially with regard to the number of stations, industry overall profitability, and competition from new electronic media.

3. The Commission preliminarily concluded that in this market environment it was more likely that the "three year rule" would itself cause deterioration in service than that such deterioration might result from the rule's deletion. This was the case, we stated, because the rule artificially restricts the station from going to its "higher valued use." It prohibits a willing buyer ready to pay the market price from taking over the station, while forcing the seller to continue operation of a facility it no longer desires or cannot support. The public stands to suffer reduced service from a failing operation, and will not in any case receive the improved service which a more willing operator or a new infusion of capital might provide.

4. Additionally, the Commission suggested in the *Notice* that the consideration of "trafficking" as traditionally treated in broadcast cases was no longer appropriate, because the concerns which underlie "trafficking" matters are based on what we had come to see as "the false dichotomy between purchase of a station for profitable resale and purchase in order to render a public service." We stated that buying a broadcast station was an investment decision in which consideration of possible resale profits would frequently be a relevant factor. This did not, we observed, preclude service in the public interest during the ownership period. In point of fact, we commented that creating consumer satisfaction through provision of desired service was the essence of profitable operation.

5. The Commission noted that one aspect of the concern regarding "trafficking" which led to adoption of the "three year rule" was the belief that "speculation" would increase station prices, which in turn would allow only wealthy individuals or businesses to buy stations. It was then thought that a possible result of high station prices would be a decrease in the quality of programing and an increase in commercialization in order to recover the funds invested. However, we stated, our experience did not indicate that artificially restricting station sales through the "three year rule" had reduced station prices. The Commission commented that involvement in broadcast ownership by those of lesser means was more likely to be furthered by expanding the possibilities for entry, an effort being actively pursued. Additionally, the Commission stated, it appeared that marketplace forces would preclude efforts to recoup investment costs through overcommercialization.

6. In view of the factors noted at paragraphs 3–5, *supra*, the Commission indicated that the "three year rule" appeared to have outlived whatever validity and utility it might have had, and that it seemed that the public interest would best be served by allowing the marketplace to operate without this restriction.[4] However, the Commission proposed to retain § 73.3597(e) and (f), which prohibit payments to construction permit assignors or transferors of sums exceeding those shown to have been expended for "preparing, filing and advocating the grant of the construction permit for the station, and for other steps reasonably necessary toward placing the station in operation." Section 73.3597(f) also provides that the transferor or assignor (station seller) may only retain an interest in an unbuilt station if "he obligates himself, for the period ending 1 year after the issurance of Program Test Authority, to provide that part of the total capital made available to the station, up to the end of that period, which is proportionate to the seller's equity share in the permittee, taking into account equity capital, loan capital, and guarantees of interest and amortization payments for loan capital provided by the seller before the

[1] A list of commenters is attached as Appendix "A".

[2] *Applications for Voluntary Assignments or Transfers of Control*, 32 FCC 689 (1962).

[3] The Commission defined "trafficking" as speculation, barter or trade in licenses to the detriment of the public interest. *Id.*

[4] We also proposed elimination of the underlying "trafficking" policy.

transfer or assignment." In the *Notice*, we expressed our tentative view that continuation of these restrictions is dictated in part by Sections 301 and 304 of the Communications Act, which state, *inter alia*, that licenses issued by the Commission do not convey any property interest. Prior to the time a station has commenced operation, we reasoned, the permittee essentially has nothing to convey for a profit. Additionally, the Commission stated that continuing this rule in effect would serve to maintain the integrity of our licensing processes in which permittee's application implicitly states its intention to construct and to initiate service.[5]

Comments

7. The overwhelming majority of parties commenting in this proceeding support the Commission's proposal as set forth in the *Notice*. For example, American Broadcasting Companies, Inc. ("ABC") states that the "three year rule" is "a good example of a regulation which has outlived its usefulness" and that the rule now stands as "a needless inhibition on normal business and marketplace forces in the radio and television industries." Mid America Media describes the rule as imposing "an artificial, unjustifiable, and counterproductive restriction on investment opportunities in over-the-air broadcasting."

8. A number of parties supporting elimination of the rule assert that its adoption may not have been initially justified. In this regard, Metromedia, Inc. ("Metromedia") and Century Broadcasting Corporation, *et al.* ("Century")[6] note that in dissenting to the rule's adoption, Commissioner Hyde argued that the Commission's action was based upon faulty statistics and unfounded "assumptions and speculations," and that there was "nothing in the record to indicate that service has been adversely affected by the transfers which have been approved." Century argues that the rule's adoption was therefore justified "only by an *a priori* judgment" as to the benefits to be derived. Century contends that "the Commission's hypothesis was oversimplified and unsupported by any concrete evidence." Additionally, it states that "despite the passage of two decades, there is still no evidence whatsoever to suggest that the rule is either necessary or appropriate to further its stated objectives."

9. The National Radio Broadcasters Association ("NRBA") notes that the rule established a presumption that one attempting to sell a broadcast property held less than three years was engaging in "trafficking." It comments that underlying this presumption was "the basic philosophy that those with entrepreneurial skills should not be allowed to make 'quick' profits by dealing in broadcast licenses which they received as 'trustees' from the government." The NRBA goes on to state that "while the presumption of trafficking was given a public interest toning factor, to wit, that sales of licenses after short periods of time result in uncertainty among station personnel and deterioration of programming, there was never any extrinsic evidence developed to support this theory." NRBA concludes that "neither the underlying philosophy nor the unsupported toning factor justify the continuance of the rule."

10. Most commenters, including CBS, Inc. ("CBS"), The Palladium Publishing Company ("Palladium")[7] and the National Association of Broadcasters ("NAB") concur with the view expressed in our *Notice* that continuation of the present rule is more likely to lead to service deterioration than would its elimination,[8] because of the restrictions imposed on willing buyers and unwilling or failing owners. Several commenters expand upon this point, noting that the rule is particularly onerous to those who acquire failing stations and seek to turn them around. For example, WRQK, Inc., *et al.*,[9] state that the purchaser's risks are increased due to the three year holding period, and that the rule's net effect is to "discourage investments which would be beneficial to the public by giving a failing station an opportunity to be successful under new management." Such parties as the law firm of Putbrese & Hunsaker ("P&H"), Century, and the Federal Trade Commission's Bureaus of Competition, Consumer Protection and Economics ("FTC") argue in support of deletion of the rule that the prospect of delay entailed in Commission processing of a case coming under one of the recognized exceptions to the rule, or a waiver request, might itself be sufficient to deter otherwise willing investors from purchasing a distressed station.

11. Many commenting parties join in the *Notice's* view that the rule might increase prices through its limitation on the number of available properties. The United States Department of Justice ("Justice") further states that even though the cost of acquiring a license is inflated to the extent the rule is enforced, it is also true that "the value of the license is deflated in the eyes of prospective purchasers who realize that they will not be able to sell that license for three years without the expense and delay attendant upon a Commission hearing." Justice concludes that "the market would allocate resources more rapidly and efficiently if these artificial regulatory restraints were removed altogether." The FTC concurs in this view of the function of the marketplace, stating that "any effect on the price of broadcast stations caused by resale restrictions or their removal should not be a regulatory concern since the market will only allow the price to reflect the true value of the assets."[10]

12. While we proposed in the *Notice* to delete both the rule and the underlying policy, some commenters who support the rule's elimination nonetheless appear to be in favor of continued Commission control of "trafficking." In this vein, Argonaut Broadcasting Company, *et al.*[11] comment that "trafficking" in licenses is "undesirable both from the standpoint of the radio and television industries and the public which they serve." They state that they "view trafficking as a legitimate area for Commission oversight." The FTC takes a contrary view, asserting that "the 'evil' of the pure station brokerage, or 'speculation,'

[5] We observed that the public interest objective of expeditious introduction of new service would also be advanced thereby.

[6] Joint comments were filed by Century, Channick Broadcasting Corporation, Duffy Broadcasting Corporation, Liberty Communications, Inc., Radio South, Inc., Broadcasters & Publishers, Inc., Phillips Radio, Inc., WCUD/Stereo/Inc., TRC Communications, Inc., 39 Broadcasting, Limited, and United Communications Corporation.

[7] The Palladium Publishing Company is the licensee of Stations WHFB and WHFB–FM, Benton Harbor, Michigan.

[8] See paragraph 3, *supra*, and the *Notice*, at paragraph 7.

[9] Joint comments were filed by WRQK, Inc., KRQY, Inc., and WKOS, Inc.

[10] The FTC states that eliminating the rule "may or may not increase the resale price of broadcast stations." In the FTC's view, higher prices would "reflect only the increasing values of broadcast services to consumers and advertisers." It concludes that eliminating the rule would increase the value of broadcast stations because it would "lower the risk and costs associated with entering and leaving the broadcast business." The FTC observes, however, that "a depressing price effect * * * may also be felt as the number of stations for sale at any time increases with the removal of resale restrictions." The FTC believes that these "two conflicting price effects of removing the resale restriction leave the ultimate effect on the price of broadcast assets indeterminate."

[11] Joint comments were filed by Argonaut, Booneville Broadcasting Company, Forward Communications Corporation, Group One Broadcasting Company, Guaranty Broadcasting Corporation, Kula Broadcasting Company, Lake Huron Broadcasting Corporation, May Broadcasting Company, E.O. Roden & Associates, Inc., Spanish International Communications Corporation, Studio Broadcasting System, Tri-Cities Broadcasting Company, Ralph C. Wilson Industries, Inc., Wilson Communications, Inc., and WKRG–TV, Inc.

at which the antitrafficking rule is directed is illusory." It asserts that to the degree that pure brokers or "speculators" can facilitate sales more efficiently than station owner-operators, "the existence of trafficking can provide a better-functioning market for firms operating broadcast stations and for prospective broadcasters." [12]

13. Three commenters oppose elimination of the rule. They are the United States Catholic Conference ("USCC"), Cliford M. Hunter ("Hunter"), and Citizens Communications Center and related parties ("Citizens"). [13] Citizens' opposition makes two major arguments. First, Citizens contends that the Commission has improperly posited a competitive marketplace in which "permitting stations to be sold to the one who values it most" will "parallel the public interest because it is in the broadcaster's pecuniary interest to serve the public interest." Citizens states that there is in fact "little connection between a broadcaster's service to the public interest and his realization of commercial success" since " the latter is based upon the ratings, which reflect the success of entertainment programming." Citizens contends that "the former, which is the central concern of the Communications Act * * *, is based upon the presentation of public affairs and informed electorate programming * * *, a far less profitable burden which the Act compels broadcasters to shoulder in their capacity as public trustees." Citizens concludes that one seeking a quick profit from the purchase and subsequent sale of a broadcast station therefore "need not be concerned with the quality or amount of public affairs programming," since such programming "has a negligible or even an inverse relationship to profit."

14. Contrary to the Commission's view, Citizens contends that no competitive marketplace exists in broadcasting, and that this is particularly so as to television. Therefore, Citizens asserts that, as to television, "to conclude that one speculating in licenses is forced by the marketplace to serve the public interest is erroneous. A trafficker may neglect the public interest, enjoy profits from operation, and because of his relative monopoly position, still realize a substantial rate of return on his investment upon resale."

15. Citizens' second major argument in opposition to the rule's elimination is that the resultant increased trading in stations "could enable conglomerates to acquire substantial holdings, thereby decreasing diversity in station ownership," if combined with relaxation of the Commission's "seven station rule." Additionally, Citizens states that such Commission actions as the generic VHF "drop-in" proceeding and the initiation of the low power television service ("LPTV") do not "adequately address any problems of entry."

16. USCC's opposition to elimination of the rule is based in part on its belief that there is no certainty that "enhanced competition for and financial success of over-the-air broadcasting" justifies such action. USCC states that there are a "range of questions that should be researched and analyzed before any reasonable and proper conclusions are possible" as to this matter. For example, USCC questions whether financial success might "spur rather than dampen trafficking of broadcast licenses generally and those held for less than three years in particular." It also questions whether increased competition from nontraditional electronic services might impact differently upon each of the broadcast services, thus requiring that each class of license be treated differently with regard to trafficking and the "three year rule."

17. Hunter contends that "the lack of a holding rule would virtually eliminate the independent owner-operator from the business in markets where audience measurement is prevalent." He states that this is the case because of "the dramatic 'hypoing' that can be applied to a broadcast station, particularly radio, for a short duration solely for the purpose of capitalizing financially." Hunter suggests that the "fast buck operator" could operate in this manner for several months and improve his station's position at the expense of "commercially viable operators who believe in serving the public with news, public affairs programming and non-entertainment features." Hunter contends that "in general the only unwanted property is the unprofitable one," and Commission rules already allow the disposal of such stations prior to expiration of the three year period.

18. The response to our proposal to retain the present restrictions on funds obtainable when construction permits are transferred was divided. The NAB, Mid America Media, Palladium, Century, and Hunter each state support for retention of these limitations. Century and Mid America Media concur in the Commission's view that these provisions effectuate the intent of Sections 301 and 304 of the Act. The NAB, Palladium and Century join in the conclusion that the provisions also serve to maintain the integrity of the Commission's licensing processes. Century states that "in acting on applications, the Commission relies on an applicant's assurances of his ability and intent to place a proposed station on the air and render the promised broadcast service." Century observes that these assurances would be meaningless without §§ 73.3597 (e) and (f), "since a permittee could immediately sell his authorization to another party possessing none of the attributes of the applicant selected by the Commission." [14] Hunter states that while he supports our view as to the treatment of construction permits, "the Commission's position on transfer of a new license immediately after the conclusion of program tests would make a mockery of the intent."

19. While it generally agrees with the construction permit proposal, the NRBA states that "strict adherence to the technical profit/no profit guideline [should] be ameliorated to deal with transactions on a case-by-case basis." The NRBA contends that a permit holder who "for reasons of economic change over which it has no control finds itself unable to fill commitments honestly made" should be able to enter into a merger agreement which allows it to retain a percentage interest greater than its capital contribution. It reasons that while the construction permit has no property value, the permittee's efforts in securing the permit do have such value.

20. The FTC argues that there is no economic justification for drawing a distinction between sale before and after initiation of station operation. It states that the present rules have the effect of redistributing the "scarcity profits (economic rents)" from the permittee to the initial operator. The FTC contends that a "a more liberal policy concerning resale and transfer prior to station operation will promote the efficient use of station brokers and serve to reallocate broadcast resources from lower-valued to higher-valued uses more rapidly." Justice also proposes that the Commission reevaluate its tentative conclusion not to eliminate §§ 73.3597 (e) and (f). It states that "if the Commission is concerned about the

[12] We presume that the FTC uses the term "pure brokerage" to describe a situation in which a "speculator" acquires a station primarily for the purpose of rapid resale.

[13] The "related parties' include Chinese for Affirmative Action, Citizens Committee on the Media, National Association for Better Broadcasting and National Citizens Committee for Broadcasting.

[14] Century states, however, that it may be appropriate to reexamine Sections 73.3597 (e) and (f) if the Commission adopts a lottery for broadcast licensing.

intentions of an applicant to construct and to initiate new service expeditiously, the Commission should address these potential abuses through its initial grant of the license and its power to approve all assignments and transfers under Section 310(d) of the Communications Act of 1934." Justice contends that "the primary value in any transfer of a broadcast license, whether the station is under construction or fully-operational, is the expectation of future profits." However, neither the FTC nor Justice officially takes a position as to whether Sections 301 and 304 of the Communications Act may mandate such restrictions.

Discussion and Conclusions

21. In view of the overall record in this proceeding, the Commission concludes that the public interest will best be served by eliminating the "three year rule" and its underlying "trafficking" policy. However, we also conclude that the present restrictions on payments in construction permit transfer cases should remain in force. Accordingly, with the exception of the limited modifications discussed below, we adopt the proposals made in the *Notice*.

22. *The "three year rule" and the "trafficking policy."* When the "three year rule" was adopted twenty years ago, broadcasting was not nearly as mature nor successful an industry as it is today. In the two decades since the rule was enacted, the number of on-air radio stations has multiplied from 3,712 to 9,125. On-air television stations have increased from 603 to 1,059.[15] Today, 65 percent of all television households receive seven or more TV signals, and 97 percent receive four or more signals.[16] Additionally, over-the-air broadcasters face increasing competition from such newer technologies as cable television and video recordings, as well as the future impact of direct satellite-to-home broadcasting.[17]

23. We find that in this competitive environment the public interest is usually best served by allowing station sales transactions to be regulated by marketplace forces. The record developed in this proceeding confirms that continuing the "three year rule" in effect may in fact cause deterioration of service by preventing a station from going to its "higher valued use." The buyer who is willing and able to pay the market price for a given facility will be more likely to deliver the service audiences want than the owner unable or unwilling to continue station operation. However, the rule precludes that buyer from providing desired service. Additionally, the rule discourages the purchase of a failing station because it ties the potential buyer to the facility for the three year period. Further, as several parties point out, even the limited time period required for Commission processing of a waiver petition or a transfer involving one of the rule's stated exceptions may deter investment.

24. As we have noted, the rule was also adopted in part due to the Commission's concern regarding"trafficking", which was largely based on the fear that "speculation" in licenses would increase station prices, excluding all but the wealthy from ownership. However, we believe that continued use of the rule in an effort to control station prices would be both ineffective and inappropriate. Many commenting parties support our observation in the *Notice* that, contrary to its stated purpose, the rule may in fact increase station prices by artificially limiting the number of properties available for sale. More importantly, however, we are persuaded by the remarks of the FTC and Justice that station prices should not in any case be a matter of Commission concern, as such prices will only reflect the true market value of the stations. The Commission does not directly regulate station sale prices, and we see no need to attempt to do so indirectly by such artificial mechanisms as the "three year rule." Our experience indicates that the rule has not been a boon to the entry into broadcasting of those of lesser means. Such involvement in ownership will best be achieved by the Commission's ongoing efforts to expand entry opportunities.

25. At the time the rule was adopted, consideration of "trafficking" also involved concerns that overcommercialization would result from the high station prices which might be caused by "speculation." The Commission believed that a new owner might engage in advertising excesses in order to recover the substantial amount of money required to buy a station. However, the Commission has recently found in *Deregulation of Radio*, 84 F.C.C. 2d 968 (1981), that marketplace forces will effectively regulate commercial excesses in that medium. We also concluded in that proceeding that it would be appropriate to encourage experimentation and diversity in radio advertising. We found that as a general matter the Commission should "allow the interplay of good faith discretion of licensees and the competitive forces of the marketplace to determine which advertising policies better serves the needs and interests of particular listening audiences." 84 F.C.C. 2d at 1007. In view of those findings, we do not believe it necessary to retain the "three year rule" in order to regulate advertising excesses in radio.[18] Market forces may also serve to minimize commercial excesses in television broadcasting. However, the Commission has not as yet formally made such findings, and commercial television stations continue to be subject to our renewal processing commercial time guidelines. Given the existence of those guidelines, the retention of the "three year rule" to limit television commercialization is clearly unnecessary.

26. In the *Notice*, the Commission observed that concern with "trafficking" had in part been based on an incorrect dichotomy between purchase for profitable resale and public service. The Commission's historic concern, as reflected by opposing commenters Citizens and Hunter, was that a licensee who acquired a station with a primary interest in imminent resale would work to increase the station's resale value rather than making a meaningful effort to provide programming in the public interest. Thus, in the hypothetical "worst case," the licensee might decrease news and informational programming, which is relatively expensive to produce, increase contests and other activities to "hypo" the station's ratings, and seek excessive profits on resale.

27. We believe that the record in the *Report and Order* in *Deregulation of Radio, supra*, and the analysis set forth herein, indicates that market forces mitigate against such a result. In any case, licensees retain responsibility for their programming and the obligation to respond to their communities with informational programming. These responsibilities and obligations are applicable to all licensees, without

[15] 1962 data from *Television Factbook*, 1981–1982 Edition, at 75–a; current data, as of March 31, 1982, from FCC Release 3666, April 26, 1982.

[16] A. C. Nielsen Company, *Nielsen Report on Television 1981*. at 2. The increased number of radio stations has had a similar impact on the available radio signals in most markets. See National Association of Broadcasters, *New Technologies Affecting Radio and Television Broadcasting* (1981), at X–XI, for examples of the number of stations licensed to various cities.

[17] Both Nielsen and Arbitron report that cable penetration now exceeds 30 percent of television households. *Multichannel News*, June 14, 1982, at 1. Cable is having a significant impact on broadcast audience share. *Multichannel News*, July 5, 1982, at 21.

[18] If radio commercialization should become a matter of concern in the future, it would be more appropriate to treat that issue directly than through such a circuitous mechanism as the "three year rule."

regard to the length of time they have held or intend to hold the station. We do not believe that the Commission should attempt to impose additional unstated responsibilities through the construction of arbitrary restraints on station transfers.[19]

28. Further, as a result of the record compiled in this proceeding, we conclude that the purchase and rapid resale of broadcast properties is not *per se* contrary to the public interest. The "speculator" may be a "station doctor" who infuses new capital and/or ideas into a failing station, making it more responsive to its audience, and thereby serving the public interest. Even if the "speculator" does not cure the ailing station, it provides a ready market for a licensee that desires to sell a station, and provides caretaker service until a more permanent licensee is ready, willing or able to buy it. Certainly the public is ill served by forcing a licensee who is unwilling or unable to continue operation of the station to struggle along until three years has elapsed. In recognizing that even the "speculator" can provide an important economic service to the industry and responsive programming to the audience, we in no way depart from the concept that a broadcast license does not confer a property right in the frequency. Rather, our decision is based on the realization that in broadcasting, like any other business, important services can be performed by people who trade in broadcast properties, rehabilitate ailing stations with new capital and ideas or relieve unwilling licensees of the responsibility of running a station they no longer want.

29. Thus, we believe it appropriate to eliminate our historic "trafficking policy," and to limit Commission action in this area to enforcing the requirements of Sections 301 and 304 of the Communications Act. Such Commission inquiry will be restricted to whether any party has engaged in activity indicating action contrary to the statutory prohibition on license sales, such as attempting to profit on the transfer of a bare license. The Commission will continue to exercise its satutory authority under the Communications Act to determine that each transfer it approves is in the public interest.[20]

30. *Construction permit transfers.* The Commission's proposal to retain §§ 73.3597 (e) and (f), restricting funds received in construction permit transfer/assignment cases, is a matter of some controversy. Our review of the record on this point leads us to conclude that the rule should be retained in order to maintain the integrity of the Commission's licensing processes and effectuate the intent of Sections 301 and 304 of the Act.

31. As we have indicated, most parties commenting on the construction permit issue support the Commission's initial view that these restrictions are required by Sections 301 and 304, or that they serve to maintain the integrity of the Commission's licensing processes. The FTC and Justice take the contrary position, contending that as a matter of economics there is no difference between a transfer before or after a station commences on-air operation, and that profits should be allowed on pre-operation transfers. However, both agencies specifically state that they take no position as to whether such action would conflict with Sections 301 and 304.

32. While the Commission understands the theoretical basis of the FTC/Justice analysis, we continue to believe that profiting on the transfer of a construction permit is contrary to the letter and spirit of Sections 301 and 304. We do not deny that the grant of a construction permit constitutes an allocation of a valuable privilege to the permittee. It does appear, however, that as a matter of law the value attaches to and inheres in the permit itself. Until operations are commenced, the permittee has little else to transfer. Once the station goes on the air it has a goodwill/going concern value which does not exist prior to operation.

33. The NRBA contends that the efforts expended in obtaining a construction permit have value which should be reimbursed through allowing the initial permittee to obtain an interest after transfer greater that its initial capital contribution. The Commission observes, however, that to the degree these efforts involve measurable expenses, they are generally reimbursable. Additionally, we note that the acceptable measure of the transferor's capital contribution under the rule includes equity capital, loan capital, and guarantees of interest and amortization payments for loan capital provided by the seller before transfer or assignment. To allow retention of additional interests would open the door to the possibility that such might constitute disguised or potential sources of profit. This concern led to the rule's adoption.

34. While there is argument to the effect that allowing for-profit station sales once operation has commenced vitiates the intent of the restrictions on the transfer of construction permits, the Commission does not agree with that view. We note that the restriction on profit in permit transfers is in part mandated by statute. Further, we believe that as a policy matter the permittee who, having received the permit in an uncontested proceeding, commences broadcasting has fulfilled its basic commitment to the Commission and has, in the process, introduced new service to the public. Upon reflection, however, the Commission is of the view that the concerns we have expressed regarding the Commission's processes also suggest that a one year holding period after commencement of operation should be imposed on those who obtain a permit as a result of a grant through comparative hearing.[21] A permit received after hearing has been granted on the basis that the permittee was, above all other contenders, best qualified or suited to initiate service. Other parties have been excluded from receiving the grant and the Commission has incurred significant processing costs. Further, if the introduction of service is delayed, there are costs to the public.

35. We believe that the permittee who benefits from the Commission's processes as described above should be required to at least minimally fulfill the expectations upon which the grant has been made. A brief holding period appears the best way to achieve this objective. We stress that this holding period does not derive from our historic

[19] Citizens' belief that elimination of the "three year rule," could lead to lack of diversity in station ownership if coupled with elimination of the "seven station rule," is unsubstantiated speculation.

[20] We note that some opposition to elimination of the rule and the policy appears to be premised on the conclusion that there is no certainty that the present circumstances of the broadcast industry justify such action. We believe the record demonstrates otherwise. Additionally, as the courts have recognized, "the Commission's decisions must sometimes rest on judgment and prediction rather than pure factual determinations" and "in such cases complete factual support for the Commission's ultimate conclusions is not required, since a forecast of the direction in which future public interest lies necessarily involves deduction based on the expert knowlege of the agency." *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582, 594–595 (1981), citing *FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775, 814 (1978).

[21] As to the factors considered in the comparative process, see *Policy Statement on Comparative Broadcast Hearings*, 1 F.C.C. 2d 393 (1965), *reconsid. denied*, 1 F.C.C. 2d 918 (1965). We have recently made a similar decision regarding a holding period in the low power television proceeding. *Low Power Television Broadcasting*, 51 R.R. 2d 476, 518 (1982). Restrictions on the transfer of broadcast licenses or permits obtained through a lottery have also been proposed. *Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings*, 47 FR 45046 (1982).

concerns regarding trafficking, but, rather, from our desire to prevent abuse of the Commissions's licensing processes. It will not apply to subsequent transfers, nor to stations whose permits were not initially derived from a hearing grant. However, we do believe that as a general matter the exceptions to the three year period previously applied would also be appropriate to this holding period.[22] The rules will be amended to reflect these conclusions.[23]

Final Regulatory Flexibility Analysis

I. Need for and Purpose of Rule

36. The Commission has deleted existing §§ 73.3597 (a) through (d) of its rules, comprising the so-called "three year rule" restriction on license transfers. The Commission has found that elimination of the "three year rule" will free marketplace forces to operate in broadcast station sales and enhance provision of desired service to the public. The Commission has adopted a station ownership holding period of one year from the commencement of operation under construction permits granted as a result of comparative hearing. The Commission has taken this action in order to maintain the integrity of its licensing processes and minimize costs to itself and to the public. Additionally, in order to comply with the requirements of Sections 301 and 304 of the Communications Act, and to protect the integrity of its processes, the Commission has determined to retain present §§ 73.3597 (e) and (f) its rules. These rule sections prohibit the permittee from obtaining a profit on the transfer or assignment of a construction permit, and impose limitations with respect to options and retained equity interests.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. *Issues raised:*

37. No comments were submitted in direct response to our initial regulatory flexibility analysis. However, as indicated herein, some parties opposed the Commission's proposal to eliminate the "three year rule," while others argued against its tentative determination to retain the restrictions related to construction permit transfers.

B. *Assessment:*

38. The Commission has found that the arguments supporting retention of the "three year rule," as well as those opposing retention of the construction permit restrictions, are not persuasive, for the reasons set forth herein.

39. We continue to be of the view that the public interest will be served by elimination of the "three year" limitation on transfers, and that both the Communications Act and policy considerations require that the construction permit transfer limitations remain in force.

C. *Changes made as a result of such comment:*

40. Largely in response to the Commission's own concerns, but to some degree as a result on comments submitted, the Commission has adopted a one year holding period after commencement of operation for stations whose permits were granted through comparative hearing.

III. Significant Alternatives Considered and Rejected

41. No other alternatives were proposed.

42. Authority for adoption of the action taken herein is contained in sections 4(i), and 303 (g) and (r) of the Communications Act of 1934, as amended.

43. Accordingly, it is ordered, that §§ 73.3597 and 0.281(a)(2) of the Commission's Rules are amended, effective upon publication in the **Federal Register**, as described above and set forth in the attached Appendix "B".

44. It is further ordered, that FCC Forms 314 and 315 are amended, as set forth in Appendix "C", effective upon receipt of approval from the Office of Management and Budget.

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

46. For further information concerning this proceeding, contact Steven A. Bookshester, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix "A"

Comments Submitted

American Broadcasting Companies, Inc.
CBS Inc.
Citizens Communications Center and related parties:
  Citizens Communications Center
  Chinese for Affirmative Action
  Citizens Committee on the Media
  National Association for Better Broadcasting
  National Citizens Committee for Broadcasting
Century Broadcasting Corporation, et al.:
  Century Broadcasting Corporation
  Channick Broadcasting Corporation
  Duffy Broadcasting Corporation
  Liberty Communications, Inc.
  Radio South, Inc.
  Broadcasters & Publishers, Inc.
  Phillips Radio, Inc.
  WGUD/Stereo/Inc.
  TRC Communications, Inc.
  39 Broadcasting, Limited
  United Communications Corporation
Federal Trade Commission:
  Bureau of Competition
  Bureau of Consumer Protection
  Bureau of Economics
Gannett Co., Inc., Gaylord Broadcasting Company, and Lee Enterprises, Incorporated.
WRQK, Inc., and KRQY, Inc., WKOS, Inc.
Argonaut Broadcasting Company, et al.:
  Argonaut Broadcasting Company
  Booneville Broadcasting Company
  Forward Communications Corporation
  Group One Broadcasting Company
  Guaranty Broadcasting Corporation
  Kula Broadcasting Company
  Lake Huron Broadcasting Corporation
  May Broadcasting Company
  E.O. Roden & Associates
  Spanish International Communications Corporation
  Studio Broadcasting System, Division of Highwood Service, Inc.
  Tri-Cities Broadcasting Company
  Ralph C. Wilson Industries, Inc.
  Wilson Communications, Inc.
  WKRG–TV, Inc.
Metromedia, Inc.
Mid America Media
National Association of Broadcasters
National Radio Broadcasters Association
The Palladium Publishing Company
Putbrese & Hunsaker
United States Catholic Conference
United States Department of Justice

Appendix "B"

Rule Changes

PART 0—[AMENDED]

§ 0.283 [Amended]

A. In § 0.283 of the Commission's Rules, paragraph (a)(2) is removed, and paragraphs (a)(3)–(a)(17) are redesignated as paragraphs (a)(2)–(a)(16).

B. Section 73.3597 is amended by revising paragraphs (a) and (b), removing paragraphs (c) and (d), redesignating old paragraphs (e) and (f) as new paragraphs (c) and (d) and revising new paragraph (c)(1)(i) as follows:

[22] We will make every effort to process these requests on an expedited basis.

[23] We will also make a number of technical amendments to the rules, as shown in Appendix "B", in order to reflect the changes in policy adopted herein. These changes will also reflect the fact that in most cases the Commission no longer issues written "program test authority." Additionally, conforming changes will be make in the Commission's transfer and assignment applications, as shown in Appendix "C."

§ 73.3597 Procedures on transfer and assignment applications.

(a) If, upon the examination of an application for FCC consent to an assignment of a broadcast construction permit or license or for a transfer of control of a corporate permittee or licensee, it appears that the station involved has been operating on-air for less than one year, the application will be designated for hearing on appropriate issues unless the FCC is able to find that:

(1) The permit or license was not authorized after a comparative hearing;

(2) The application involves an FM or TV translator station or FM booster station only;

(3) The application involves a *pro forma* assignment or transfer of control; or

(4) The assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which establishes that, due to unavailability of capital, to death or disability of station principals, or to other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit, FCC consent to the proposed assignment or transfer of control will serve the public interest, convenience and necessity.

(b)(1) The commencement date of the one year period set forth in paragraph (a) of this section shall be the date on which the station initiated program tests in accordance with § 73.1620.

(2) In determining whether the station has been operating on-air for one year, the FCC will calculate the period between the date of initiation of program tests (as specified in paragraph (b)(1) of this section) and the date the application for transfer or assignment is tendered for filing with the FCC.

(c)(1) As used in paragraphs (c) and (d) of this section:

(i) "Unbuilt station" refers to an AM, FM, or TV broadcast station or a low power TV station for which a construction permit is outstanding, and, regardless of the stage of physical completion, as to which program tests have not commenced.

* * * * *

C. In addition to the amendments set forth above, 47 CFR 73.3597(c)(1)(ii) through (vi), (formerly designated as 47 CFR 73.3597(e)(1)(ii) through (vi)), are amended by removing the words "issuance of Program Test Authority" and inserting, in their place, the words "commencement of program tests."

Appendix "C"

A. FCC Form 314 is amended as follows:

1. In "Section I Instructions," Section C. is revised to reads:

C. (1) State whether the station has commenced its initial program tests, as defined in § 73.1620 within the past 12 months. If the answer to this question is "yes," state whether the initial construction permit was granted as a result of comparative hearing. If so, submit, as a separate Exhibit to the application, the showing required by § 73.3597 of the Rules.

(2) If this application is for assignment of a construction permit for an unbuilt station, see Instructions for Section III, Subpart C.

2. In "Section III Instructions, Subpart C," "Section 73.3597(c)" is substituted for "Section 73.3597(e)."

3. In "Section I, General Information," Question 2. (b) is revised to read: Has the station commenced its initial program tests within the past 12 months?——If the answer is "yes," was the initial construction permit granted after comparative hearing?——If so, submit, as Exhibit——the showing required by § 73.3597.

B. FCC Form 315 is amended as follows:

1. In "Section I Instructions," Section B. is revised to read:

B. (1) State whether the station has commenced its initial program tests, as defined in § 73.1620, within the past 12 months. If the answer to this question is "yes," state whether the initial construction permit was granted as a result of comparative hearing. If so, submit as a separate Exhibit to the application the showing required by § 73.3597 of the Rules.

(2) If this is an application for transfer of control of an entity holding a construction permit for an unbuilt station, see instructions for Section III, Subpart C.

2. In "Section III Instructions," Subpart C, "Section 73.3597(c)" is substituted for "Section 73.3597(e)."

3. In "Section I, General Information," Question 2. (b) is revised to read: Has the station commenced its initial program tests within the past 12 months?——If the answer is "yes," was the initial construction permit granted after comparative hearing?——If so, submit as Exhibit——the showing required by § 73.3597.

November 18, 1982.

Statement of Mark S. Fowler, Chairman

Re: Elimination of the Three Year Rule

I view today's decision as a true blockbuster in the unregulation process. The purposes of this rule may have been laudable at the time it was developed by the Commission. But its effect proved quite the opposite. It punished rather than rewarded entrepreneurs that wanted to improve the service—and the profitability—of one station and move along to another station. It thereby discouraged entry and exit in the broadcasting business. The Three Year Rule really became the seven minute penalty box for the broadcast industry. But instead of removing a contentious player from the game, it probably removed the best. Today's action shows you can bring regulation in line with what really goes on in the marketplace and best serve the public's interest.

Opinion of Commissioner Mimi Weyforth Dawson Dissenting in Part

While I applaud the demise of the three-year rule, I must respectfully dissent from the majority's substitution of a "one-year rule" for licensees which "obtain a permit as a result of a grant through comparative hearing." *Report and Order* at para. 34. I believe that the imposition of a burden so onerous and arbitrary for reasons so flimsy and transparent is wholly antithetical to the deregulatory philosphy of this Commission.

Underlying the retention of a "one-year rule" is the majority's regulatory notion that "the permittee who benefits from the Commission's processes . . . should be required to at least minimally fulfill the expectations upon which the grant has been made." *Id.* at para. 35.

However, an arbitrary one-year holding period focuses what concerns there may be in the wrong direction. If the majority so fears that an applicant, with no intention of operating a station, will somehow take advantage of the comparative process, those fears can be dealt with when the comparative winner seeks to sell its new station. Indeed, the imposition of a "one-year rule" simply loses sight of the fact that the Commission must approve—as being in the public interest—any transfers or assignments, including those made within one year of licensing by comparative winners.

Moreover, a one-year holding period is grossly overinclusive. Sales of stations within one year of licensing may actually foster the policy goals of our comparative process in that the buyer may well be "better" in terms of diversification, integration, minority ownership and our other comparative criteria. Yet, the one-year holding period would effectively prohibit such transactions from taking place. While it may be true that the buyer and seller in such a situation may ask for a waiver, I continue to believe, as I did with regard to the "one-year rule" imposed on low power television licensees, that "(a)bsent a showing of need for government interference in the marketplace, the burden for imposing regulation should lie with those proposing regulation with the presumption in favor of noninterference." *Inquiry Into the Future Role of Low Power Television*, 51 Rad. Reg. 2d (P&F) 476, 525 (1982) (statement of Fowler, Chairman, and Dawson, Commissioner, dissenting in part).

In addition, as I felt with the "one-year rule" in low power, the imposition of a "one-year rule" with regard to full-service-broadcast stations can only harm minority applicants who use our minority preferences in comparative hearings since their entry into and investment in the broadcasting business must now be encumbered by the additional

regulatory baggage of a "one-year rule." As I believed with regard to low power, it will be "difficult enough for those entrants to obtain financial backing without the added burden that this limitation on the disposability of the facility will impose." *Id.*

Finally, the imagined assaults on the "integrity" of the Commission's comparative hearing process, as outlined by the majority, support not the deletion of the three-year rule—which at least had the virtue of rationality in that it was tied to the broadcast license term—but, rather, the expansion of the three-year rule into a "five-year" and "seven-year rule." If it somehow violates the spirit of the hearing process for a comparative winner to be able to sell a broadcast station upon licensing, then the system is equally violated if the comparative winner may sell its station on the 366th day of its stewardship. A one-year holding period simply bears no relationship to the theoretical promises exacted from a comparative winner in the hearing process.

Accordingly, as to the imposition of a "one-year rule," I respectively dissent.

Concurring Statement of Commissioner Henry M. Rivera

Re: Elimination of three-year rule and anti-trafficking policy

I concur in the result of these actions but without the majority's rhetorical zeal and analytic overextension.

The broadcast industry is vastly different—in size, stability and overall profitability—from what it was when the three-year rule was first promulgated. Therefore, it was appropriate for us to revisit the rule to determine if it was accomplishing its goals.[1] I agree that it was not [2] (and may never have) [3] and, accordingly, should be eliminated. In addition, although I believe that from a public interest standpoint it would be desirable to make plain to the industry the Commission's continuing concern with rampant bartering of scarce, federal authorizations,[4] I cannot formulate a workable alternative to the rule to enforce such an antitrafficking policy. Without such an alternative, identification of abuses become subjective and enforcement haphazard. Therefore, the policy should be eliminated. I write separately because, as I stated earlier, I do not agree with the majority's entire rationale.

The contention that the rule promotes deterioration of programming is unpersuasive. A licensee constrained to hold its station has a strong economic incentive to maintain the station's market value—the higher the value, the larger the profit on resale. Of course, to maintain the station's value, the "unwilling" licensee must maintain a constant level of public service.[5] Thus, the majority's assertion that the rule causes service deterioration is counterintuitive and, from an economic point of view, unrealistic.

As to the majority's easy dismissal of our longstanding concern with trafficking, it may be true that decisional bodies have created a false dichotomy between purchase for profitable resale and purchase for public service, but I am wholly unconvinced by the majority's confident claim that purchase for short-term profit will always further the public interest.[6] The majority's explanation of the virtues of speculator licensees—be they "caretakers" or "station doctors"—does not conceal that it is really just equating the public's interest with the industry's interest on this issue. To my mind, this attitude runs counter to *Cowles'* command that our regulatory policies are to be implemented "for the benefit of the public, not for incumbent broadcasters." [7] I disagree that trafficking is in the public interest.

Finally, I do agree that retaining the three-year rule does little to ameliorate the reality that broadcasting is, by and large, a rich man's industry. The reason for that has more to do with the limited number of available licenses,[8] which the majority tacitly recognizes by adverting to the Commission's "ongoing efforts to expand entry opportunities." Here, though, I must again lament that the Commission's commitment to this goal evidently falls far short of my own,[9] as shown by the fact that, of the several "new entry" dockets cited in the underlying Notice of Proposed Rulemaking herein, there has been movement in *just one* in the ensuing year since the NPRM was issued—the low power television proceeding. The abject neglect these proceedings have endured prompts me to wonder whether, when the Commission suggests it wants to "let the players play," it is referring only to those now in the system.

[FR Doc. 82-33768 Filed 12-13-82; 8:45 am]

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[1] The rule was created when the radio and television industries were still developing (especially FM and UHF service) for two reasons—to secure continuous, responsive broadcast service for the American public and to deter trafficking in licenses.

[2] The FCC's substantive policies, individual service philosophies, and competitive conditions within given markets are more likely to affect the type of service the public receives. Elimination of the rule and the likely increase in short-term transfers are unlikely to affect the continuity or quality of broadcasting service nationwide.

[3] *Notice of Proposed Rulemaking*, 47 FR 985, 987, at para. 10 and nn. 12, 13 (January 8, 1982).

[4] Trafficking has been a longstanding subject of concern to this agency (*see, e.g., Zenith Radio Corp.*, 60 FCC 2d 1012, 1016 (Rev. Bd. 1976); *Prairieland Broadcasters*, 49 FCC 2d 1377, 1381 (Rev. Bd. 1974); *Harriman Broadcasting Co.*, 9 FCC 2d 731, 733 (1967); *Plains Radio Broadcasting Co.*, 32 FCC 811, 822 (I.D. 1962); *Laramie Broadcasters*, 20 RR 423 (1960); *WMIE-TV, Inc.*, 11 RR 1019, 1097-98 (1955); *Versluis Radio and Television, Inc.*, 19 FCC 1 (1954)); the courts (*see Citizens Committee to Save WEFM* v. *FCC*, 506 F.2d 246, 268 (D.C. Cir. 1974) (en banc) (Bazelon, C.J., concurring); *Crowder* v. *FCC*, 399 F.2d 569 (D.C. Cir.), *cert. denied*, 393 U.S. 962 (1968); *Folkways Broadcasting Co.* v. *FCC*, 375 F.2d 299, 301 (D.C. Cir. 1967). *See also MG-TV Broadcasting* v. *FCC*, 408 F.2d 1257, 1266, 1268 (D.C. Cir. 1967) (Leventhal, J., dissenting) ("[W]idespread trafficking in licenses should not be tolerated.")); and the Congress ("Trafficking in Broadcasting Station Licenses and Construction Permits," H.R. No. 91-256, 91st Cong., 1st Sess. (1969); "Harris Report.", H.R. No. 2711, 85th Cong., 2d Sess. (printed 1959); "Regulation of Broadcasting: Half a Century of Broadcasting and the Need for Further Legislative Action," 85th Cong., 2d Sess. (1958) (Subcomm. Print).

[5] Licensees experiencing economic hardship were never prevented from selling by operation of the rule. *See* 47 CFR 73.3597(a)(1981).

[6] If anything, practicalities suggest otherwise—that "profiteers" will decrease informational programming, which is relatively expensive to produce, increase contests and other activities to "hype" a station's ratings, to obtain maximum profits on resale. Although the majority characterizes this result as the hypothetical worse case, there is no reason why the prime mover of our economic system, the profit motive, will not encourage such worst cases.

[7] *Central Florida Enterprises, Inc.* v. *FCC*, 683 F.2d 503, (D.C. Cir. 1982).

[8] We have all by now probably recovered from the news of the astonishing $220 million price paid for a Boston television station, WCVB-TV. This underscores just how dear scarcity rents can be. *See also Telecommunications in Transition: The State of Competition in the Telecommunications Industry*, 97th Cong., 1st Sess. 342 et seq. (Nov. 3, 1981).

[9] *See Multiple Ownership of AM and FM Stations*, FCC 82-113 (released April 20, 1982) (dissenting statement of Commissioners Fogarty and Rivera).

47 CFR Part 74

[BC Docket No. 81-793; FCC 82-531]

Experimental, Auxiliary and Special Broadcast, and Other Program Distributional Services; Policy and Procedure

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The FCC makes various editorial amendments to the rules in Subparts D, E, F and H of Part 74 to reflect actual policy and procedure. Additionally, the Commission amends the rules to provide greater flexibility in the assignment of low power auxiliary station frequencies and permits system licensing of TV pickup stations. The intended effect of this action is to improve the accuracy of the rules and to facilitate broadcast auxiliary station operation.

DATE: The new rules become effective on January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Federal Communications Commission, Mass Media Bureau, Washington, D.C. 20554, Edward C. Gursky at (202) 632-7698.

List of Subjects in 47 CFR Part 74

Radio, Television.

Adopted: December 2, 1982.

Released: December 10, 1982.

Introduction

In the matter of a revision of Subparts D, E, F and H of Part 74 of the Commission's Rules to reflect current policy and procedure; BC Docket No. 81-

793; report and order (Proceeding Terminated).

Introduction

1. On November 12, 1981, the Commission adopted a Notice of Proposed Rule Making ("Notice") in the above-entitled matter.[1] We explained that this Notice in conjunction with the Notice of Proposed Rule Making in BC Docket No. 81–794,[2] would compose the present phase of our Part 74 deregulatory and regulatory flexibility review programs. Accordingly, in addition to the comments filed in this proceeding, we have reviewed the comments filed in response to the Notice in General Docket 81–706 (hereinafter "Reg Flex Notice").[3] We feel that the rule amendments adopted herein, in conjunction with those adopted in other Part 74 proceedings in the past year, are substantially responsive to the relevant concerns raised in the Reg Flex Notice.

2. Most of the rule amendments proposed in the BC Docket No. 81–793 Notice were editorial or procedural in nature. Included therein were deletions of various references to the Commission's now closed Chicago Regional Office and related use of FCC Form 425; incorporation of a "grandfather" clause in §§ 74.502 and 74.602 concerning continued operation of STL (Studio Transmitter Link) and intercity relay stations in the 942–947 MHz Band; elimination of notification requirements concerning remote control, unattended and multiplex operation; conformance of the Special Temporary Authorization ("STA") regulations in Subpart F to those in Subparts D and H; addition of a definition of "zones" in § 74.802; and, deletion of the requirement in § 74.832(e) that low power auxiliary station applicants specify the nearest television station operating on the requested frequencies.

3. Several other substantive amendments designed to update the rules to reflect current regulatory policy were also proposed. Specifically we proposed to delete the term "intercity" in § 74.601 to reflect that we do, in fact, allow the operation of any type of "TV relay station" on the available frequencies; to prohibit future use of Subpart E facilities for the transmission of TV sound; and, to amend § 74.832 to allow greater flexibility in the operation of low power auxiliary stations at temporary locations. Additionally, the Commission asked that parties to this proceeding identify other rules which could be considered obsolete or needlessly burdensome, and rule amendments which would be too minor in nature to warrant individual rule making.

4. On December 11, 1981, the Commission received a petition for rule making from the Cetec Vega Division of the Cetec Corporation ("Cetec Vega") concerning assignment of low power auxiliary station (Subpart H) frequencies. Cetec Vega requests that the rules be amended to permit the assignment of frequencies on 25 kHz increments of the presently listed frequencies on the basis that this would double the number of channels that would be free of intermodulation interference. Believing that this petition should be considered as comments on a proposal within the scope of this proceeding, an Order Extending Time for Filing Reply Comments was adopted on January 11, 1982.[4]

5. In addition to the Cetec Vega petition, we have received a number of recommendations for new regulations from the Southern California Frequency Coordinating Committee ("SCFCC"). These proposals largely relate to the role of broadcast frequency coordination committees in the assignment and use of auxiliary service frequencies. However, adoption of these recommendations would result in new regulations and the imposition of new burdens. In view of the fact that the comments received in this proceeding do not engage in mutual analysis but are completely independent, and because no reply comments have been received, we are reluctant to adopt new regulations in the face of what may be inadequate comments. Accordingly, no action will be taken on the SCFCC proposals in this proceeding. However, participants to this proceeding, as well as other interested parties, are encouraged to review the SCFCC filing to determine whether the recommendations made therein have merit and to communicate their opinion to the SCFCC. If the response is positive, we would encourage the SCFCC to augment and organize its earlier comments into a formal petition for rule making.

6. We have also received a recommendation from CBS and NBC that we implement system licensing of TV pickup mobile stations. Since this recommendation merely involves a procedural change in the rules and will clearly benefit licensees and the Commission, it will be granted as discussed, infra.

7. In addition to CBS, NBC, SCFCC and Cetec Vega, comments in this proceeding were filed by Cox Broadcasting Corporation ("Cox"), Moseley Associates, Inc. ("Moseley"), the National Association of Broadcasters ("NAB") and William F. Ruck ("Ruck"), Engineering Manager at Station KFOG.

"Grandfathered" Operation Between 942 and 947 MHz

8. In the Notice, we suggested that a "grandfather" clause be included in §§ 74.502(c) and 74.603(c) to express our long-standing policy relative to broadcast auxiliary station assignments in the 942–947 MHz Band. Even though this band was reallocated to land mobile and reserved in the First Report and Order and Second Notice of Inquiry in the Docket No. 18262 proceeding, it is still extensively used for broadcast STL and fixed relay communications.[5] Accordingly we believed that it would be appropriate to include in §§ 74.502(c) and 74.603(c) the substance of § 2.106, Footnote NG–64, which states that "[b]roadcast auxiliary stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz may continue to so operate pending a decision as to their disposition in a future rule making proceeding". Additionally, we noted that we had under consideration two petitions proposing air-to-ground telephone service in the 942–947 MHz Band.[6]

9. The comments on this matter express the view that because of the scarcity of spectrum available for STL and intercity relay station operation, any language that would mitigate

[1] 46 FR 60222 (December 9, 1981).

[2] See *Amendment of Part 74, Subpart F of the Commission's Rules to permit shared use of broadcast auxiliary facilities with other broadcast and nonbroadcast entities and to establish new licensing policies for television auxiliary broadcast stations).* 46 FR 60024 (December 8, 1981).

[3] 46 FR 56466 (November 17, 1981). The Docket 81–706 proceeding was terminated by *Order* adopted on June 3, 1982, (47 FR 27087 (June 23, 1982)), which indicated that the comments submitted would be treated in future rule making proceedings. With respect to the Broadcast Auxiliary Services (Part 74), the scope of the Reg Flex Notice was limited to certain rule sections in Subparts D, E, F and H. Comments were filed by the American Broadcasting Company (ABC), CBS, Inc., the National Association of Broadcasters (NAB) and Haley, Bader and Potts. Many of the comments involved rule sections not listed in the Notice. Others suggested amendments which have been addressed in rule making proceedings since concluded. ABC proposed many additional revisions of the listed rule sections, but failed to discuss the need for the recommended changes. As a consequence, where the changes sought by ABC resembled those recommended by the Commission in the BC Docket No. 81–793 Notice, the rule sections have been appropriately modified. In other cases, we have taken no action since no justification was furnished and none could be determined.

[4] 47 FR 3807 (January 27, 1982).

[5] Appendix C, revision to Part 2, section 2.106, Footnote NG–64 (35 FR 8644 (June 4, 1970)).

[6] The petitions are RM–3885, Aeronautical Radio, Inc., developmental license granted August 25, 1981, and RM–3524, Air Fone, Inc., Developmental license granted December 12, 1980.

broadcasters' claims to operate in the 942–947 MHz band would be unacceptable. Thus, NAB recommends that the rule be revised as proposed, except that it recommends that the expression "pending a decision as to their disposition through a future rule making proceeding" be omitted. The SCFCC notes that any shared use of this spectrum with the air-to-ground systems mentioned in the Notice would expose broadcasters to an unacceptable risk of interference. Moseley and Ruck emphasize the need for additional spectrum for STL service. At the very least, those filing comments on this issue believe that there should be no change in the status of broadcast auxiliary stations in the 942–947 MHz band until acceptable alternative frequencies are made available for assignment.

10. While we note the concern expressed by the commenters on this issue, we reiterate that the proposed change in the rules is merely editorial in nature and does not reflect any change in policy. Leaving the rules as they are, or amending them in a way that would imply permanent broadcast auxiliary station operation in the 942–947 MHz band would mislead licensees as to the true status of these stations, tend to circumvent the decision in Docket No. 18262, and ostensibly prejudge the resolution of the proceeding which will address rule making petitions 3524 and 3885. Such a change in policy is outside the scope of this proceeding.

11. Furthermore, on June 23, 1982, the Commission adopted a Notice of Proposed Rule Making in General Docket No. 82–335 [7] that looks to terminate broadcast auxiliary station operation in the 942–947 MHz band in 5 years and substitute spectrum in the 2130–2150 and 2180–2200 MHz band. This spectrum is currently allocated exclusively to the Private Operational Fixed Microwave Service. Under this proposal, 48 new channels would be available for aural broadcast STL and intercity relay station use over much of the country. This proceeding has the potential for substantially alleviating broadcasters' needs for additional aural broadcast STL and intercity relay station spectrum.

12. In view of the foregoing discussion, §§ 74.502 and 74.603 will be amended by inclusion of the grandfather clause originally proposed.

[7] 47 FR 31170 (July 16, 1982). This proceeding is generally concerned with expanding the frequencies availble for use by aural broadcast STL and intercity relay stations. It encompasses Docket Nos. 19130 and 19494, RM–2697 and RM–3246.

Use of Subpart E Facilities for Transmission of TV Sound

13. Currently § 74.603(b) allows transmission of the sound portion of TV broadcast program material over an aural broadcast STL or intercity relay station. This provision initially was created because of equipment limitations which prevented economical integration of TV aural and visual information. However, because equipment limitations have been overcome, and because of the increasing frequency congestion in the frequency bands available for aural STL and intercity relay station use, the Notice suggested that the time had come for permission to use this spectrum in connection with video broadcasting to be withdrawn. Accordingly, we proposed deletion of § 74.603(b).

14. In its comments, Cox advises that two of its TV stations are using Subpart E frequencies to carry TV sound. TV Station KTVU uses these frequencies to avoid the erratic propagation conditions that can occur in the higher frequency TV STL bands. TV Station WSOC uses a Subpart E frequency to avoid a transmission problem associated with the use of a character generator. Accordingly, Cox opposes any change in the rules that would require cessation of existing TV aural programming on Subpart E frequencies.

15. NAB concurs with the Commission's assessment that circumstances have changed since § 74.603(b) was adopted and affirms that the necessary subcarrier and multiplex technology to combine video and aural program components into a single transmission, and to recover them at the receiving location, is now commonplace. Thus, NAB states that television broadcasters who continue to use separate transmissions, video under Subpart F and aural under Subpart E, simply have not elected to change equipment and take advantage of newer STL technology. NAB believes that the number of television stations that would be required to purchase new equipment upon deletion of §74.603(b) is relatively small, and that the cost of changing to multiplex equipment would not be burdensome in most instances. Noting that the burdens upon television stations may vary from market to market as a result of the elimination of the rule, NAB recommends that the Commission adopt a grandfather provision that gives first priority to radio users of Subpart E frequencies, but that does not require television licensees to relocate to other frequencies and obtain new equipment unnecessarily. Thus, rather than requiring an across-the-board exodus of television users from Subpart E on a fixed date, NAB suggests that the Commission permit AM and FM users to "bump" television users to other spectrum as the need arises in each locality.

16. The Commission concurs with the analysis and recommendations of NAB. In the case of KTVU cited by Cox, it is not clear why TV STL channels can be used to carry video information reliably, but not associated multiplexed aural programming. In the case of WSOC, the need apparently arises from some type of equipment incompatibility or deficiency. However, many stations use video enhancement equipment, including character generators, without segregrating audio and video transmissions. Thus, we believe the problems cited by Cox could be overcome without resorting to the use of Subpart E facilities.

17. We believe that additional clarification of our original proposal may be in order. In proposing the elimination of § 74.603(b), we had in mind phasing out those operations where video-related aural transmission was the sole or primary purpose of the auxiliary station. We proposed this because we believed the demand for Subpart E spectrum by AM and FM station licensees outweighed the convenience to TV licensees. NAB's comments support this view. Nevertheless, we would not object to TV aural programming being carried on Subpart E facilities on a secondary basis, *i.e.*, on a multiplexed subcarrier of a station principally used to carry AM or FM station programming. In this instance, we consider the spectrum to be used efficiently, particularly where there are some incidental benefits accruing to the users of the facilities. We believe that the sole use of Subpart E facilities by a TV licensee is generally not justified, particularly where the spectrum is needed by radio broadcasters.

18. Accordingly, the final rule adopted herein provides for continued use of Subpart E facilities for the transmission of TV sound on a secondary basis to AM and FM station programming. However, where the transmission of TV sound is the sole or primary purpose of a Subpart E facility, operation of that facility may be terminated by the Commission after a showing is made by an AM or FM station licensee or permittee that the channel used by the TV licensee is the only one available for assignment to a radio station licensee or permittee. Where the number of Subpart E channels used exclusively for TV sound exceeds the requirements of radio

broadcasters, the Commission will work with all parties involved in an attempt to reach an equitable solution.

Special Temporary Authority

19. To reflect existing policy and to conform the language in the rule sections pertaining to special temporary authority, we proposed to add a new paragraph (e) to Section 74.633 to state that "Special temporary authority to permit operation of TV broadcast auxiliary stations pending Commission action on an application for regular authority will not normally be granted." We indicated that this would discourage the requests we occasionally receive in this regard.

20. NBC asserts that because STA requests are only "occasionally received," there appears to be little reason to "discourage" their filing. Thus, NBC suggests that rather than adding the new language to § 74.633, we should consider deleting it in § 74.433(f). NAB comes to a similar conclusion, but on the basis of the Commission's recent action in BC Docket No. 81–497.[8] NAB points out that an STA need only be sought where the period of use would exceed the 30-day limit specified in § 74.24(d). NAB believes that in such situations there seems to be no reasons for applying a different standard in evaluating STA requests from those seeking permanent authority as opposed to those who seek temporary use only. NAB believes that adoption of the proposed language could produce an anomalous situation in which certain Part 74 rules seek to discourage STA requests from one class of applicants, while § 74.24 (which contains the short-term operating provisions) renders most of these requests unnecessary. NAB concludes its comments by questioning whether this proceeding and the BC Docket No. 81–497 proceeding have been coordinated so as to ensure a consistent result.

21. We do not issue STAs to applicants seeking permanent authorizations for broadcast auxiliary station facilities because we expect such applicants to submit their applications to the Commission far enough in advance of the desired operational date, so that a permanent authorization can be timely issued without the necessity for an STA. In the past, the delay in obtaining permanent authorization coincided well with the period required to procure necessary equipment. Today, however, "frequency agile" or "synthesized" equipment is available that can be obtained almost immediately because there is seldom a need to make custom modifications for the purchaser. This ready equipment availability can potentially reduce the interval between the time a broadcaster identifies a communication need and the time that the need is satisfied. Of course, this can only happen if the Commission has in place either an actual or virtual "instant licensing" process. We believe that this is, in effect, what NBC and NAB are asking for when they request that the proposed modification to § 74.633 not be adopted, and that similar language in §§ 74.433 and 74.833 be eliminated. By granting an STA during the period the regular application is being processed, we would create another type of virtual instant licensing system.

22. However, we believe that an adequate prompt licensing process already exists and that the modification requested by NAB and NBC would serve little further purpose. The short-term operating provisions contained in § 74.24 already allow Part 73 licensee operations on Part 74 frequencies for a period of up to 30 days (720 hours) per frequency, albeit on a secondary status to regularly authorized operations. However, because any frequency requested in an application would have to be genuinely available for permanent assignment after coordination with other licensees in the intended area of operation, and because the processing time for a properly executed routine broadcast auxiliary station application is less than 30 days, it is unlikely that an applicant would ever have to move off a requested frequency. Accordingly, the issuance of an STA does not warrant the time demands placed on our processing personnel. Lastly, where broadcast auxiliary station operation cannot take place pursuant to § 74.24 because of the need for Canadian coordination, or because the antenna height requires FAA coordination, no "instant license" or STA could be issued in any event.

23. In view of the foregoing circumstances, we find that the request of NAB and NBC would provide a rather complicated solution to a problem already effectively resolved by the short-term operating provisions of § 74.24, and that it would impose additional burdens on Commission processing personnel. Accordingly, the rules relating to special temporary authorization will be amended as originally proposed.

[8] 47 FR 9214 (March 4, 1982). This proceeding authorized short-term (30 days or less) operation by Part 73 licensees on Part 74 frequencies in Subpart D, E, F and H without prior approval by the Commission.

The Cetec Vega Petition

24. As mentioned previously, we extended the time for filing reply comments in this proceeding in order to obtain comments on Cetec Vega's petition. Cetec Vega requested that we amend § 74.802(b) to allow the assignment of frequencies offset by multiples of 25 kHz from the currently listed frequencies in order that a greater number of transmitters could be operated in a given area without intermodulation interference. No comments were received; however, additional study conducted within the Commission since the time the petition was filed indicates the proposal has merit.

25. Accordingly, § 74.802(b) will be amended to allow applicants for low power auxiliary station frequencies in the 174–216 MHz band to select frequencies which are 25, 50, 75 or 100 kHz offset from the frequencies presently listed in § 74.802(b). Currently, the number of low power frequencies per VHF–TV channel is listed as 24.[9] Yet, due to periodic spacing, only 6 of these frequencies are useable in the same area without intermodulation interference.[10] Cetec Vega points out (and our calculations confirm) that the number of intermodulation-free channels per VHF–TV channel can be increased to 12 (assuming 200 kHz minimum spacing between channels is retained) if applicants are permitted to select frequencies which are 25, 50, 75 or 100 kHz offset from those currently listed in § 74.802(b).[11]

26. However, even more efficient use of the spectrum is possible if low power auxiliary station equipment can be designed to operate with an adjacent

[9] At 200 kHz channel separation, it could be assumed that 30 frequencies per 6 MHz would be possible. However, a 500 kHz guard band is provided at the upper and lower TV channel edge, and the spectrum between 2.7–2.9 MHz above the lower TV channel edge is protected to preclude interference to the aural carrier of an upper adjacent frequency television station due to a beat with its video carrier. Thus, out of a potential 6 MHz, only 4.8 MHz per VHF–TV channel is actually available for assignment.

[10] Thus, taking VHF Channel 7 as an example, the intermodulation-free frequencies could be 174.6, 174.8, 175.4, 178.0, 178.4 and 179.4 MHz. While other combinations of frequencies are possible, they cannot be selected from the present Channel 7 frequency listing in such a way as to increase the number of intermodulation-free channels.

[11] Taking VHF Channel 7 again as the example, the intermodulation-free frequencies could be 174.600, 174.800, 175.025, 175.275, 175.550, 175.850, 176.175, 176.550, 176.950, 177.400, 178.275 and 178.825 MHz. We point out that certain combinations of these frequencies can result in intermodulation products as close as 25 kHz to another frequency. Nevertheless, the cochannel beat note interference is objectionable, not the negligible amount of adjacent channel sideband interference.

channel spacing less than 200 kHz. We note that low power auxiliary station equipment (which consists mostly of wireless microphones) is invariably type accepted for 54F3 emission. It seems reasonable to expect that the minimum adjacent channel spacing can be reduced as receiver selectivity continues to improve.

27. In conclusion, we believe that adoption of the Cetec Vega proposal will lead to more effective spectrum utilization and improve the operational capabilities afforded licensees, thereby furthering the public interest. For these reasons, and in the absence of any opposing comment, the Cetec Vega petition will be granted in the manner set forth in the revision to § 74.802(b) indicated in the attached Appendix.

System Licensing of TV Auxiliary Mobile Stations

28. CBS and NBC request that the Commission amend § 74.632(a) to allow for system licensing of TV auxiliary mobile stations. Currently, this section requires that a separate application be submitted for each transmitter. As a consequence, CBS and NBC maintain 124 and 109 TV pickup mobile licenses, respectively. They point out that if a system licensing plan were adopted similar to that used for Subpart D (remote pickup broadcast) stations, the number of licenses they would need to maintain would drop to 15 each.[12]

29. CBS, NBC and ABC have requested TV pickup station system licensing in a variety of Part 74 rule making proceedings in recent years. These requests generally were turned down on the basis that the matter was outside the scope of the particular proceedings. However, in the Notice in this proceeding, we specifically requested recommendations for procedural amendments of this type. Because only a change in TV auxiliary mobile station application procedure is involved, and because there is no reasonable expectation that any objections would be raised, this request of the networks will be granted. This will reduce application related burdens for both TV station licensees and the Commission.

30. In connection with system licensing of TV auxiliary mobile stations, we must make two related procedural changes. The first concerns § 74.632(c), which requires, *inter alia*, that the applicant specify the area in which the proposed operation is intended. The area of operation usually is specified by a set of coordinates and a radius that approximates the area of the city of license, or, in the case of larger cities, the metropolitan area. We desire that applicants continue this practice where system licensing is concerned. In the Report and Order in BC Docket No. 81-497 mentioned previously, ABC requested that the Commission amend the rules to provide for the issuance of a single, blanket authorization of TV pickup stations. We rejected this request because we believed that the networks would specify the entire country as the area of operation and because it would be inappropriate to allow such operation on a primary, co-equal basis with local broadcasters.[13] We continue to hold this view. Accordingly, we are limiting the maximum area of operation that may be requested in conjunction with a system license to that of a standard metropolitan area.

31. Second, § 74.655(g) requires that the applicant specify the type of transmitter to be used at each station. In the distant past, the staff used this information to verify that the transmitter was made by a reputable manufacturer and was unlikely to cause interference. However, in 1980 the Commission adopted type acceptance requirements for TV auxiliary transmitters. This, and the advanced state of communications technology, has ensured that newer transmitters pose no technical problems. The same is true of many non-type accepted transmitters of comparatively recent manufacture.

32. Accordingly, we believe that an applicant's specification of transmitter type is no longer necessary. We have decided to substitute the less burdensome task of having the applicant merely certify that the equipment to be operated under the terms of the particular license was manufactured before October 1, 1981, pursuant to the requirement of § 74.655(f), or is type accepted by the Commission.[14] This change in application procedure will apply to all TV auxiliary service transmitters, not just mobile transmitters authorized pursuant to a system license. Last, in order to minimize the potential impact of this action on our licensing staff, applications for consolidation of individual mobile licenses into a system license will only be accepted at the time application is made for renewal of the main (Part 73) station license.

33. In reviewing the rules related to type acceptance of TV auxiliary service equipment, we have concluded that § 74.655(f) is confusing and may easily be interpreted in a manner inconsistent with the relevant text in paragraph 23 of the Second Report and Order in Docket No. 21505.[15] We have amended paragraph (f) to reflect more clearly the intended requirements.

Other Matters

34. Our proposal to eliminate the notification requirements set forth in paragraphs (a) of §§ 74.533, 74.634 and 74.635 (which relate to remote control and unattended operation) and paragraph (c) of § 74.651 (which relates to the use of multiplex equipment) was supported by NAB and NBC. They also endorsed our proposals to delete the requirement in § 74.832(e) that applicants specify the nearest television station operating on the requested channel and the requirement in § 74.832(f) to allow applicants to specify the "usual" area of operation. NAB also supported the proposal to discontinue use of the term "television intercity relay station" and to replace it with "TV relay station," thereby indicating that the operation of any type of TV relay station would be permitted. In view of these endorsements and in the absence of any opposing comments, the rules will be amended as proposed.

35. No comments were filed on our proposals to eliminate various references to our now closed Chicago Regional Office and the related use of FCC Form 425, and to add a reference in § 74.802(b) to § 73.609 (where geographic zones for determining the maximum permissible facilities for FM broadcast stations are defined). These editorial amendments, intended to correct or clarify the rules, will be adopted as proposed.

36. *Regulatory Flexibility Act Final Analysis*

I. *Need for Rules.* The rule changes effected herein are necessary to update the Rules to reflect existing informal policy and to eliminate or revise certain rules consistent with the objectives and needs of the various broadcast auxiliary services.

[12] These estimates are made on the assumption that one license would cover all "same band" TV pickup stations operating in a given city or metropolitan area.

[13] Since the networks operate infrequently in many areas of the country, it would be inappropriate to effectively reserve channels for such operation at the expense of local broadcasters. Networks may still operate in these areas on a secondary basis pursuant to the short-term operating provisions of § 74.24. Moreover, in areas where permanent operation is necessary, they are able to secure regular authorizations specifying limited areas of operation.

[14] We would point out that the rules for type acceptance were adopted in November, 1980. We did not intend that these rules be retroactive. Thus, wherever a 1980 date is indicated in § 74.655, it should be 1981. This apparent printing error is corrected as indicated in the Appendix.

[15] 45 FR 78689 (November 26, 1980).

II. *Purpose of Rules.* The rules adopted herein are intended to eliminate or reduce operational burdens on licensees in the broadcast auxiliary services. These changes will benefit both small and large broadcasters.

III. *Flexibility Issues Raised in the Comments.* None.

IV. *Significant Alternatives Not Adopted.* Personnel resource and budgetary limitations make the development of an instant licensing system in the broadcast auxiliary services impractical at this time. *See* paragraphs 18–22, *supra.*

37. Accordingly, it is ordered, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Part 74 of the Commission's Rules is amended effective January 10, 1983, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

38. Further information on this matter may be obtained by contacting Edward C. Gursky, Chief, Auxiliary Services Branch at (202) 632–7698.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 74—[AMENDED]

Part 74 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. In Subpart D, paragraph (c) of § 74.433 is revised to remove the reference to the Commission's Chicago Regional Office:

§ 74.433 Temporary authorizations.

* * * * *

(c) An informal request for special temporary authority shall be addressed to the FCC in Washington, D.C. and must include full particulars including: licensee's name, call letters of associated broadcast station or stations, name and address of individual designated to receive return authorization, call letters of remote pickup station, if assigned, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of proposed operation and purpose for which request is made including any particular justification. In the event that the proposed antenna installation will increase the height of any natural formation or existing man-made structure by more than 20 feet, a vertical plan sketch showing the height above ground of any existing structure, the elevation of the site above mean sea level, and the geographical coordinates of the proposed site, shall be submitted with the application.

* * * * *

2. In Subpart E, paragraph (c) of § 74.502 is revised as follows:

§ 74.502 Frequency assignment.

* * * * *

(c) Aural broadcast STL and intercity relay stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz, may continue to so operate pending a decision as to their disposition through a future rule making proceeding.

* * * * *

3. In § 74.533, paragraphs (a)(1) and introductory text of (b) are revised to remove the Commission notification requirement; and paragraph (c) is revised as follows:

§ 74.533 Remote control and unattended operation.

(a) Aural broadcast STL and intercity relay stations may be operated by remote control provided that such operation is conducted in accordance with the conditions listed below:

(1) The operating position shall be under the control and supervision of the licensee;

* * * * *

(b) Aural broadcast STL and intercity relay stations may be operated unattended provided that such operation is conducted in accordance with the conditions listed below:

* * * * *

(c) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes, interference or similar situations where such action appears to be in the public interest, convenience and necessity.

4. In Subpart F, paragraph (c) of § 74.601 is revised to remove the term "intercity" as follows:

§ 74.601 Classes of TV auxiliary broadcast stations.

* * * * *

(c) *TV relay station.* A fixed station used for transmission of TV program material and related communications for use by TV broadcast and low power TV stations.

* * * * *

5. In § 74.602, introductory text of paragraph (a) and paragraph (f) are revised as follows:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to TV pickup, TV STL, TV relay stations and TV translator relay stations:

* * * * *

(f) Community antenna relay stations may be assigned channels in Band D between 12,700 and 13,200 MHz subject to the condition that no harmful interference is caused to TV STL and TV relay stations authorized at the time of such grants. Similarly, new TV STL and TV relay stations must not cause harmful interference to community antenna relay stations authorized at the time of such grants. The use of channels between 12,700 and 13,200 MHz by TV pickup stations is subject to the condition that no harmful interference is caused to community antenna relay, TV STL and TV relay stations, except as provided for in § 74.602(a) Note 2.

* * * * *

6. In § 74.603, paragraphs (b) and (c) are revised as follows:

§ 74.603 Sound channels.

* * * * *

(b) The aural portion of television boradcast program material may be transmitted over an aural broadcast STL or intercity relay station licensed under the provisions of Subpart E of this part, but only on a secondary, non-interference basis to the programming of aural broadcast stations. A TV station licensee may continue such operation until the channel assigned to its Subpart E station is requested by an aural broadcast licensee after a showing that no other vacant channels are available or satisfactory. Upon Commission concurrence with the aural broadcast licensee request, the TV station licensee will be required to discontinue operation on the requested frequency. In areas where only a portion of the Subpart E frequencies used by TV station licensees are required by aural broadcast licensees, the Commission will assist all affected parties in arriving at an equitable solution. The provisions of this paragraph do not preclude continued use of Subpart E facilities for relay of TV sound where the facilities are authorized to an aural broadcast licensee and the primary purpose of the station is to relay aural broadcast programming.

(c) Aural STL or intercity relay stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz, may continue to so operate pending a decision as to their disposition through a future rule making proceeding.

* * * * *

7. In § 74.631, paragraphs (c) through (f) are revised as follows:

§ 74.631 Permissible service.

* * * * *

(c) A TV relay station is authorized to transmit visual program material between TV broadcast stations for simultaneous or delayed broadcast, or may be used to transmit visual program material from a remote pickup receiver site of a single station.

(d) The transmitter of an STL, TV relay station or TV translator relay station may be multiplexed to provide additional communication channels for the transmission of aural program material and operational communications. Operational communications include voice communications and telemetry signals, all of which must be directly related to the technical operation of the associated broadcast TV or TV translator station of the STL, TV relay or translator system of which the multiplexed transmitter is a part. Aural program material may include the sound accompanying the visual program material transmitted over the system or aural program material intended for broadcast by other AM, FM, or TV broadcast stations owned by or under the common control of the licensee of the TV STL or TV relay station. Multiplexing on TV translator relay stations shall be limited to the sound accompanying the visual program material and operational communications as defined in this paragraph. A TV broadcast STL or TV relay station will be authorized only in those cases where the principal use is the transmission of TV broadcast program material for use by its associated TV broadcast station. However, STL or TV relay stations so licensed may be operated at any time for the transmission of aural program material and operational communications whether or not visual program material is being transmitted provide that such operation does not cause harmful interference to TV broadcast pickup, STL or TV relay stations transmitting TV broadcast program material.

(e) Except as provided in paragraphs (a), (d) and (f) of this section, all program material transmitted over a TV pickup, STL, or TV relay station shall be used by or intended for use by a TV broadcast station owned by or under the common control of the licensee of the TV pickup, STL, or TV relay station. Program material transmitted over a TV pickup, STL or TV relay station and so used by the licensee of such facility may, with the permission of the licensee of the broadcast auxiliary facility, be used by other TV broadcast stations and by non-broadcast closed circuit educational TV systems operated by educational institutions.

(f) A TV broadcast pickup, STL or TV relay station may, at times when it is not transmitting program material to its associated TV broadcast station, be used for the transmission of program material to non-broadcast closed circuit educational television systems operated by educational institutions, provided that such use is less than 50% of the total use of the broadcast auxiliary facility during any one year of the license period. Use of the broadcast auxiliary facility for this purpose is subject to the condition that no harmful interference is caused to broadcast auxiliary stations operating in accordance with the basic frequency allocation. No charge either direct or indirect may be made for this use. Licensees shall submit reports with their applications for renewals showing the breakdown of usage in terms of primary and alternative uses, during each year of the license term.

* * * * *

8. In § 74.632, paragraphs (a) through (d) are revised as follows:

§ 74.632 Licensing requirements.

(a) A license for a TV pickup, TV STL, or TV relay station will be issued only to the licensee of a TV broadcast station. A separate application is required for each fixed station and the application shall be specific with regard to the frequency requested. A mobile station license may be issued for any number of mobile transmitters to operate in a specific area and frequency band and the applicant shall be specific with regard to the frequencies requested. In lieu of specifying specific transmitter types, applicant shall certify that the transmitter used or to be used at the requested facility is type accepted, or was manufactured before October 1, 1981. Except as provided in § 74.604)b), the first channel assigned in Band A or Band B to a licensee will be considered to be the exclusive assignment provided for in § 74.602(b). Exclusive channel assignments in Band D will be designated only upon request. A licensee may request a change in its exclusive channel assignment only where there are unassigned channels available. In making such changes, the priority set forth in § 74.602(b) will be observed.

Note.—Applications for consolidation of individual mobile station licenses into a system license will be accepted only at the time application is made for renewal of the main (Part 73) station license.

(b) A license for a TV relay station may be issued in any case where the circuit will operate between TV broadcast stations either by means of "off-the-air" pickup and relay or location of the initial relay station at the studio or transmitter of a TV broadcast station.

(c) An application for construction permit for a new TV pickup station shall designate the TV broadcast station with which it is to be operated and specify the area in which the proposed operation is intended. The maximum permissible area of operation will generally be that of a standard metropolitan area, unless a special showing is made that a larger area is necessary.

(d) Licensees who have two or more TV broadcast stations located in different cities shall, in applying for a new TV pickup station, designate the TV broadcast station in conjunction with which it is to be operated principally. Operation in a city which is not the city of license of the associated TV broadcast station is on a secondary, non-interference basis to home-city users.

* * * * *

9. In § 74.633 new paragraphs (e) and (f) are added as follows:

§ 74.633 Temporary authorizations.

* * * * *

(e) [Reserved.]

(f) Special temporary authority to permit operation of a TV auxiliary broadcast station of any class pending FCC action on an application for regular authority will not normally be granted.

10. In § 74.634, introductory text of paragraph (a) and paragraph (b) are revised as follows:

§ 74.634 Remote control operation.

(a) A TV auxiliary station may be operated by remote control provided that such operation is conducted in accordance with the conditions listed below:

* * * * *

(b) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes, interference or similar situations where such action appears to be in the public interest, convenience and necessity.

11. In § 74.635, introductory text of paragraph (a), paragraphs (a) (4) and (b) are revised as follows:

§ 74.635 Unattended operation.

(a) TV relay stations TV translator relay stations, and TV STL stations may be operated unattended provided such operation is conducted in accordance with the conditions listed below:

* * * * *

(4) In the case of TV relay stations, TV STL stations, and TV translator stations, observations shall be made at intervals not exceeding 24 hours, at the receiving end of the microwave circuit, by a person designated by the licensee, who must institute measures sufficient to ensure prompt correction of any condition of improper operation that is observed. In the case of an STL station associated with a TV station operated by remote control, the observations may be made by monitoring the TV station's transmitted signal at the remote control point. In the case of a TV translator relay station, the observations may be made by monitoring the associated TV translator station's transmitted signal.

* * * * *

(b) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes, interference or similar situations where such action appears to be in the public interest, convenience and necessity.

12. In § 74.651, paragraph (a)(1) and paragraph (c) are revised as follows:

§ 74.651 Equipment changes.

(a) * * *

(1) An increase in transmitter output power, or replacement of a specifically authorized transmitter by a transmitter which is not type accepted for operation under this Subpart pursuant to § 74.655(b). The applicant must certify that replacement equipment meets the manufacturing requirements of § 74.632(a).

* * * * *

(c) Multiplexing equipment may be installed on any licensed TV broadcast STL, TV relay, or translator relay station without authority from the Commission.

13. In § 74.655, paragraphs (a) and (f) are revised and paragraph (g) is removed as follows:

§ 74.655 Type acceptance.

(a) Type acceptance is not required for transmitters used in conjunction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1981, may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

* * * * *

(f) Transmitters manufactured after October 1, 1981, for use under this Subpart must be type accepted. However, non-type accepted transmitters manufactured before October 1, 1981, may continue to be marketed until October 1, 1985. Thereafter, use of such equipment by the licensee, its successors or assignees may continue, provided operation of such equipment does not cause harmful interference due to its failure to comply with the technical standards set forth in this Subpart. The FCC may, at its discretion, require a licensee to take such corrective action as may be necessary to elimination interference.

(g) [Removed]

14. In Subpart H, paragraph (b) of § 74.802 is revised as follows:

§ 74.802 Frequency assignment.

* * * * *

(b) In the 174–216 MHz band, operations are limited to locations removed from existing co-channel stations by the following distances unless otherwise authorized by the Commission:

Zone I, 97 Km (60 miles)
Zone II and III, 120 Km (75 miles)

Note.—See § 73.609 for a definition of each of the zones.

Specific frequency operation is required in this band and the licensee will select the exact frequency on which operation is desired. Specific assignable frequencies will begin and end on the frequencies shown in the ranges indicated below. Intermediate frequencies must be located within the ranges specified and must be offset from the upper or lower assignable frequencies by 25 kHz or an integral multiple thereof.

(1) Within television Channel 7 (174–180 MHz):
174.600–176.600 MHz and 177.000–179.400 MHz
(2) Within television Channel 8 (180–186 MHz):
180.600–182.600 MHz and 183.000–185.400 MHz
(3) Within television Channel 9 (186–192 MHz):
186.600–188.600 MHz and 189.000–191.400 MHz
(4) Within television Channel 10 (192–198 MHz):
192.600–194.600 MHz and 195.000–197.400 MHz
(5) Within television Channel 11 (198–204 MHz):
198.600–200.600 MHz and 201.000–203.400 MHz
(6) Within television Channel 12 (204–210 MHz):
204.600–206.600 MHz and 207.000–209.400 MHz
(7) Within television Channel 13 (210–216 MHz):
210.600–212.600 MHz and 213.000–215.400 MHz

* * * * *

15. In § 74.832, paragraphs (e), (f) and (h) are revised as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(e) An application for low power auxiliary stations or for a change in an existing authorization shall specify the broadcast station, combination of such stations, or the network with which the low power broadcast auxiliary facilities are to be principally used as given in paragraph (h) of this Section; or it shall specify the motion picture or television production company or the cable television operator with which the low power broadcast auxiliary facilities are to be solely used. A single application, filed in duplicate on FCC Form 313 may be used in applying for the authority to operate one or more low power auxiliary units. The application must specify the number of units to be operated and the frequency bands which will be used. Motion picture producers, television program producers, and cable television operators are required to attach a single sheet to their application form explaining in detail the manner in which the eligibility requirements given in paragraph (a) are met.

(f) Applications for the use of the 174–216 MHz band must specify the usual area of operation within which the low power auxiliary station will be used. This area of operation may, for example, be specified as the metropolitan area in which the broadcast licensee serves, or the usual area within which motion picture and television producers are operating. Since low power auxiliary station use of this band will only be permitted in areas removed from existing co-channel television broadcast stations, it is the licensee's responsibility to insure operation of these stations does not occur at distances less than those specified in § 74.802(b) with respect to existing co-channel TV stations serving part of the specified area of operation.

* * * * *

(h) For broadcast licensees, low power auxiliary stations will be licensed for use with a specific broadcast station or combination of broadcast stations licensed to the same licensee and to the same community. Licensing of low power auxiliary stations for use with a specific broadcast station or combination of such stations does not preclude their use with other broadcast stations of the same or a different licensee at any location. Operation of

low power auxiliary stations outside the area of operation specified in the authorization, or in other bands is permitted without further authority of the Commission. However, operation of low power auxiliary stations shall, at all times, be in accordance with the requirements of Section 74.882 of this Subpart. Also, a low power auxiliary station that is being used with a broadcast station or network other than one with which it is licensed, must, in addition to meeting the requirements of Section 74.861 of this Subpart, not cause harmful interference to another low power auxiliary station which is being used with the broadcast station(s) or network with which it is licensed.

* * * * *

16. In paragraph (c) of § 74.833, the reference to the Commission's Chicago Regional Office is removed. As revised, § 74.833(c) reads as follows:

§ 74.833 Temporary authorizations.

* * * * *

(c) An informal request for special temporary authority shall be addressed to the FCC in Washington, D.C., and must include full particulars including: applicant's name, statement of eligibility, call letters of associated broadcast station or stations, if any, name and address of individual designated to receive return telegram, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of proposed operation, and purpose for which request is made including any particular justification.

* * * * *

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INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003 and 1043

[Ex Parte No. MC-5 (Sub-1)]

Motor Carriers of Property Minimum Amounts of Bodily Injury And Property Damage Liability Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: Section 29 of the Motor Carrier Act of 1980 requires the Commission to adopt minimum amounts of insurance as prescribed by the Secretary of Transportation for for-hire interstate motor carriers of property regulated by this Commission.

After proposing rules in a notice published on July 27, 1981, 46 FR 38488, we are adopting rules which reconcile the administrative differences in the insurance programs of this Commission and the U.S. Department Transportation. The rules include adoption of the Form MCS-90 endorsement of the D.O.T. in lieu of our Form B.M.C. 90 endorsement, and its Form MCS-82 surety bond in lieu of our Form B.M.C. 82 surety bond for Commission regulated motor carriers of property affected by Section 30 of the Motor Carrier Act of 1980.

When these final rules become effective, they will replace the final rules published on June 29, 1981, which have been stayed, and the temporary insurance rules, published on July 27, 1981, and codified at Title 49 CFR 1043.2(c).

EFFECTIVE DATE: This decision is effective on February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Alice K. Ramsay, (202) 275-0854, or Delorse Patterson, (202) 275-0898.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1981, 46 FR 30974, the Department of Transportation set the minimum amounts of financial responsibility for motor carriers of property in accordance with section 30 of the "Motor Carrier Act of 1980." In accordance with Section 29 of the Act, this Commission adopted the same amount prescribed by the Secretary of Transportation, in a notice of final rules published on June 29, 1981, 46 FR 33277. In that decision, we also revised the required Form B.M.C. 90, "Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability," and continued all of the existing procedures regarding insurance filings.

Appended to that decision was a "Notice to Insurance Companies Having Filed Motor Carrier Automobile Bodily Injury and Property Damage Certificates of Insurance" (Form B.M.C. 91). The notice states that in order to avoid filing new certificates of insurance with the Commission for every property carrier affected, the Commission would deem any certificates of insurance on file as of August 7, 1981, to provide insurance coverage to the full amount and extent provided in the revised Form B.M.C. 90 endorsement. This date was changed on July 1, 1981, by the Commission, Chairman Taylor, from August 7, 1981, to August 28, 1981.

Due to the issues raised in a petition filed by the National Tank Truck Carriers, Inc., we reopened the proceeding effective July 27, 1981, 46 FR 38486, and stayed our final rules of June 29, 1981, 46 FR 33277; adopted temporary rules; and instituted a notice of proposed rulemaking to propose alternative final rules. The temporary rules established that the certificate of insurance (Form B.M.C. 91) would certify only to the basic, $500,000 primary insurance coverage for all affected motor carriers of property regardless of the type of commodities hauled, and regardless of whether or not the Form B.M.C. 90 endorsement was attached physically to the policy. The date when the certificates on file would certify to the higher amount was changed from August 28, 1981, to September 11, 1981, While any new or replacement certificates of insurance received after August 1, 1981, would certify to the basic $500,000 coverage.

Because Commission regulated carriers must comply with the Department of Transportation's insurance regulations as well as this Commission's, it was decided to depend temporarily on D.O.T.'s requirement for $1 million coverage on hazardous substances carriers to protect the public. The temporary rules also readopted the revised Form B.M.C. 90 endorsement for attachment to motor carrier policies, however, no deadline was set for attaching it to the motor carriers' policies, and with minor modification it will be readopted in the final rules.

The rules proposed in the notice of proposed rulemaking sought to reconcile the differences between the two insurance programs or at least make them compatible, particularly with regard to the insurance companies' financial exposure when insuring for-hire interstate motor carriers of property. Sixteen statements were filed in response to out proposals from the following respondents:

Aetna Life and Casualty
Alliance of American Insurers
American Insurance Association
American Trucking Associations, Inc.
CNA Insurance Companies
Central Certificate Registry, Inc.
Exxon Company, U.S.A.
Haley's Comet Trucking
LeBoeuf, Lamb, Leiby and MacRae for Underwriters at Lloyd's of London
National Association of Casualty and Surety Agents, Inc.
National Association of Independent Insurers
National Association of Insurance Brokers, Inc.
National L-P Gas Association
National Tank Truck Carriers, Inc.
Professional Insurance Agents
U.S. Department of Transportation

Comments and Discussion

In this section, the respondent's comments will be discussed along with our conclusions regarding the final rules. While some comments are not specifically discussed, all were given consideration in this proceeding. The final rules appear in the last section of this notice under the heading, "Final Rules."

Applicability

The present insurance regulations under 49 CFR 1043.1 state that no common or contract carrier subject to the Interstate Commerce Commission's jurisdiction may obtain a certificate of permit from this Commission until evidence of bodily injury and property damage liability insurance has been filed and accepted by the Commission. This is essentially a reiteration of the governing statute under 49 U.S.C. 10927. Therefore, the insurance requirements developed in this rulemaking and contained under 49 CFR Part 1043 apply only to for-hire, interstate motor carriers subject to the jurisdiction of this Commission. They do not apply to private carriers, intercorporate haulers, haulers of exempt commodities, agricultural cooperatives, or other transportation entities which are either exempt from or not subject to this Commission's jurisdiction.

These and other types of private and exempt haulers are subject only to the U.S. Department of Transportation's insurance regulations under 49 CFR Part 387. On the other hand, carriers operating under certificates and permits granted by this Commission, must comply with both this Commission's insurance requirements and the U.S. Department of Transportation's insurance rules.

Although it is not addressed by Section 30 of the Motor Carrier Act of 1980, I.C.C. regulated property carriers transporting hazardous commodities in foreign commerce must comply with the higher insurance limits under 49 CFR 1043.2(b)(2) of the final rules. Also, for-hire motor property carriers passing through the United States when providing transportation between places in a foreign country or foreign countries must comply with the Commission's insurance requirements. The provisions of 49 CFR 1043.11 concerning foreign commerce operations require the same type of security and are being modified to reflect the new insurance limit requirements. This will assure that the new insurance rules will apply uniformly to all motor property carriers operating within the jurisdiction of this Commission.

All motor carriers of passengers, and property carriers with freight vehicles having gross vehicle weight ratings (GVWR) of under 10,000 pounds which are regulated by this Commission, will not experience any requirement changes as a result of the new insurance regulations, except in one respect. The revised Form B.M.C. 90 endorsement (Appendix A), which replaces the old form, should be attached to the insurance policy of property carriers using freight vehicles having a GVWR of under 10,000 pounds, and passenger carriers.

A suggestion was made that these carriers should also be subject to a single limit requirement. It appears that these decisions have been or will be made by Congressional action. The Bus Regulatory Reform Act of 1982 has established for motor passenger carriers single limit insurance coverage similar to Section 30 of the Motor Carrier Act of 1980. Also, the Secretary of Transportation has recommended to Congress that motor vehicles having a GVWR of less than 10,000 pounds which carry hazardous commodities be subject to the single limit insurance requirements.

Endorsement Form

In the notice of proposed rulemaking, we announced that we would consider adopting the U.S. Department of Transportation's (D.O.T.) Form MCS–90 endorsement in lieu of our revised Form B.M.C. 90 endorsement for the motor property carriers affected by Section 30 of the Act. Eight of the sixteen statements, mostly those from the insurance companies and their trade associations, urge the adoption of a single endorsement form, preferably Form MCS–90.

In accordance with D.O.T.'s requirements, a Form MCS–90 endorsement must be obtained and retained by all affected property carriers, including those under this Commission's jurisdiction, for attachment to their insurance policies. We will recognize Form MCS–90 as the basis for accepting a property carrier's filing of a certificate of insurance. The revised Form B.M.C. 90 endorsement prescribed by the Commission and set forth in Appendix A will be used for certificate of insurance filings by motor property carriers operating freight vehicles under 10,000 pounds GVWR, and motor carriers of passengers.

The adoption of the Form MCS–90 endorsement resolves many of the objections raised by the organizations responding to the notice of proposed rulemaking. Aetna, the National Association of Casualty and Surety Agents, the National Association of Insurance Brokers, Inc., and the Professional Insurance Agents, want language placed in the regulations which would place the responsibility for maintaining the proper insurance levels on the motor carriers, and not on the insurance company. The National Association of Independent Insurers urges that the schedule of limits be printed in the endorsement, and the Alliance of American Insurers and the Professional Insurance Agents, desire the adoption of environmental restoration as a requirement rather than an option. Form MCS–90 not only requires coverage for environmental restoration as well as bodily injury and property damage liability, but also contains a schedule of limits and a statement that it is the motor carrier's obligation to obtain the required limits of financial responsibility. Also, the public liability requirement defined under Section 1043.1(a)(1) was modified to include environmental restoration but only with respect to the liability of the property carriers affected by Section 30 of the Act.

The regulations under § 1043.7 of the final rules describe the forms which will be used for endorsements, certicates of insurance, and surety bonds. Besides adopting the Form MCS–90 endorsement, we are also adopting the Form MCS–82 surety bond prescribed by D.O.T. for property carriers operating freight vehicles of 10,000 pounds or more GVWR.

Coverage and Current Filings

To certify liability coverage in excess of $500,000, which we previously described as excess insurance in the notice of proposed rulemaking, the proposed rules recommended that a simple letter filing plus a copy of the Form MCS–90 endorsement would be sufficient. The letter was to be filed by the insurance company. Four of the respondents desire that either the certification letter or the copies of the endorsement be filed, but not both. The National Association of Independent Insurers, the American Trucking Associations, and CNA, believe the filings should be made in a central location rather than with the Commission's Regional Offices. Clarifications of the six-month term requirement for the endorsement and the statement of a policy for cancellation of the excess insurance filings are requested by a number of respondents.

The suggestions also include several respondents' expressions of a preference for the filing of a form to

certify excess insurance coverage. After careful consideration, we decided that the filing of a newly designed certificate of insurance, Form B.M.C. 91X, for property carriers (Appendix C) to show lower and upper limits of coverage by the insurance company will eliminate all the concerns raised by respondents. Requiring such certificates of insurance also removes the objection of the Office of Management and Budget (O.M.B.) that the letter and endorsement filings are duplicative of each other.

Inasmuch as the insurance companies' fear of unlimited liability is eliminated by the adoption of the Form MCS–90 endorsement, which states that it is the motor carrier's obligation to obtain the required limits of financial responsibility, the insurance company or companies providing insurance should have no reluctance to file Form B.M.C. 91X certificates on behalf of their motor property carrier insureds.

In the notice of proposed rulemaking, we stated our belief that the statutory requirement for insurance filings would permit a basic filing for primary security coverage and another filing for coverage in excess of the primary, whenever required for motor property carriers. However, this decision rejects that approach and uses the term primary security somewhat differently.

As used in this proceeding and the regulations for motor property carriers only,[1] primary security will mean public liability coverage provided by the insurance company or surety company providing the first dollars of coverage. Excess insurance will be coverage above the primary security, or above any underlying security, up to and including the required minimum limits for property carriers operating vehicles weighing 10,000 pounds GVWR or more.

Passenger carriers and property carriers operating the small freight vehicles, must file the revised Form B.M.C. 91 (Appendix B), certificate of insurance, whenever filing a new or replacement certificate of insurance. Revised Form B.M.C. 91 requires security at the present limits under 49 CFR 1043.2(b)(1). With respect to the certificates of insurance now on file for motor carriers of property operating freight vehicles of 10,000 pounds or more GVWR, the Commission will continue to deem those certificates as certifying to $500,000 combined single limit insurance coverage for bodily injuries or for property damage or for environmental restoration, until they are replaced by new Form B.M.C. 91X (Appendix C). Motor property carriers affected by Section 30 of the Act which file surety bonds with the Commission, must have new Form MCS–82 surety bonds executed and filed with the Commission by the effective date of this notice.

All certificates of insurance whether Form B.M.C. 91 or Form B.M.C. 91X, will be filed by the insurance companies at Commission headquarters in Washington, D.C. Similarly, the Form B.M.C. 35 notice of cancellation (Appendix D) is revised to accommodate the cancellation of insurance coverage. These notices of cancellation will also be filed with the Commission in Washington, D.C., by the insurance company.

Under § 1043.1(a)(2), motor carriers of property which are authorized by their certificates and permits to transport hazardous commodities are required to obtain the necessary minimum security limits before commencing to transport those commodities. The coverage may not be cancelled until transportation of the hazardous commodities has ceased. Therefore, the proper limits of financial responsibility depend on the motor carrier's operations within the scope of its I.C.C. operating authority, and not on the scope of the authority itself. The Commission's staff will closely monitor the operations of those carriers which are transporting or intend to transport the hazardous commodities described under § 1043.2(b)(2).

With the filing of Form B.M.C. 91X certificate of insurance, a minimum six-month term requirement for the endorsement will not be imposed and, therefore, discussion of that issue is unnecessary. In accordance with § 1043.7, surety bonds and certificates of insurance must specify that coverage will remain in effect continuously until cancelled as provided in the regulations, with an exception for special circumstances. Copies of the prescribed Form B.M.C. 91, Form B.M.C. 91X, and Form B.M.C. 35 are set forth in the Appendices. These forms have been approved by O.M.B. under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have the O.M.B. control numbers printed in the forms' upper righthand corner.

Qualifying Insurance and Surety Companies

Since 1944, the Commission has required insurance and surety companies providing qualifying coverage for motor carriers operating under I.C.C. certificates and permits, to meet a minimum financial standard. In addition, they must meet either the requirement that they have authority to issue policies or surety bonds in each State where the carrier is authorized to operate, or the requirement that they have authority to issue policies or bonds in the State of the carrier's domicile and have agreed to designate agents for service of process in any State in which the motor carrier operates. The U.S. Department of Transportation's qualifications requirements for insurance companies have no minimum financial standard requirement. D.O.T. and the Professional Insurance Agents recommend that the Commission's method of qualification be eliminated and that the D.O.T. requirements, recognizing state authorizations only, be observed instead. The Professional Insurance Agents believes that increasing the number of insurance writers will ease entry of new motor carriers, and D.O.T. argues that there is no valid reason to maintain our minimum financial standard.

The reasons for our minimum financial standard were set forth in Ex Parte No. MC–5, *Motor Carrier Insurance for Protection of the Public,* (43 M.C.C. 355, 91944) when it was first adopted.

Since our initial qualifications regulations there have been many changes in the regulation of insurance companies by the States, with a general tightening of requirements. For all Federal purposes comparable to the objectives of the Commission's insurance program, acceptance of security underwritten by companies regulated only by the States has been considered adequate under the law. The most pertinent example of this is the requirement established by the U.S. Department of Transportation under Section 30 of the Motor Carrier Act of 1980.

One of the respondents very convincingly pointed out the inconsistency of our logic if we accept an insurance filing for excess insurance of $4,250,000 (in 1983) from unqualified insurance companies whose primary insurance filings for $750,000 (in 1983) would not be accepted. We believe that the Commission's regulations, including the qualifications of insurance companies, are generally duplicative of State regulations and that, however much they might have been necessary in 1944, they no longer serve a useful purpose.

This proceeding is not broad enough to change our insurance and security company qualifications requirements since the proposal was not published in the notice of proposed rulemaking. Therefore, we are instituting a rulemaking proceeding, docketed as Ex Parte No. MC–5 (Sub-No. 2), providing for notice and comments from the

[1] But see discussion, infra, regarding Ex Parte No. MC–5 (Sub-No. 2).

public, in which we are proposing to eliminate all requirements beyond those which existed prior to 1944 and those recently adopted by the Department of Transportation. In the interim, however, Forms B.M.C. 91, B.M.C. 91X, B.M.C. 82 and MCS–82 only will be accepted from insurance and surety companies meeting the authorization requirements of 49 CFR 1043.8, which have been restated for clarity in the final rules.

Aggregation

The final rules will permit aggregation of insurance from the first dollars for motor property carriers operating vehicles of 10,000 pounds GVWR or more. Aggregation means the provision of the required insurance amount for one motor carrier risk by more than one insurance company so that multiple policies provide the required coverage. Many respondents, including major associations of the insurance and motor carrier industries, indicated that they desire aggregation from the first dollar of coverage.

The Commission has not permitted aggregation in the past for several reasons. For instance, if more than one insurance company is involved in settling a claim with a member of the public, that person could be subjected to delays and unnecessary complications, particularly if the insurance companies become embroiled in a controversy over the amounts each should contribute in the settlement. This problem was discussed by the Commission in its first insurance proceeding under Ex Parte No. MC–5, *Motor Carrier Insurance for the Protection of the Public*, 1 M.C.C. 55.

In that proceeding, the Commission found that "the cost of primary and excess insurance in combination is much less than that for a single policy for the total amount," but concluded that aggregation was undesirable because it was conducive to delays and complications in the settlement of claims, and delays can be disadvantageous to the claimant where the solvency of the insurer or surety is questionable.

In view of the low minimum security limits prescribed by the Commission in the past, coverage under a single policy never posed a problem for the insurance industry. Now with the high limits mandated by Congress, a new look at aggregation is warranted.

We considered requiring nonaggregated coverage for all property carriers at the limits of nonhazardous property. However, this would unnecessarily restrict the market decisions by both the motor carrier and the potential insurers. Aggregation is extremely cost effective for all involved and, ultimately, for shippers and consumers as well. As it results in lower insurance charges, it will also remove a potential barrier to entry for small trucking companies. Furthermore, aggregation should allow more insurance companies to participate in the motor carrier market. Public interest concerns will be satisfied by the insurance industry practice of recognizing the insurer or surety providing the first dollars coverage as the primary insurer or surety and any additional insurer or surety company providing coverage above the primary company's maximum liability as excess insurers. Moreover, our decision to do so with respect to carriers subject to D.O.T. requirements will make this Commission's program thoroughly compatible with that established by the Department. In the rulemaking proceeding instituted with respect to the qualifications of insurers, we will also direct our attention to aggregation for property carriers operating freight vehicles having a GVWR of under 10,000 pounds and passenger carriers, which are not parties to this proceeding, and to the insurance requirements for regulated freight forwarders which often operate motor vehicles in their terminal areas.

Although one of the parties to this proceeding have asked us to allow aggregation other than by the "limit of liability" method, we are receptive to the idea of allowing aggregation by all methods, including, but not limited to, "limit of liability" and "pro rata" aggregation. The "pro rata" method apportions losses to each policy in the same ratio the face amount of each policy bears to the whole amount of insurance coverage thus distributing them proportionately among all the insurers. For instance, if under the "pro rata" method there are 10 policies each with a face amount of $50,000 of $500,000 required coverage, each insurer would be liable for 50 percent of the face limit of its policy, or $25,000, on a loss of $250,000. We have no preference as to the method of aggregation and the Interstate Commerce Act does not preclude our acceptance of evidence of security by insurance aggregation by any method. Therefore, in order to give the carrier and insurers the flexibility to work out whatever arrangements are most suitable to their situation we will allow aggregation by all methods so long as the statutory requirements as to minimum coverage are met.

The Form MCS–90 endorsement which has been developed by the Department of Transportation and approved by the Office of Management and Budget is designed specifically to provide for "limit of liability" aggregation only. The Form B.M.C. 91X certificate of insurance, which has been developed by this Commission and approved by OMB, is designed to foster the use of the Form MCS–90 to meet the requirements of both D.O.T. and this Commission and, thereby, allow each insurer to execute a single endorsement to meet the requirements of both agencies. For this reason, it too is designed specifically to provide for "limit of liability" aggregation only. This effectively reduces the usefulness of the established forms for showing aggregation by other methods and we are directing the Commission's staff to open a dialogue with D.O.T. to determine what changes should be made to increase the flexibility of the forms. In the meantime, we suggest that they can be used for other aggregation methods on an interim basis in the following manner. Each insurer could execute a completed Form MCS–90 endorsement in the required amount for attachment to its policy along with a supplemental document accurately reflecting the manner in which the risk is to be shared and naming the insurer which, by agreement of all insurers and the carrier, will bear the responsibility for filing a Form B.M.C. 91X certificate of insurance with the Commission. The filing requirement could then be met conveniently and most inexpensively by that insurer filing a single Form B.M.C. 91X certificate reflecting coverage from the first dollar up to the required amount. Should the insurer filing the certificate of insurance so desire, it could, but need not, indicate at the bottom of page 2 of the certificate that the filing is made pursuant to an aggregation agreement.

Comment Period

Some consideration has been given to issuing these rules with provisions for additional comment. However, the notice of proposed rulemaking is sufficient because the description of the issues and subjects involved was provided in a manner so that parties have had an opportunity to offer meaningful comments and criticisms. An agency need not provide a second comment period before it adopts final rules which are somewhat different, but not substantively different, from those proposed.

The major issues of the endorsement, filings for hazardous commodities carriers, aggregation, and qualifications of insurers of carriers subject to D.O.T. requirements were presented in the notice of proposed rulemaking and commented upon by respondents.

Although the qualifications requirement for insurance and surety companies was not specifically highlighted, the issue was presented since we did not propose to eliminate or modify the requirement under § 1043.8. Moreover, three respondents provided comments on the qualifications requirement, thus indicating that it was recognized implicitly as a subject of the proceeding. As indicated previously, we are reexamining the question of maintaining a restrictive qualifications requirement in another rulemaking proceeding instituted as a result of issues presented here.

Most of the other changes are editorial and made to clarify or to conform existing regulations to those primarily involved in this proceeding and to new statutory citations. Section 1043.7 is changed somewhat to redescribe the exception used principally to cover lapses in coverage so as to remove the implication that there is a rule providing for filings for periods of twelve months duration.

Environmental and Energy Considerations

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

Final Regulatory Flexibility Analysis

Under Section 29 of the Motor Carrier Act of 1980 this Commission is required to adopt new minimum security limits "in an amount not less than such amount as the Secretary of Transportation prescribed pursuant to, or as is required by Section 30 of the Motor Carrier Act of 1980." Congress believed higher financial responsibility levels were needed due to the easing of economic regulations on motor carriers and the impairment of safety which could result.

In response to the initial regulatory flexibility analysis, the National L–P Gas Association; Professional Insurance Agents; National Association of Insurance Brokers; National Association of Casualty and Surety Agents; LeBoeuf, Lamb, Leiby and MacRae; and D.O.T. indicated that prohibiting aggregation below $500,000 ($750,000 in 1983) will prevent the smaller insurance companies from writing such policies, will make it difficult for small motor carriers to obtain insurance, and will result in increased premiums. The two respondents who objected to the Commission's qualification procedure for insurance and surety companies, felt it unnecessarily restricts the smaller insurance companies from participating in the truck insurance market and thus precludes small carriers from obtaining insurance.

The Commission believes this decision on aggregation is fully in accord with the comments directed to the Regulatory Flexibility Act's objectives. Moreover, our decision on qualifying insurance and surety companies is consistent with the Congressional intent presented in the House Report No. 96–1069 on the Motor Carrier Act of 1980. Congress perceives the insurance industry as being equipped to evaluate the safety performance of motor carriers. Congress expects the insurance companies to filter out the unsafe operators and prevent them from operating by either denying insurance coverage or demanding such high premiums that it is not profitable to operate. Congress has taken this action to protect the public.

Of the estimated 800 insurance companies writing commercial auto policies, approximately 420 are authorized by the Commission to write policies for regulated motor carriers. The Commission regulated property carrier market is only about 13 percent of the larger unregulated carrier market resulting from Section 30 of the Act. Thus, until this issue of qualifying insurance companies can be more adequately addressed in a separate rulemaking proceeding, there is a more than adequate number of authorized insurance companies to provide coverage for this percentage of the potential market. These authorized insurers are financially sound and knowledgeable about the volatile trucking industry. They should be able to work with small motor carriers to arrange appropriate insurance plans at reasonable rates.

In response to other issues raised by respondents with respect to transportation of hazardous cargoes, we changed our proposed rules so that we adopted the Form MCS–90 endorsement and Form MCS–82 surety bond, prescribed by D.O.T. By adopting the Form MCS–90 endorsement, we are able to honor respondents' requests for language placing the responsibility for proper limits on the motor carrier and printing the schedule of limits in the endorsement. The letter and Form MCS–90 endorsement filings are eliminated and filing the certificate of insurance is substituted. Rather than filing the certificates of insurance relating to coverage for hazardous cargo limits in one of six Regional Offices, they will be centrally filed at the Commission's headquarters in Washington, D.C. The public liability requirement for motor property carriers affected by Section 30 of the Act, has also thereby been modified to include environmental restoration. Finally, we adopt a cancellation policy for the certificates of insurance as requested by respondents.

The only significant alternative suggested to our insurance rules, was to recommend to Congress that this Commission be relieved of any regulatory jurisdiction over mandatory insurance requirements for motor property carriers, except for cargo liability insurance which the Commission would retain. This suggestion, however, will require a significant amount of time for consideration by the Congress. The Commission is obligated to comply with the statute as it now stands and must implement, as quickly as possible, an insurance procedure which covers hazardous commodities carriers and ends the ambiguities between D.O.T.'s final rules and our temporary insurance rules. Otherwise, the public could be subjected to legal complications resulting from the differences in the two sets of rules. Our final rules would make those rules compatible. The public should thereby be assured of the required protection.

Copies of this notice of final rules containing the final regulatory flexibility analysis are available to the public and may be obtained from TS Infosystems, Interstate Commerce Commission, Room 2227, Washington, D.C. 20423. A copy of this notice of final rules will be served on the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Maritime carriers, Motor carriers, Securities.

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

Final Rules

Parts 1043 and 1003, Subtitle B, Chapter X of Title 49 of the *Code of Federal Regulations* are amended as follows:

PART 1043—[AMENDED]

1. In § 1043.1, paragraph (a) is revised to read as follows:

§ 1043.1 Surety bond, certificate of insurance, or other securities.

(a) *Public liability.* (1) Except as provided in paragraph (c) of this section, no common or contract carrier subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code shall engage in interstate or foreign

commerce, and no certificate or permit shall be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the Commission surety bonds, certificates of insurance, proofs of qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed in § 1043.2, conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance or use of motor vehicles in transportation subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code, or for loss of or damage to property of others, or, in the case of motor carriers of property operating freight vehicles with gross vehicle weight ratings (GVWR) of 10,000 pounds or more, for environmental restoration.

(2) Motor Carriers of property which are subject to the conditions set forth in paragraph (a)(1) of this section and are authorized to transport the commodities described in § 1043.2(b)(2), are required to obtain security in the minimum limits prescribed in § 1043.2(b)(2).

* * * * *

2. Section 1043.2 is revised to read as follows:

§ 1043.2 Security for the protection of the public: Minimum limits.

(a) *Definitions.* (1) "Primary security" means public liability coverage provided by the insurance or surety company responsible for the first dollar of coverage.

(2) "Excess security" means public liability coverage above the primary security, or above any additional underlying security, up to and including the required minimum limits set forth in paragraph (b)(2) of this section.

(b)(1) Motor carriers subject to § 1043.1(a)(1) are required to have security for the required minimum limits as follows:

Kind of equipment	Limit for bodily injuries to or death of—		Limit for loss or damage in any 1 accident [2]
	1 person	All persons injured or killed in any 1 accident [1]	
Freight vehicles under 10,000 pounds GVWR	$100,000	$300,000	$50,000
Passenger equipment (seating capacity): 12 passengers or less	100,000	300,000	50,000
More than 12 passengers	100,000	500,000	50,000

[1] Subject to a maximum of $100,000 for bodily injuries to or death of 1 person.

[2] To property of others (excluding cargo).

(2) Motor carriers subject to § 1043.1(a)(2) are required to have security for the required minimum limits as follows:

Kind of equipment	Commodity transported	Combined single limit for bodily injuries or for property damage or for environmental restoration	
		July 1, 1981	July 1, 1983
Freight vehicles of 10,000 pounds or more GVWR.	(1) Property (Nonhazardous)	$500,000	$750,000
	(2) Hazardous substances as defined in 49 CFR 171.8 transported in cargo tanks, portable tanks, or hoppertype vehicles with capacities in excess of 3,500 water gallons, or in bulk Class A and B explosives, poison gas (Poison A), liquefied compressed gas, or large quantity radioactive materials as defined in 49 CFR 173.389	1,000,000	5,000,000
	(3) Oil listed in 49 CFR 173.101; nuclear or radioactive waste; hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above.	500,000	1,000,000

(c) *Motor common carriers: Cargo liability.* Security required to compensate shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into the possession of motor carriers in connection with their transportation service, (1) for loss of or damage to property carried on any one motor vehicle—$5,000, (2) for less of or damage to or aggregate of losses or damages of or to property occurring at any one time and place—$10,000.

3. Section 1043.6 is revised to read as follows:

§ 1043.6 Bonds and certificates of insurance.

(a) *Public liability.* Each Form B.M.C. 82 surety bond filed with the Commission must be for the full limits of liability required under § 1043.2(b)(1). Form MCS–82 surety bonds may be aggregated to comply with the minimum security limits required under § 1043.2(b)(2). Each Form B.M.C. 91 certificate of insurance filed with the Commission must be for the full security minimum limits required under § 1043.2(b)(1). Insurance may be aggregated by filing Form B.M.C. 91X certificates of insurance to comply with the minimum security limits required under § 1043.2(c).

(b) *Cargo liability.* Each Form B.M.C. 83 surety bond and Form B.M.C. 34 certificate of insurance filed with the Commission must be for the full limits of liability required under § 1043.2(c).

4. Section 1043.7 is revised to read as follows:

§ 1043.7 Forms and procedures.

(a) *Forms for endorsements, certificates of insurance, and others.* Endorsements for policies of insurance, and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the Commission. For the security limits under § 1043.2(b)(1) pertaining to freight vehicles with gross vehicle weight ratings under 10,000 pounds and passenger equipment, Forms B.M.C. 90 endorsement and B.M.C. 91 certificate of insurance or Form B.M.C. 82 surety bonds are used. For the security limits under § 1043.2(b)(2), Form MCS–90 endorsement and B.M.C. 91X certificate of insurance or Form MCS–82 surety bonds are used. Insurance provided by more than one insurer (aggregation) requires separate Forms MCS–90 endorsement and B.M.C. 91X certificate of insurance or MCS–82 surety bond for each insurer. Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except that in special or unusual circumstances special permission may be obtained for filing certificates of insurance or surety bonds on terms meeting the particular needs of the situation.

(b) *Filing and copies.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the Commission in triplicate.

(c) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other person to whom the certificate, permit, or license is, or is to be, issued. In the case of a partnership, all partners shall be named.

(d) *Cancellation notice.* Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance and other securities or agreements shall not be cancelled or withdrawn until after thirty (30) days' notice in writing by the insurance company, surety or

sureties, motor carrier, broker or other party thereto, as the case may be, has first been given to the Commission at its office in Washington, D.C., which period of thirty (30) days shall commence to run from the date such notice is actually received at the office of the Commission.

(e) *Termination by replacement.* Certificates of insurance or surety bonds which have been accepted by the Commission under these rules may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, provided the said replacement certificate, bond or other security is acceptable to the Commission under the rules and regulations in this part.

5. Section 1043.8 is amended by revising paragraph (a) to read as follows:

§ 1043.8 Insurance and surety companies authorized.

(a) *State authority and designation of agent.* No certificate of insurance or surety bond will be accepted by the Commission unless issued by an insurance or surety company meeting the financial resources requirements of paragraph (b) of this section and which either: (1) Is legally authorized to issue the required bonds or underlying insurance policies in each State in which the motor carrier is authorized by the Commission to operate, or (2) has an accepted agent designation agreement on file with the Commission and is legally authorized to issue such policies or bonds in the State in which the carrier has its principal place of business or domicile. In the agent designation agreement, with respect to any State in which it is not authorized to issue the required bond or insurance policy, the insurance or surety company must agree to furnish the Commission, on request, a designation in writing of the name and address of a person upon whom process may be served. Under the agreement each agent designated for a State must be willing to accept process issued by or under the authority of any court having jurisdiction of the subject matter in any proceeding at law or equity brought in the State against the company. The accepted agreement shall be effective so long as the company is authorized to file security with the Commission, and thereafter with respect to any claims arising during the effectiveness of any previously filed certificates or surety bonds.

* * * * *

6. Section 1043.9 is revised to read as follows.

§ 1043.9 Refusal to accept, or revocation by the Commission of surety bonds, etc.

The Commission may, at any time, refuse to accept or may revoke its acceptance of any surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements if, in its judgment such security does not comply with these sections or for any reason fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of any certificate of insurance, surety bond or other security shall not relieve the motor carrier from compliance with § 1043.1(d).

7. Section 1043.10 is amended by revising paragraph (a) to read as follows:

§ 1043.10 Fiduciaries.

(a) Insured and principal defined. The terms "insured" and "principal" as used in certificates of insurance, surety bonds and notices of cancellation filed by or in behalf of motor carriers under these sections, shall be construed to include not only the motor carrier named in the certificate, surety bond or notice of cancellation, but also the fiduciary of such motor carrier as defined in 49 CFR 1132.5—Transfers of Operating Rights. The coverage of fiduciaries herein provided for shall attach at the moment of succession of such fiduciaries.

* * * * *

8. Section 1043.11 is revised to read as follows:

§ 1043.11 Operations in foreign commerce.

No motor carrier may operate in the United States in the course of transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country unless and until there shall have been filed with and accepted by the Commission a certificate of insurance, surety bond, proof of qualifications as a self-insurer, or other securities or agreements in the amount prescribed in § 1043.2(b), conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place in the United States, or for loss of or damage to property of others. The security for the protection of the public required by this section shall be maintained in effect at all times and shall be subject to the provisions of §§ 1043.5, 1043.6, 1043.7, 1043.8, 1043.9 and 1043.10. The requirements of § 1043.8(a) shall be satisfied if the insurance or surety company, in addition to having been approved by this Commission, is legally authorized to issue policies or surety bonds in at least one of the States in the United States, or one of the Provinces in Canada, and has filed with this Commission the name and address of a person upon whom legal process may be served in each State in or through which the motor carrier operates. Such designation may from time to time be changed by like designation similarly filed, but shall be maintained during the effectiveness of any certificate of insurance or surety bond issued by the company, and thereafter with respect to any claims arising during the effectiveness of such certificate or bond. The term "motor carrier" as used in this section shall not include private carriers or carriers operating under the partial exemption from regulation in 49 U.S.C. 10523 and 10526.

§ 1043.1 [Amended]

9. In addition to the amendments set forth above, 49 CFR 1043.1(b) is amended by revising the words "Part II of the Interstate Commerce Act" to read "Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code."

10. In addition § 1043.1(c) is amended by revising the words "sections 202(c) and 203(b) (49 U.S.C. 302(c) and 303(b))" to read "49 U.S.C. 10523 and 10526."

§§ 1043.1 and 1043.5 [Amended]

11. In addition, 49 CFR Part 1043 is amended by revising the words "Sections 211(c) and 215 of Part II, Interstate Commerce Act" to read "49 U.S.C. 10924 and 10927" in the following places:

a. 49 CFR 1043.1(d)

b. 49 CFR 1043.5(b)

PART 1003—[AMENDED]

12. In § 1003.1 paragraph (b) is revised to read as follows:

§ 1003.1 Motor Carrier and Broker Forms

* * * * *

(b) Insurance and Surety Bond Forms:

Cross Reference: Part 1043 of this chapter.

B.M.C. 32, Endorsement for Motor Common Carrier Policies of Insurance for Cargo Liability under Section 10927, Title 49 of the United States Code.

B.M.C. 34, Motor Carrier Cargo Liability Certificate of Insurance.

B.M.C. 35, Notice of Cancellation Motor Carrier Policies of Insurance under Section 10927, Title 49 of the United States Code.

B.M.C. 36, Notice of Cancellation Motor Carrier and Broker Surety Bonds.

B.M.C. 40, Application for Authority to Self-Insurer under Section 10927, Title 49 of the United States Code.

B.M.C. 82, Motor Carrier Bodily Injury Liability and Property Damage Liability Surety Bond Under Section 10927, Title 49 of the United States Code.

MCS-82 (7/81), Motor Carrier Public Liability Surety Bond Under Sections 29 and 30 of the Motor Carrier Act of 1980.

B.M.C. 83 (Rev. 1976), Motor Common Carrier Cargo Liability Surety Bond.

B.M.C. 84, Broker's Surety Bond under Section 10927, Title 49 of the United States Code.

B.M.C. 90 (Rev. 1982), Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability Under Section 10927, Title 49 of the United States Code.

MCS-90 (7/81), Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980.

B.M.C. 91 (Rev. 1982), Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability Certificate of Insurance.

B.M.C. 91X (1/1982), Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability Certificate of Insurance Under Sections 29 and 30 of the Motor Carrier Act of 1980.

(49 U.S.C. 10321, 10927 and 5 U.S.C. 553)

Decided: November 2, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix A

Note.—Appendix A will not appear in the Code of Federal Regulations.

Form B.M.C. 90 (Rev. 1981)

Approved by OMB 3120-0086

Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability Under Section 10927, Title 49 of the United States Code

The policy to which this endorsement is attached is an automobile bodily injury and property damage liability policy and is amended to assure compliance by the insured as a motor carrier of passengers or property, with Section 10927, Title 49 of the United States Code and the pertinent rules and regulations of the Interstate Commerce Commission.

In consideration of the premium stated in the policy to which this endorsement is attached, the Company agrees to pay, within the limits of liability prescribed herein, any final judgment recovered against the insured for bodily injury to or death of any person, or loss of or damage to property of others (excluding injury to or death of the insured's employees while engaged in the course of their employment, and property transported by the insured, designated as cargo), resulting from negligence in the operation, maintenance, or use of motor vehicles under certificate or permit issued to the insured by the Interstate Commerce Commission, or otherwise in interstate or foreign commerce subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code, regardless of whether or not such motor vehicles are specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized by the Interstate Commerce Commission to be served by the insured or elsewhere.

It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability or from the payment of any final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is understood and agreed that, upon failure of the Company to pay any final judgment recovered against the insured as prescribed herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the Company to compel such payment.

The Company's liability for the amounts provided in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the Company for the payment of final judgments resulting from any other accident.

The liability of the Company on each motor vehicle shall be the limits prescribed in 49 CFR 1043.2(b)(1), governing minimum amounts of insurance.

This endorsement may not be canceled without notification to the Commission. Such cancellation may be effected by the Company or the insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said thirty (30) days' notice commencing from the date notice is received by the Commission.

Issued to ———————————

of———————————

Dated at———————this———

day of———,19——

Amending Policy No.———————

Effective Date———————

Name of Insurance Company ———————

Countersigned by Authorized Company Representative

BILLING CODE 7035-01-M

Form B.M.C. 91 (Rev. 1982)
To be sent to—
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
Received:
Date_____

MOTOR CARRIER AUTOMOBILE BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE
filed with
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
(Executed in Triplicate)

Approved by OMB
3120-0096
Through 2-29-84

Interstate Commerce Commission Docket No.

MC_____

This is to certify, That the_____
(Name of Company)

(hereinafter called Company) of_____
(Home Office Address of Company)

has issued to_____
(Name of Motor Carrier)

of_____
(Address of Motor Carrier)

a policy or policies of Public Liability (or Automobile Bodily Injury and Property Damage Liability) insurance which, by the attachment of endorsement, form number B.M.C. 90, prescribed by the Interstate Commerce Commission, has or have been amended to provide the coverage or security for the protection of the public required with respect to the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued to the Insured by the Commission or otherwise in transportation subject to Subchapter II of Chapter 105 of Title 49, United States Code, and the pertinent rules and regulations of the Commission, regardless of whether such motor vehicles are specifically described in the policy or policies or not. The liability of the Company extends to all losses, damages, injuries, or deaths whether occurring on the route or in the territory authorized to be served by the Insured or elsewhere.

The described endorsement to the minimum limits for security under 49 CFR 1043.2(b)(1).

The endorsement described may not be cancelled without notification to the Commission. Such cancellation may be effected by the Company or the Insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said thirty (30) days' notice to commence to run from the date notice is actually received at the office of the Commission.

Effective from. . . . . .(12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under Section 10927 of Title 49 of the United States Code.

Signed at_____ _____ _____ Date_____
Street Address City State

_____
(Issuing Office - Full Name of Agency or Branch)

Insurance Company File No._____
(Policy Number)

_____
(Signature of Authorized Company Representative)

Form B.M.C. 91X (1/ 1982)
To be sent to—
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
Received:
Date_____

MOTOR CARRIER AUTOMOBILE BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE
filed with
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
(Executed in Triplicate)

Approved by OMB
3120-0103
Through 12-31-83

Interstate Commerce Commission Docket No.

MC_____

This is to certify, That the_____
(Name of Company)

(hereinafter called Company) of_____
(Home Office Address of Company)

has issued to_____
(Name of Motor Carrier)

of_____
(Address of Motor Carrier)

a policy or policies of Public Liability (or Automobile Bodily Injury and Property Damage Liability) insurance which, by the attachment of endorsement, form number MCS-90, prescribed by the U.S. Department of Transportation, has or have been amended to provide the coverage or security for the protection of the public required with respect to the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued by the Commission or otherwise in transportation subject to Subchapter II of Chapter 105 of Title 49, United States Code, and the pertinent rules and regulations of the Commission, regardless of whether such motor vehicles are specifically described in the policy or policies or not. The liability of the Company extends to all losses, damages, injuries, or deaths whether occurring on the route or in the territory authorized to be served by the Insured or elsewhere subject to the terms specified below.

The described endorsement extends to insurance provided for under 49 CFR 1043.2(b)(2), and the company shall be liable for amounts in excess of the underlying limit of $_____ for each accident but not in excess of $_____ for each accident.

The endorsement described may not be cancelled without notification to the Commission. Such cancellation may be effected by the Company or the Insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said thirty (30) days' notice to commence to run from the date notice is actually received at the office of the Commission.

Effective from. . . . . .(12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under Section 10927 of Title 49 of the United States Code.

Signed at_____ _____ _____ Date_____
Street Address City State

_____
(Issuing Office - Full Name of Agency or Branch)

Insurance Company File No._____
(Policy Number)

_____
(Signature of Authorized Company Representative)

Form B.M.C. 35 (Rev. 1982)
To be sent to—
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
Received:
Date_____

NOTICE OF CANCELLATION
MOTOR CARRIER INSURANCE
UNDER 49 U.S.C. 10927
filed with
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
(Executed in Triplicate)

Approved by OMB
3120-0081
through 2/29/84

Interstate Commerce Commission Docket No.

MC_____

TO INTERSTATE COMMERCE COMMISSION
INSURANCE BRANCH
Washington, D.C. 20423

This is to advise that, under the terms of a policy or policies issued to:

*Check Coverage Canceled:
Cargo — B.M.C. 34 [ ]
Public Liability: —
B.M.C. 91 [ ]
B.M.C. 91X [ ]
$_____ to $_____

Name of motor carrier_____
Street address_____
City and State_____

by_____(Name of Company)
_____(Address)

the endorsement(s) and certificate(s) issued in connection therewith, as indicated herein, are hereby canceled, effective as of the..... day of....., 19...., 12:01 a.m., standard time at the address of the Insured as stated in said policy or policies provided said date is not less than thirty (30) days after the receipt of this notice by the Interstate Commerce Commission.

Insurance Company File No_____ _____
(Policy Number) (Signature of Authorized Representative or Insured) Date

[FR Doc. 82-33721 Filed 12-13-82; 8:45 am]
BILLING CODE 7035-01-C

49 CFR Part 1011

[Ex Parte No. MC-142 (Sub-1)]

Removal of Restrictions From Authorities of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is eliminating the special Restriction Removal Board. On January 15, 1981 (45 FR 3532), the Commission published notice of the establishment of a special Restriction Removal Employee Board. This Board has been delegated the functions set forth in 49 CFR 1011.6(l), which was added in that document. Under that section, the Board decides applications seeking to remove operating restrictions or to broaden unduly narrow authority in existing certificates and permits under the provisions of 49 CFR Part 1165 (formerly Part 1137). Although carriers may continue to avail themselves of the restriction removal procedures, the Commission has determined that the level of application filings no longer warrants the use of a special employee board. Restrictions removal proceedings will be referred to the employee review boards of general jurisdiction for determination, as provided for at 49 CFR 1011.6(f).

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: We are adopting the procedural rule set forth in the appendix.

This action is taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: December 6, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison, Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1011—[AMENDED]

1011.6 [Amended]

49 CFR Part 1011 is amended by removing 49 CFR 1011.6(l).

[FR Doc. 82-33832 Filed 12-13-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 240
Tuesday, December 14, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Amended Material Control and Accounting Requirements for Special Nuclear Material of Low Strategic Significance

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations on the material Control and Accounting (MC&A) requirements for fuel cycle facilities possessing Low Enriched Uranium (LEU). These amendments would reform the MC&A requirements for fuel cycle licensees who possess LEU by clarifying the differences between safeguard requirements for Low Enriched Uranium and Strategic Special Nuclear Material (SSNM), thereby making the regulations more consistent with the low strategic significance of LEU.

DATES: Comments must be received on or before February 14, 1983. Comments received after February 14, 1983 will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Comments received will be available for examination and copying at the NRC Document Room at 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. C. J. Withee, Fuel Facility Safegards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427–4040.

SUPPLEMENTARY INFORMATION:

Background

Under currently applicable regulations, MC&A of LEU and SSNM is governed by requirements which differ very little. The major differences which now exist are a longer inventory period and higher inventory-difference action threshold for LEU. The bulk of the other current requirements are the same for LEU and SSNM.

Safeguard risks associated with LEU are substantially less than those associated with SSNM. It is impossible to construct a clandestine fission explosive (CFE) device with uranium enriched to less than 6 percent in U–235 (this covers most of the material held by current LEU licensees). Also, it appears beyond the capabilities of a subnational group to construct a CFE from uranium in the enrichment range from 6 to 10 percent. This is because LEU, as opposed to SSNM, must either be further enriched or used to breed plutonium in a reactor and then reprocessed to produce material which is directly usable in a CFE. Such enrichment or conversion-reprocessing capabilities are not considered credible for a subnational group.

In addition, the consequences which could result from LEU sabotage are a negligible safeguards risk to the public health. This risk is comparable to that which could result from sabotage involving source material.

To aid in establishing the proper level of safeguards which should be applied to LEU, the NRC staff sought to determine the amounts of material which could potentially have safeguards significance. The significant amounts are called "goal quantities" in the proposed LEU Reform Amendments. In defining these amounts, a conservative approach was taken.

Goal quantities were established to relate LEU loss detection requirements to the amount of LEU theoretically necessary to form a fast critical mass. For additional conservatism, the material was assumed to be in the best chemical form and optimum configuration. Under these conditions the following goal quantities were established: (1) 500 kilograms of U–235 contained in uranium enriched below six percent, and (2) 100 kilograms of U–235 contained in uranium enriched from six to ten percent.

While goal quantities were established for enrichments up to ten percent, most of the uranium held by the eight current LEU licensees,* affected by the Reform Amendments, is less than six percent enriched (only experimental and developmental quantities of greater than six percent enriched uranium are held on inventory). In fact, the most common LEU enrichment is in the two to four percent range.

For typical three percent enriched uranium, the goal quantity amounts to more than 16 metric tons of uranium. Undetected covert diversion scenarios of such a large amount of matrial are highly improbable. Physical inventories can easily detect a diversion of that size from any of the eight current licensees. In addition to any required MC&A capabilities, normal plant production controls and direct observation by plant employees are likely to detect such a diversion.

Abrupt or protracted diversions of 16 metric tons of material also have a high probability of being detected by the physical security system. The recently published physical security regulations (10 CFR 73.67) require licensees to have a system which will provide early detection of an LEU theft. This is accomplished, in part, by using and storing the material in a controlled access area. Immediate detection of a large abrupt material diversion is very likely. To accomplish a protracted theft of 16 metric tons over one year, an adversary would have to carry out approximately 100 pounds of material every day. Given the physical security measures, production controls, and normal operating procedures, it seems highly unlikely that a theft of that magnitude could continue for 365 days without being detected.

In summary, given the low safeguards importance of LEU, the recent imposition of physical protection requirements for LEU, and the high probability of detecting the theft for a significant amount of LEU, it is apparent that LEU requirements should be reformed to better differentiate between

*The eight licensees are involved in the fuel fabrication process for power reactors. The power reactors themselves will not be affected by the proposed amendments.

LEU and SSNM safeguards requirements. Such reform should reduce the regulatory burden on LEU licensees to a level consistent with the LEU safeguard risks.

LEU MC&A Safeguards Objectives

To guide the development of proposed amendments to reform current LEU MC&A requirements, domestic objectives were established which are consistent with the material's strategic significance as well as our international commitments. These objectives call for the licensee's MC&A system to be able to (1) detect the loss of a goal quanity or more of U–235 contained in low enriched uranium, (2) resolve indications of missing material, and (3) aid the investigation and recovery of missing material.

Summary of Proposed Amendments

NRC staff studied a number of regulatory options which range from continuing the status quo to deleting all MC&A requirements for LEU. After this study, the NRC staff develop proposed amendments that (1) reflect the material's low safeguards significance by eliminating unnecessarily burdensome requirements, (2) meet domestic LEU MC&A safeguards objectives (including aiding recovery of losses), (3) meet the United States' treaty commitments to the International Atomic Energy Agency (IAEA), and (4) allow greater licensee flexibility when implementing safeguards requirements by replacing prescriptive requirements with performance capabilities. The proposed amendments can be summarized as containing the following capability requirements:

- Conduct annual physical inventories to detect a significant loss of LEU;
- Control overall measurement error to 0.25 percent of active inventory or 9 kilograms of U–235;
- Be able to locate items within 14 days;
- Resolve shipper-receiver differences greater than 500 grams of U–235;
- Independently assess system effectiveness every two years; and
- Maintain a management structure with clear responsibilities and separation of functions.

To aid the licensees in designing their MC&A system to meet these capabilities, an Intent and Scope Guide will be provided. A draft version of this Guide is available for inspection at the NRC Public Document Room, 1717 H Street NW., in Washington, DC. The Guide describes the regulatory intent, scope of application, and rationale of each paragraph of the proposed requirements. Also, it should be noted that, for a licensee selected under the terms of the US/IAEA agreement, the requirements of 10 CFR Part 75 will supersede those of Part 70, including those of the proposed amendments.

International Considerations

It should be noted that the objectives stated previously are domestic objectives and are considered to be appropriate for a subnational level threat. For all U.S. licensees, an annual physical inventory has been determined to be sufficient to adequately protect the public health and safety for a subnational threat. On the other hand, the International Atomic Energy Agency (IAEA), which is responsible for applying international safeguards in non-nuclear weapons states, must judge whether a significant diversion has occurred in the face of a possible national level conspiracy. In order to reach its conclusion with the required level of certainty, the IAEA may find it necessary to receive physical inventory data at a more frequent interval, most probably semi-annually. Other elements of these proposed regulations may similarly need to differ depending on whether or not national as well as subnational diversion threats need to be considered. The NRC is coordinating with the Department of State regarding these issues and their proper reflection in domestic U.S. regulations.

Paperwork Reduction Act Statement

The reporting and recordkeeping requirements contained in the proposed amendments affect fewer than 10 licensees, and therefore, are not subject to Office of Management and Budget clearance as required by Pub. L. 96–511. Only eight light-water-reactor fuel fabricators and processers will be affected and no new licensees are anticipated in the foreseeable future.

Also, these amendments will reduce the total requirements for the affected licensees by: eliminating the need for multiple material balance areas, reducing the record retention period, reducing the audit frequency, eliminating the need to requalify measurement personnel, reducing the frequency of physical inventories, removing the requirement for measurement control charts, and eliminating the need to recover certain scrap in a specified time.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects eight facilities that fabricate low enriched fuel, and is expected to result in an estimated cost savings for the industry on the order of $3 million per year. These eight facilities are each a part of, or a subsidiary of, a large company. The companies that own these facilities are dominant in their services areas and do not fall within the definition of "small entities" set forth in the Regulatory Flexibility Act by the Small Business Administration in 13 CFR Part 121.

The Pacific Northwest Laboratories, operated by Battelle Memorial Institute, were contracted by the NRC to assist in the analysis of the costs and benefits of current LEU MC&A regulations and the proposed amendments. A copy of the full analysis report is available for inspection and copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

List of Subjects in 10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that the NRC is proposing to adopt the following amendments to 10 CFR Part 70.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846) unless otherwise noted.

(Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152))

(For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d) – (g), (i) – (k), 70.24(a), and (b), 70.32(a)(3), (5), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a), and (c), 70.56, are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a(a), and (d), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c) – (g), 70.56, 70.57(b) and (d), 70.58(a) – (g)(3) and (h) – (j), and 70.60(a) – (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.32(h), 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k) and (l), 70.59, and 70.60(d), are

issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o))

2. In § 70.4, paragraphs (w), (x), (y), (z), (aa) and (bb) are added to read as follows:

§ 70.4 Definitions.

* * * * *

(w) "Special nuclear material of moderate strategic significance" means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1000 grams when computed by the equation, grams = (grams contained U–235) + 2 (grams U–233 + grams plutonium), or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U–235 isotope).

(x) "Special nuclear material of low strategic significance" means:

(1) Less than an amount of strategic special nuclear material of moderate strategic significance, as defined in § 70.4(w)(1), but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = grams contained U–235 + grams plutonium + grams U–233, or

(2) Less than 10,000 grams but more than 1000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U–235 isotope), or

(3) 10,000 grams or more of uranium-235 contained in uranium enriched above natural but less than 10 percent in the U–235 isotope.

(y) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium-233, or plutonium.

(z) "Goal quantity" means (1) 500 kilograms of U–235 contained in uranium enriched below 6 percent; (2) 100 kilograms of U–235 contained in uranium enriched to 6 percent or greater but less than 10 percent; and (3) the quantity of U–235 possessed, up to 10 kilograms, contained in uranium enriched to 10 percent or greater but less than 20 percent.

(aa) "Active inventory" means the sum of additions to inventory, beginning inventory, ending inventory, and removals from inventory, after all common terms have been excluded. Common terms are any material values that appear in the active inventory calculation more than once and come from the same measurement.

(bb) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium).

3. In § 70.22, paragraph (b) is revised to read as follows:

§ 70.22 Contents of applications.[1]

* * * * *

(b) Each application for a license to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, and as sealed sources, shall contain a full description of the applicant's program for control of and accounting for special nuclear material which will be in the applicant's possession under license, to show how compliance with the requirements of §§ 70.58 or 70.60, as applicable, will be accomplished.

* * * * *

4. In § 70.32, the introductory test of paragraph (c) is revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) Each license authorizing the possession at any one time and location of special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, and the use of such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation and in sealed sources, shall contain and be subject to a condition requiring the licensee to maintain and follow (1) the program for control and accounting for special nuclear material and fundamental material controls described pursuant to §§ 70.22(b), or 70.58(1), as appropriate, (2) the measurement control program for special nuclear materials control and accounting described pursuant to § § 70.57(c) or 70.60(c)(2), as appropriate, and (3) such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material and providing that the licensee shall make no change which would decrease the effectiveness of the material control and accounting program prepared pursuant to §§ 70.22(b), 70.58(1), or 70.51(g), and the measurement control program prepared pursuant to §§ 70.57(c) or 70.60(c)(2) without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for amendment to its license pursuant to § 70.34. The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for a period of five years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A of Part 73 of this chapter, a report containing a description of each change within:

* * * * *

5. In § 70.51, the introductory text of paragraph (e) is revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(e) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of strategic special nuclear material or special nuclear material of moderate strategic significance and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation; as sealed sources; or as reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants, shall:

* * * * *

6. In § 70.58, paragraph (a) is revised to read as follows:

§ 70.58 Fundamental nuclear material controls.[1]

(a) Each licensee who is authorized to possess at any one time strategic special nuclear material or special nuclear material of moderate strategic significance in a quantity exceeding one effective kilogram, and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, and as sealed sources, shall establish, maintain, and follow written material control and accounting procedures in compliance with the fundamental nuclear material controls requirements specified in

paragraphs (b) through (k) of this section and such other controls as the Commission determines to be essential for the control of and accounting for special nuclear material.

* * * * *

7. A new § 70.60 is added to read as follows:

§ 70.60 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) General Performance Objectives. Each licensee who is authorized to possess more than one effective kilogram of special nuclear material of low strategic significance at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal or sealed sources, shall implement and maintain a Commission approved material control and accounting system that will achieve the following objectives:

(1) Detect the loss of a goal quantity or more of U–235 contained in special nuclear material; and

(2) Resolve indications of missing material, and aid in the investigation and recover of missing material.

(b) Implementation Dates. Each licensee subject to the requirements of paragraph (a) of this section shall:

(1) No later than 150 days after the effective date of these amendments, submit a fundamental nuclear material control plan describing how the requirements of paragraph (c) of this section will be met; and

(2) Within 300 days of the effective date of these amendments or 60 days after the plan submitted pursuant to paragraph (b)(1) of this section is approved, whichever is later, implement the approved plan.

(c) System Capabilities. To meet the general performance objectives of § 70.60(a), the material control and accounting system must include the capabilities described in paragraphs (c)(1) through (6) of this section. The licensee shall:

(1) Establish, document, and maintain a management structure which assures: clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures.

(2) Control total material control and accounting measurement error so that twice its standard deviation is less than the greater of 9 kilograms of U–235 or 0.25 percent of the active inventory, and assure that any measurement performed under contract is controlled so that the licensee can satisfy this requirement.

(3) Except as required by Part 75 of this chapter, perform a physical inventory at least every 12 months and, within 2 months thereafter, reconcile and adjust the book inventory to the physical inventory and resolve, or report an inability to resolve, any inventory difference which is rejected by a statistical test which has a 90 percent power of detecting the loss of a goal quantity.

(4) Maintain current knowledge of items sufficient to locate any item within 14 days. Store and handle, or subsequently measure, items in a manner such that unauthorized removals of substantial quantities of material from items will be detected. Exempted are items containing less than 500 grams of U–235 up to a total of 50 kilograms of U–235, solutions with a concentration of less than 5 grams of U–235 per liter, and items of waste destined for burial or incineration.

(5) Resolve, on a shipment basis and, when required by Part 75 of this chapter, on a batch basis, shipper/receiver differences that exceed both twice its standard deviation and 500 grams of U–235.

(6) Independently assess the performance of the material control and accounting system at least every 24 months, and document management's action on prior assessment recommendations.

(d) Recordkeeping. Each licensee shall establish records that will demonstrate that the requirements of paragraph (c) of this section have been met and maintain records for at least 3 years unless a longer retention time is required by Part 75 of this chapter.

Dated at Washington, D.C. this 9th day of December, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–33939 Filed 12–13–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 439]

El Dorado Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to establish a viticultural area in El Dorado County of California to be known as "El Dorado." This proposal is based upon a petition submitted by the El Dorado Wine Grape Growers Association. ATF believes the establishment of viticultural area names and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will allow wineries to better designate the specific grape growing areas where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments on this proposal must be received by January 28, 1983.

ADDRESS: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, DC 20044–0385 [Notice No. 439].

Copies of the petition, the proposed regulations, the appropriate U.S.G.S. topographic maps, and any written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 ((202) 566–7626).

SUPPLEMENTARY INFORMATION:

Background

Regulations in 27 CFR Part 4 allow for the establishment of definite viticultural areas and for the use of an approved viticultural area as an appellation of origin on wine labels and in wine advertisements.

In 27 CFR 4.25(e)(1) and 9.11, the term "viticultural area" is defined as a delimited, grape-growing region distinguishable by geographical features. In 27 CFR 4.25a(e)(2), procedures for proposing an American viticultural area are outlined. As required by regulation, the petition is to include—

(a) evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which

distinguish the viticultural features of the proposed area from surrounding areas;

(d) a description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) a copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

The El Dorado Wine Grape Growers Association in Camino, California, has petitioned ATF for the establishment of an American viticultural area to be named "El Dorado." This proposed American viticultural area is located within the El Dorado County, east of Sacramento, California; and it would cover approximately 125 square miles. There are 164 acres of vines bearing wine grapes, another 252 acres are planted but not yet bearing, and several acres are in the planning stage. Within the proposed "El Dorado" viticultural area, there are six bonded wineries with vineyards.

The grape varieties that have been planted include Barbera, Chardonnay, Chenin Blanc, White and Grey Reisling, Gewurtztraminer, Mission, Sauvignon Blanc, Cabernet Sauvignon, Semillon, Merlot, Petite Sirah, Syrah, and Zinfandel.

The petitioner submitted information that the proposed "El Dorado" viticultural area is distinguished from surrounding areas by historical reference, geographic and physical features, climate, and soil type as follows:

Evidence of Name. It is historically viewed that the discovery of gold in 1848—befitting its name "El Dorado" to connote a place of fabulous wealth and opportunity—brought viticulture and winemaking to the El Dorado County. Several places within El Dorado County carry the name—such as the towns of El Dorado and El Dorado Hills, El Dorado Hills Vineyard, Eldorado Vineyard and Winery in Camino, and the El Dorado National Forest.

By 1855, the *California Farmer* (November 9, 1855) reported about 3,000 vines in El Dorado County. In 1866, the *Alta California* (May 1866) printed an article praising El Dorado County as "undoubtedly the leading county in the Sierra wine business." The article mentioned vineyards in the areas of Placerville, Diamond Springs, Gold Hill, and the El Dorado Wine Company at El Dorado. All of these communities are located within the boundaries of the proposed viticultural area. By the end of the decade, according to the 1860 census, about 800 acres of grapevines were known. According to Leon D. Adams in *The Wines of America*, El Dorado County had more vineyards than Sonoma and Napa Counties combined.[1]

By the mid 1860's, there were approximately 1½ million vines in the El Dorado County with a production of over 200,000 gallons of wine.

In 1884, the *San Francisco Merchant* (November 21, 1884) listed 11 growers and two wineries in the Coloma area, 14 growers and two wineries in the Diamond Springs area, a winery in Green Valley, seven vineyardists in Placerville, and three at Gold Hill. All of these communities are located within the proposed viticultural area. By 1888, the State Board of Equalization reported 1715 acres of grape vines. From this point forward, the production of wine dwindled in the area.

By 1922, there were only about 500 acres of wine grapes grown in the county. Most of the vineyards still in production were concentrated around the communities of Placerville, Shingle Springs, Latrobe, and Georgetown, all of which, except Latrobe, are located within the boundaries of the proposed area.

Numerous articles from newspaper and journals, submitted by the petitioner, show that "El Dorado" is locally known and that there is a growing interest nationally in the El Dorado County as a wine producing area.

Evidence of Boundaries. According to the petitioner, the boundaries of "El Dorado" include all known and potential grape growing areas within El Dorado County. Soil, climate and terrain limit the grape growing areas to between the 1,200-foot to 3,500-foot-elevation levels. The natural boundaries of El Dorado County—the North Fork of the American River, the Middle Fork of the American River, and the Rubicon River on the north, and the South Fork of the Cosumnes River on the south—serve as the northern and southern boundaries, respectively, of the proposed viticultural area. Range lines define the east and west boundaries and are more easily located on the maps than are the elevation contour lines.

Evidence of Geographic Characteristics. Historical data, in the petitioner's opinion, support the boundaries of the proposed viticultural area. The northen and southern boundaries are the same as those of the El Dorado County. The eastern boundary represents the upper limit of any agricultural activity since the rocky and mountainous terrain and climate of the Sierra Nevada Mountains preclude any farming further east of the eastern boundary line. The market demand for particular winegrape varieties that are better suited for cooler regions support the proposed western boundary at the 1,200-foot elevation. There are no current vineyards of these grapes planted below the 1,200-foot elevation. Historical references to grape growing areas in El Dorado County are within the proposed boundaries.

Throughout the year the evenings and nights are cooled by breezes originating from the Sierra Nevada Mountains to the east. The proposed area has none of the winter fog that is typical of Great Central Valley and the coastal valleys of California. Average annual rainfall ranges from 33 to 45 inches varying with the elevation. Precipitation increases 3 to 4 inches for every 300-foot rise in elevation. The higher average elevation of "El Dorado," as opposed to the lower foothill areas, and the Central Valley guarantees it a more favorable growing climate as far as rainfall is concerned. Indian summer with cool nights and warm days extends the growing season into October. Little rainfall occurs until late October and November.

The "El Dorado" is located on the western slope of the central Sierra Nevada Mountains. It is dominated by steeply dipping, faulty and folded metamorphormic rocks that have been intruded by igneous rocks. Overlaying the bedrock in may places are mantels of river gravel and volcanic debris. The soils vary in texture and depth but are all formed from common magma materials which are residual (formed in place) and igneous in origin. In contrast, the soils in the lower foothill and Central Valley regions consist of a mixture of materials caused by erosion and are sedimentary (transported materials of ocean sediments and stream deposits).

Other characteristics of the soil also differentiate the area from its neighbors. The soil is acidic rather than alkaline which is common throughout California. Hardpans, claypans, and restricting layers are uncommon. Soil water drainage and infiltration rates are moderate to fast. In addition, high water table conditions which are unfavorable to grape growing are almost non-existent in the proposed "El Dorado" area.

Description of Boundaries and U.S.G.S. Maps. A description of the specific boundaries as well as a listing

[1] Leon D. Adams, *The Wines of America*, 2nd ed., Rev. (New York: McGraw-Hill Book Company, 1978) p. 421.

of the U.S.G.S. topographic maps, as proposed by the petitioner, are described in proposed § 9.61.

Issues on which Comments Are Requested

Name of Proposed Viticultural Area. The petitioner believes that the name "El Dorado' is the most appropriate name for the proposed viticultural area. The documentation submitted states that all the grape growing areas in the El Dorado County are included in the proposed area. In addition, while most of the grapes grown in the proposed area are crushed by its own wineries, other wineries in California also use grapes from the area and market their wines with the El Dorado County appellation. ATF is concerned, therefore, that the close similarity between the county appellation and the proposed viticultural area appellation may confuse and mislead the consumer. By regulation, the difference between the two appellations is the percentage of wine derived from the grapes grown in the area of the appellation designated. Section 4.25a(b)(1) states that, for a wine bearing the name of a county appellation, at least 75 percent of the wine be derived from grapes grown within the appellation area indicated. Section 4.25a(e)(3) states that, for a wine to be labeled with a viticultural area appellation, not less than 85 percent of the wine must be derived from grapes grown within the boundaries of the viticultural area.

ATF would like to know whether consumers would be confused by the use of "El Dorado" as a designated appellation because of its similarity with the county appellation and of the difference between percentages of wine required of each—85 percent and 75 percent, respectively. Should the name "El Dorado" be changed so that it is different from the county appellation?

Viticultural Area Size. ATF is also requesting comments regarding the size of the area. ATF is concerned that the size of the proposed area may need to be reflective of the amount of acreage of grapes planted. ATF is requesting comments on whether or not the 125 square miles of the proposed viticultural area is too large an area in relation to the 416 acres planted. Information on where the existent grape growing areas are located would be helpful to determine whether or not the size of the proposed viticultural area could be compressed and still have geographical features which are distinguishable from the surrounding area.

National Forest. ATF has observed that numerous national forest parcels exist within the proposed "El Dorado" boundaries. If a vineyardist or winemaker has permission from the Department of Agriculture to grow winegrapes in the El Dorado National Forest, ATF would be interested in such information so that these national forest areas may be considered for possible inclusion into the proposed "El Dorado" viticultural area

Public Participation

ATF requests all interested persons to submit comments regarding this proposed viticultural area. Although this notice proposes possible boundaries for the "El Dorado" viticultural area, comments concerning other possible boundaries for this viticultural area will be considered as well.

All substantive comments will be considered prior to the issuance of any final rule. Comments are not considered confidential. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed notice should make a request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Executive Order 12291

It has been determined that this notice of proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million dollars or more; it will not result in a major increase in cost 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.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act to issue and make available initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking because the proposal, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact or compliance burden will be on the affected small entities in the proposed viticultural area. However, from the information available at present on the proposed viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact or compliance burden on a substantial number of small entities.

Drafting Information

The author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. Other personnel of ATF and offices of the Department of the Treasury participated in the development of this notice of proposed rulemaking, both as to matters of substance and style.

Authority and Issuance

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), ATF proposes to amend 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add § 9.61 as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.
9.61 El Dorado.

* * * * *

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.61 to read as follows:

§ 9.61 El Dorado.

(a) *Name.* The name of the viticultural area described in this section is "El Dorado."

(b) *Approved maps.* The approved U.S.G.S. topographic maps (7.5 series; quadrangles) showing the boundaries of the El Dorado viticultural area, including quadrangles showing the area within the boundaries, are as follows:

(1) "Pilot Hill, California," 1954 (photorevised 1973);

(2) "Auburn, California," 1953 · (photorevised 1973);

(3) "Greenwood, California," 1949 (photorevised 1973);
(4) "Georgetown, California," 1949 (photorevised 1973);
(5) "Foresthill, California," 1949 (photorevised 1973);
(6) "Michigan Bluff, California," 1952 (photorevised 1973);
(7) "Tunnel Hill, California," 1950 (photorevised 1973);
(8) "Slate Mountain, California," 1950 (photorevised 1973);
(9) "Pollock Pine, California," 1950 (photorevised 1973);
(10) "Stump Spring, California," 1951 (photorevised 1973);
(11) "Caldor, California," 1951 (photorevised 1973);
(12) "Omo Ranch, California," 1952 (photorevised 1973);
(13) "Aukum, California," 1952 (photorevised 1973);
(14) "Fiddletown, California," 1949;
(15) "Latrobe, California," 1949 (photorevised 1973);
(16) "Shingle Springs, California," 1949;
(17) "Coloma, California," 1949 (photorevised 1973);
(18) "Garden Valley, California," 1949 (photorevised 1973);
(19) "Placerville, California," 1949 (photorevised 1973);
(20) "Camino, California," 1952 (photorevised 1973);
(21) "Sly Park, California," 1952 (photorevised 1973);

(c) *Boundaries.* The boundaries of the El Dorado viticultural area which is located in El Dorado County, California, are as follows:

(1) The beginning point of the boundaries is the intersection of North Fork of the American River (also the boundary line between El Dorado and Placer Counties) and the township line "T. 11 N./12 N" ("Pilot Hill" Quadrangle);

(2) Thence northeast along the North Fork of the American River to its divergence with the Middle Fork of the American River, continuing then, following the Middle Fork of the American River to its intersection with the Rubicon River which continues as the boundary line between El Dorado and Placer Counties ("Auburn," "Greenwood," "Georgetown," "Foresthill," and "Michigan Bluff" Quadrangles);

(3) Thence southeast along the Rubicon River to its intersection with the range line "R. 11 E./R. 12 E." ("Tunnel Hill" Quadrangle);

(4) Thence south along the range line through T. 13 N. and T 12 N., to its intersection with the township line "T. 12 N./T. 11 N." ("Tunnel Hill" and "Slate Mountain" Quadrangles);

(5) Thence east along the range line to its intersection with the range line "R. 12 E./R. 13 E." ("Slate Mountains" and "Pollock Pines" Quadrangles);

(6) Thence south along the range line to its intersection with the township line "T. 11 N./T. 10 N." ("Pollock Pine" Quadrangle);

(7) Thence east along the township line to its intersection with the range line "R. 13 E./R. 14 E." ("Pollock Pines" and Stump Spring" Quadrangles);

(8) Thence south along the range line through T. 10 N., T. 9 N., and T. 8 N. to its intersection with the South Fork of the Cosumnes River (also the boundary line between El Dorado and Amador Counties) ("Stump Spring" and "Caldor" Quadrangles);

(9) Thence west and northwest along the South Fork of the Cosumnes River to its intersection with range line "R. 11 E./R. 10 E." ("Caldor," "Omo Ranch," "Aukum", and "Fiddletown" Quadrangles);

(10) Thence north along the range line to its intersection with the township line "T. 8 N./9 N." ("Fiddletown" Quadrangle);

(11) Thence west along the township line to its intersection with range line "R. 10 E./R. 9 E." ("Fiddletown" and "Latrobe" Quadrangles);

(12) Thence north along the range line to its intersection with the township line "T. 10 N./T. 11 N." ("Latrobe," "Shingle Springs," and "Coloma" Quadrangles);

(13) Thence east along the township line approximately 4,000 feet to its intersection with the range line "R. 9 E/R. 10 E." ("Coloma" Quadrangle);

(14) Thence north on the range line to its intersection with the township line "T. 11 N./T. 12 N." ("Coloma" Quadrangle);

(15) Thence west along the township line to the point of beginning ("Coloma" and "Pilot Hill" Quadrangles).

Signed: November 15, 1982.

W. T. Drake,

Acting Director.

Approved: November 29, 1982.

David Q. Bates.

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33945 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 440]

Hermann Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of Missouri to be known as "Hermann." This proposal is the result of a petition submitted by Mr. Jim Held, President, Stone Hill Wine Company and Mr. Him Bias, President, Bias Vineyards and Winery. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help wineries better designate the specific grape-growing areas where their wines come from and will help wine consumers better identify the wine they purchase.

DATE: Written comments must be received by January 28, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 440.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally

and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition to establish a viticultural area in Central Missouri, along the Missouri River, to be known as "Hermann." The proposed viticultural area is located in the northern portion of Gasconade and Franklin Counties, south of the Missouri River. The proposed area consists of approximately 80 square miles with 102 acres of wine grapes and three bonded wineries.

Evidence Relating to the Name

The petition contained, numerous local, State and national reference material which establishes the history of grape-growing and wine production in the area of the town of Hermann, Missouri, as far back as 1843. In 1866 Missouri surpassed Ohio as the second largest wine producing state. In 1904 the Hermann, Missouri, area furnished 97 percent (2.9 million gallons) of the wine produced in Missouri. Wines from Hermann, Missouri, won eight gold medals at worlds' fair from 1873 to 1904. Grape-growing in this area increased to the extent it surpassed the local wineries' ability to absorb the grapes for wine production. Subsequently, prohibition began in 1920, closing all the local wineries and temporarily stopping commercial grape-growing. Further, one of the maps submitted with the petition is entitled "Hermann."

Grape-growing and wine production in the Hermann area was dormant until 1965 when Stone Hill Winery, initially established in 1847, was reopened. Subsequently, the Hermann Winery, founded 1852, was reopened, followed by the Bias Vineyards and Winery in 1980. These wineries have their own vineyards which contain 97 acres of native American and French hybrid grapes consisting of Cuyuga, Delaware, Catawba, Niagara, Norton, Vidal, Chancellor, Ravat, Villard Noir, Missouri Riesling, Sevyal, and Villard Blanc. Another commercial vineyard containing five acres of grapes is located in the Hermann area. One of the petitioners, Mr. Jim Held, states that his vineyard still contains plantings of Norton grapes from 1867.

Boundaries and Geographical Evidence

The petition contained geographical and climatic information which distinguish the proposed boundaries from surrounding areas, based on the fact that:

(a) The northern boundary, the Missouri Pacific Railroad immediately to the south of the Missoiuri River and its flood plain, identifies the bluff line which separates the hills where grapes have grown for over 130 years, from the bottom land along the river. The bottom land along the Missouri River is ideally suited to other agricultural products, but is of no value for grape-growing because of topography and the lack of frost protection.

(b) The western boundary, the Gasconade River and the First Creek, and the eastern boundary, the Big Berger Creek, provide natural boundaries which afford ideal air drainage patterns created by the difference in elevation.

(c) These northern, western and eastern boundaries identify an elevated area from the surrounding area, consisting of loessal soil deposits. This elevated area can produce temperature variances of as much as 25 degrees F. from the lower elevation in early spring and winter. Experimental vineyards were planted immediately to the west of the proposed area. These vineyards have been abandoned because of continued spring frost and severe winter temperatures.

(d) The southern boundary, the Township Line 44N and 45N between First Creek and Big Berger Creek, identifies a definite soil structure change, which the petitioners claim gives grapes a noticeably different character.

(e) The dominant soils within the proposed viticultural area are Menfro, Crider and Minnith series. These soils are well-drained, have a high water capacity and are deep enough to provide good root development. The Menfro series is found within one to two miles of the Missouri River. The Crider and Minnith soils, while dominant within the proposed viticultural area become minor to the south where soils of the Union, Marian and Bucklick series became dominant. The latter soil series are moderate to poorly drained which restrain root development of grapes.

The exact boundaries of the proposed viticultural area are described in the regulations portion of this document.

Other

On June 20, 1980, ATF published Treasury Decision ATF-72, (45 FR 41632) establishing the first approved American viticultural area, "Augusta" (Missouri). During the public hearing held on November 1, 1979, for the Augusta petition, testimony was presented indicating that areas along the entire Missouri River exhibited generally similar features which made it difficult to distinguish one area from surrounding areas. However, information presented in the Augusta petition and the Hermann petition and over 130 years of grape-growing history along the Missouri River would indicate that micro-climatic and geographical areas do exist. ATF could envision additional viticultural areas along the Missouri River or the possibility of a larger viticultural area encompassing various viticultural areas. The larger area could exhibit generally uniform viticultural features, as opposed to more specifically uniform viticultural features within micro-viticultural areas.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory flexibility analysis (5 U.S.C. 603) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Hermann," on wine labels and in wine advertising. ATF has determined that this rule neither imposes new requirements on the public nor removes privileges available to the public. This proposal is not expected to have significant secondary or incidental

effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Public Participation—Written Comments

AFT requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and/or information concerning: (a) The relatively small number of acres of grapes, 102 acres, in comparison to the total size of the proposed area; (b) possible alternative boundaries which more closely define the current grape growing area; and (c) additional viticultural and geographical evidence which distinquishes the proposed area from surrounding areas.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.71. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.71 Hermann.

Par. 2. Subpart C is amended by adding § 9.71 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.71 Hermann.

(a) *Name.* The name of the viticultural area described in this section is "Hermann."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Hermann viticultural area are six U.S.G.S. Missouri Quadrangle maps, 7.5 minute series. They are entitled (1) Hermann (1974), (2) Berger (1974), (3) Gasconade (1974), (4) Pershing (1974), (5) Swiss (1973), and (6) Dissen (1973).

(c) *Boundaries.* The Hermann viticultural area includes approximately 80 square miles, located in Central Missouri along and south of the Missouri River, in the northern portions of Gasconade and Franklin Counties. The boundaries of the Hermann viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: starting at the intersection of the Gasconade River with the Missouri River; east and northeast approximately 16.5 miles along the Missouri Pacific Railroad, as it parallels the Missouri River, to the Gasconade/Franklin County line; continuing along the Missouri Pacific Railroad southeast approximately 8.5 miles to the intersection of Big Berger Creek; southwest along the winding course of Big Berger Creek for approximately 20 miles (eight miles due southwest) to Township line T.44/45N.; west along the T.44/45N. line approximately 15.5 miles to the intersection of First Creek; north and northwest along the course of First Creek approximately 13.7 miles (6.5 miles straight northwest) to the intersection of the Gasconade River; northeast along the course of the Gasconade River approximately 3.8 miles to the beginning point.

Signed: November 19, 1982.

Stephen E. Higgins,

Acting Director.

Approved: November 30, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33946 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 441]

Lake Michigan Shore Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." This proposal is the result of a petition submitted by Mr. Charles W. Catherman, Jr., Vice President and Winemaker of the St. Julian Wine Company, Inc., and Mr. Michael E. Byrne, Winemaker of Warner Vineyards, Inc. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will allow wineries to better designate the specific grape-growing areas where their wines came from and will enable wine consumers to better identify the wine they purcahse.

DATE: Written comments must be received by January 28, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 441.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building 12th & Pennsylvania Avenue, NW, Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the

establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Sections 4.15a(e)(1)(i) and 9.11, Title 27 CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition AFT to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the application;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition to establish a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The petition was submitted by Mr. Charles W. Catherman, Jr., and Mr. Michael E. Byrne, of St. Julian Wine Company, Inc., and Warner Vineyards, Inc., respectively. The proposed area totally encompasses the counties of Berrien and Van Buren in addition to portions of Allegan, Kalamazoo and Cass. The western boundary of the proposed area, the eastern shore of Lake Michigan, is the feature which is the basis for the distinct climate and the proposed name, "Lake Michigan Shore." This area includes nine commercial wineries, approximately 930 grape-growers, and 14,472 acres of grapes.

Commercial grape-growing, within the State of Michigan, first began in 1867 in Van Buren County. The majority of grapes grown in Michigan are Concord grapes which are used in the production of grape juice and jelly. Approximately 20 percent of the State's grapes are used in wine and account for 3,330 tons of grapes. The wine grapes grown in the proposed viticultural area comprise 14 varieties of American, French hybird, and vinifera grapes. The counties of Berrien and Van Buren account for 83 percent of the State's grape production, with the three remaining counties in the proposed area comprising an additional 14 percent. The remaining three percent of the State's grape production primarily comes from the previously approved Leelanau Peninsula viticultural area [47 FR 13328, T.D. ATF-99], 200 miles north along the Lake Michigan shore. The previously approved Fennville viticultural area [46 FR 46318, T.D. ATF-91] is within the northwest corner of the proposed Lake Michigan Shore viticultural area.

Evidence Relating to the Name

The petitioners claim that the proposed viticultural area has specifically been known by two names, "Fruitbelt" and "Lake Michigan Shore," while also being generally referred to as "Southwestern Michigan" or "Western Counties." Several State and national books on wine and grapes refer to this area generally as, the area behind the sand dunes on the Lake Michigan shore. The proposed name, "Lake Michigan Shore," refers to a narrow belt of land along the eastern shore of Lake Michigan approximately 60 miles long and 35 miles wide (approximately 2,000 square miles). Grape-growing in this area has an established history dating back 116 years.

Boundaries and Geographical Evidence

The petition contained substantial geographic and climatic information which distinguish the proposed viticultural boundaries from surrounding areas, based on the fact that:

(a) The entire area receives the tempering "lake effect" of Lake Michigan. This lake effect moderates the winter and summer temperature extremes, and delays budding of the vines beyond the late spring frosts. The lake effect also causes generally uniform climatic conditions, since large bodies of water retain heat and cold and react slower to temperature fluctuations. The number of frost-free growing days in this area ranges from 155 to 175 days, normally during the period of May 10 through October 13. Immediately to the north and west (the cities of Holland and Jackson, respectively) the dates for last spring and first fall frosts (frost-free growing season) are May 25 through September 24. To the immediate south (South Bend, Indiana) the frost-free growing season is May 30 through September 30. Further, the South Bend ares has consistent January mean minimum temperatures of 2–4 degrees F. lower than the proposed area. The significance of the lake effect bears out the 116 years history of grape-growing in the area and the fact that 97 percent of the State's grapes are grown in the proposed area.

(b) The composition of the soils within the proposed area are not a definitive distinguishing factor, however, the topography of the area does distinguish the area because it is of "glacial moraine" construction, as opposed to "till plain" construction for the surrounding areas. Glacial moraines are more conducive to grape-growing because of the creation of needed air drainage, whereas till plains flatten out and are unsuitable to grape-growing.

(c) The western boundary, the eastern shore of Lake Michigan, is a natural boundary from which the area draws its name and receives the necessary lake effect which moderates the climate. The northern, eastern, and southern boundaries generally identify the extent to which the glacial moraine soil construction changes to till plain.

This proposed viticultural area encompasses a large area with generally uniform geographic and climatic features, as opposed to small microviticultural areas which exhibit very definitive geographic and climatic features such as the "Fennville" viticultural area which is located within this area in the northwest corner.

The exact boundaries of the proposed viticultural area are discussed in the regulations portion of this document.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule"since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investments, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory flexibility analysis (5 U.S.C. 603) is not applicable to this proposal because this proposed rule, if issued as

a final rule (5 U.S.C. 604), will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Lake Michigan Shore," on wine labels and in wine advertising. ATF has determined that this proposed rule neither imposes new requirements on the public nor removes existing privileges available to the public. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, and Wine.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and information concerning:

(1) Possible consumer confusion regarding the proposed name, "Lake Michigan Shore," since it refers to a large area (feature) bordered by four states;

(2) Possible alternative boundaries which more closely define the actual grape-growing area and which may include portions of northern Indiana that grow wine grapes and receive the "lake effect" from Lake Michigan;

(3) Possible alternative names by which the proposed area has been locally and/or historically known by; and

(4) Additional geographical evidence (climate, soil, elevation, or other physical features) which distinguishes this area from surrounding areas.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Norman P. Blake, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority of 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.79. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.79 Lake Michigan Shore.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.79 to read as follows:

§9.79 Lake Michigan Shore.

(a) *Name.* The name of the viticultural area described in this section is "Lake Michigan Shore."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Michigan Shore viticultural area are four U.S.G.S. Quadrangle maps, 1:250,000 series. They are entitled: (1) Chicago (1953, revised 1970); (2) Fort Wayne (1953, revised 1969); (3) Racine (1958, revised 1969), and (4) Grand Rapids (1958, revised 1980).

(c) *Boundaries.* The Lake Michigan Shore viticultural area includes approximately 2,000 square miles located in the southwestern corner of the State of Michigan. The boundaries of the Lake Michigan Shore viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: starting at the most northern point, the intersection of the Kalamazoo River with Lake Michigan, southeast along the winding course of the Kalamazoo River for approximately 35 miles until it intersects the Penn Central railroad line just south of the City of Otsego; south along the Penn Central railroad line, through the City of Kalamazoo, approximately 25 miles until it intersects the Grand Trunk Western railroad line at the community of Schoolcraft; southwest along the Grand Trunk Western railroad line approximately 35 miles to the Michigan-Indiana State line; west along the Michigan-Indiana State line approximately 38 miles until it meets Lake Michigan; then north along the eastern shore of Lake Michigan approximately 72 miles to the beginning point.

Signed: November 19, 1982.

Stephen E. Higgins,

Acting Director.

Approved: November 30, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33947 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 442]

Ohio River Valley Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Indiana, Ohio, West Virginia and Kentucky to be known as "Ohio River Valley." This proposal is the result of a petition submitted by Mr. John A. Garrett, proprietor of Villa Milan Vineyards located in Milan, Indiana. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

DATE: Written comments must be received by January 28, 1983.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 442).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:
John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202–566–7602).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision AFT–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on the United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in Indiana, Ohio, West Virginia and Kentucky as a viticultural area to be known as "Ohio River Valley." The area consists of approximately 26,000 square miles.

There are 570 acres of grapevines growing in the proposed area. There are 463 grape growers and 18 wineries in the proposed area.

There are 42 counties which are wholly included in the proposed area and 55 counties which are partially included. However, the portions of Rowan County, Kentucky and Hocking County, Ohio included in the area are almost entirely public park lands. The 1978 Census of Agriculture reports grape production in 65 of these counties and no grape production in 32 of these counties. The non-producing counties are scattered throughout the proposed area.

The petitioner claims that the Ohio River Valley is rich in winemaking tradition. One of the leading American winemakers of the nineteenth century, Nicholas Longworth, produced one of the nation's first sparkling wines in the Ohio River Valley. His wines were praised in a poem, "Ode to Catawba Wine," written by the famous American poet Henry Wadsworth Longfellow. Ohio was the leading wine producing state in 1859, producing more than one third of the national total. Black rot and powdery mildew destroyed nearly all of the Ohio River Valley vineyards around the time of the American Civil War.

The proposed Ohio River Valley viticultural area consists of the Ohio River Minor Tributaries Hydrological Sub-Basin, excluding marshy areas in western Kentucky and southern Illinois which are unsuitable for viticulture and the areas north of 40 degrees north latitude parallel where the growing season is too short.

The petitioner claims that the area is characterized by a distinctive rainfall pattern, called "Ohio Type" by Robert DeCourcy Ward in *The Climates of the United States.* One characteristic of "Ohio Type" rainfall is accumulated rainfall in excess of 2.5 inches within a 24 hour period. The petitioner claims that this phenomenon occurs monthly, except in October. This phenomenon could be expected to cause severe flood damage were it not for two other distinctive features of the proposed area. The moderate to slow permeability of the dominant soil group, Gray-Brown Podzolic, and the general topography of the valley permit rapid drainage of the excessive rains.

The petitioner also claims that Gray-Brown Podzolic soils are not dominant in the surrounding area, making it another distinctive feature of the proposed area.

The petitioner claims that the area is also distinguished by a unique climate influenced by winds travelling up the river valley from the Mississippi River valley, originating in the Gulf of Mexico. The climate within a few miles of the river is more moderate, with less dramatic temperature extremes during the growing season, than other areas of similar latitude.

The boundary of the proposed viticultural area is described in the proposed § 9.78.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

AFT is not able to assign a realistic economic value to using "Ohio River Valley" as an appellation of origin. An appellation of origin is primarily an advertising intangible. Moreover, changes in the values of grapes or wines may be caused by a myriad of factors unrelated to this proposal.

Any value derived from using the "Ohio River Valley" appellation of origin would apply equally to all grape growers in the proposed area.

Therefore, ATF believes that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291 the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Ohio River Valley viticultural area, comments concerning

other possible boundaries for this viticultural area will be given consideration.

The proposed Ohio River Valley viticultural area is so large and contains large areas not connected with viticultural activity that it may have little meaning as an appellation of origin. Therefore, ATF is especially interested in receiving comments proposing alternative boundaries which reduce the size of the area.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.78. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.78 Ohio River Valley.

Supart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.78. As added, § 9.78 reads as follows:

§ 9.78 Ohio River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Ohio River Valley."

(b) *Approved maps.* The approved maps for determining the boundary of the Ohio River Valley viticultural area are 12 U.S.G.S. topographic maps in the scale 1:250,000, as follows:

(1) Paducah NJ 16–7 (dated 1949, revised 1969);

(2) Belleville NJ 16–4 (dated 1958, revised 1977);

(3) Vincennes NJ 16–5 (dated 1956, revised 1969);

(4) Louisville NJ 16–6 (dated 1956, revised 1969);

(5) Cincinnati NJ 16–3 (dated 1953, revised 1974);

(6) Columbus NJ 17–1 (dated 1967);

(7) Clarksburg NJ 17–2 (dated 1956, limited revision 1965);

(8) Canton NJ 17–11 (dated 1957, revised 1969);

(9) Charleston NJ 17–5 (dated 1957, limited revision 1965);

(10) Huntington NJ 17–4 (dated 1957, revised 1977);

(11) Winchester NJ 16–9 (dated 1957, revised 1979); and

(12) Evansville NJ 16–8 (dated 1957, revised 1974);

(c) *Boundary.* The Ohio River Valley viticultural area is located in Indiana, Ohio, West Virginia and Kentucky. The boundary description in paragraphs (c)(1)–(c)(21) of this section includes, for each point, the name of the map sheet (in parentheses) on which the point can be found.

(1) The beginning point is the point at which the Kentucky, Illinois, and Indiana state lines converge at the confluence of the Wabash River and the Ohio River (Paducah map).

(2) The boundary follows the Illinois-Indiana state line northerly (across the Belleville map) to Interstate Route 64 (Paducah map).

(3) From the intersection of Interstate Route 64 and the Wabash River, the boundary proceeds in a straight line northeasterly to the town of Oatsville in Pike County, Indiana (Vincennes map).

(4) The boundary proceeds in a straight line southeasterly to the point in Spencer County, Indiana at which State Route 162 diverges northerly from U.S. Route 460, which is known locally as State Route 62 (Vincennes map).

(5) The boundary proceeds in a straight line northeasterly to the point in Harrison County, Indiana at which State Route 66 diverges northerly from State Route 64 (Vincennes map).

(6) The boundary proceeds in a straight line northeasterly (across the Louisville map) to the town of New Marion in Ripley County, Indiana (Cincinnati map).

(7) The boundary proceeds in a straight line northerly to the town of Clarksburg in Decatur County, Indiana (Cincinnati map).

(8) The boundary proceeds in a straight line easterly to the town of Ridgeville in Warren County, Ohio (Cincinnati map).

(9) The boundary proceeds in a straight line southeasterly to the town of Chapman in Jackson County, Ohio (Columbus map).

(10) The boundary proceeds in a straight line northeasterly to the town identified on the map as Hesboro, also known as Ilesboro, in Hocking County, Ohio (Columbus map).

(11) The boundary proceeds in a straight line northeasterly to the town of Tacoma in Belmont County, Ohio (Clarksburg map).

(12) The boundary proceeds in a straight line easterly to the town of Valley Grove in Ohio County, West Virginia (Canton map).

(13) The boundary proceeds in a straight line southerly to the town of Jarvisville in Harrison County, West Virginia (Clarksburg map).

(14) The boundary proceeds in a straight line southwesterly to the town of Gandeeville in Roane County, West Virginia (Charleston map).

(15) The boundary proceeds in a straight line southwesterly to the town of Atenville in Lincoln County, West Virginia (Huntington map).

(16) The boundary proceeds in a straight line westerly to the town of Isonville in Elliott County, Kentucky (Huntington map).

(17) The boundary proceeds in a straight line northwesterly to the town of Berlin in Bracken County, Kentucky (Louisville map).

(18) The boundary proceeds in a straight line westerly to the town of Dry Ridge in Grant County, Kentucky (Louisville map).

(19) The boundary proceeds in a straight line southwesterly to the town of Crest in Hardin County, Kentucky (Winchester map).

(20) The boundary proceeds in a straight line westerly to the intersection of State Route 56 and U.S. Route 41 in the city of Sebree in Webster County, Kentucky (Evansville map).

(21) The boundary proceeds in a straight line northwesterly to the beginning point (Paducah map).

Signed: November 4, 1982.

Stephen E. Higgins,

Acting Director.

Approved: November 29, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33944 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2180-7; FL-002]

Approval and Promulgation of Implementation Plans; Florida: Prevention of Significant Determination

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The State of Florida has developed, and on December 23, 1981, submitted to EPA regulations substantially meeting all of EPA's requirements except one. The procedure which Florida uses to calculate increment consumption for the short-term standards can lead to lower estimates of increment consumption than the procedure which is used by EPA in certain situations. EPA is today proposing to conditionally approve the PSD plan submitted by Florida.

DATE: To be considered, comments must be submitted on or before January 13, 1983.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E. Atlanta, ,Georgia, 30365

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Barry Gilbert, EPA Region IV, Air Management Branch, at the above listed address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amemdments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978, (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676), EPA promulgated the latest guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements.

The State of Florida, to comply with these requirements, adopted PSD regulations on June 10 and October 28, 1981. On December 23, 1981, the Florida Department of Environmental Regulation (FDER) submitted the following sections of 17-2., Florida Administrative Code (FAC): 100, 210, 220, 260, 270, 310, 400, 420, 430, 440, 450, 500, 520, and 630.

Although EPA is proposing to approve the Florida revisions, it should be noted that certain portions of the revisions would require inclusion of vessel emissions in the review of certain stationary sources. In connection with EPA's recent amendments to SIP new source review requirements, (47 FR 27554, 27555-27556 June 25, 1982), several members of the maritime industry raised the claim that States are implicitly preempted from requiring such reviews by the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) *et seq.* EPA is still considering these claims. Accordingly, a final decision on whether to approve the vessel emission provisions of the revised regulations may be deferred until this issue is resolved. It should also be noted, however, that any EPA decision on whether to approve these revisions, insofar as they apply to vessel emissions, will not affect the applicability of the rules for purposes of State law.

The definitions contained in Florida regulation 17-2.100 apply under State law to both Florida's PSD program and Florida's new source review program for nonattainment areas EPA is proposing to approve regulation 17-2.100 only under Part C of the Clean Air Act as providing adequate definitions for an acceptable PSD plan. EPA is proposing to take no action on the definitions under Part D of the Act. Although regulation 17-2.100 will be applicable to Florida's nonattainment new source review program under State law, the definitions will not be approved by EPA as satisfying the requirements of Part D of the Act. EPA is proposing to take no action at this time on any of the recent amendments to Florida's nonattainment program. The new source review regulations approved by EPA on March 18, 1980, will continue to be the approved Part D SIP for Florida.

Section 17-2.210(3) exempts certain sources from PSD permitting provisions. Florida has assured EPA that all of the exempt sources are minor sources. EPA is proposing to approve the regulations including the exemption provision based upon the State's assurance that the exemption will not allow major stationary sources to escape PSD review.

Section 17-2.100(39) states in part, " 'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations which are part of the SIP or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source * * *." As written, the definition discusses permits required under federal laws *in* the SIP but not permits required under federal laws *not in* the SIP. The phrase "* * * and those air pollution control laws and regulations" has inadvertently been omitted after "regulations". The definition should read, " 'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations *and those air pollution control laws and regulations* which are part of the State Implementation Plan (SIP) or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source * * *." FDER has committed to add this phrase at the earliest opportunity. This deviation from the EPA PSD regulations will have a minor effect on the objective or preventing significant deterioration.

Section 17-2.100(18) provides for FDER to establish both a baseline

concentration and a total concentration by modeling, and then sue the difference as the PSD increment consumption. For short-term averages the baseline concentration is defined as the second-highest value predicted to occur at a point as a result of baseline sources; the difference between the second-highest concentration predicted to occur at the point as a result of all sources and the baseline concentration is defined as the increment consumption. EPA's procedure is to model all sources to verify maintenance of the standard, and model only increment-consuming sources to determine the increment consumption (43 FR 26400), June 19, 1978. It presently is EPA's opinion that Florida's method of determining increment consumption may not be consistent with the Clean Air Act and 40 CFR 51.24 with respect to determining consumption of the short-term increments. This is due to the fact that under certain conditions, the predicted concentrations from increment-consuming sources can be higher than the differences between the concentration attributable to baseline sources alone and the one attributable to all sources. Florida believes that although this situation can occur, their approach is consistent with the Clean Air Act and EPA regulations (40 CFR 51.24). Therefore, EPA will take comments on this question during the next 30 days. Additionally, the State has agreed to prepare and submit to EPA a report by December 14, 1983, showing why its approach is consistent with the law and regulations. After submission of the report to EPA, and after consideration of comments, EPA will reexamine whether the Florida approach is consistent with the law and regulations. If the approach is deemed consistent, EPA will then approve their plan. If not, the DER has agreed to propose a change to its regulation to implement EPA's approach.

In the interim, EPA proposes to approve the Florida PSD rules upon the condition that if a PSD source can be approved under Florida's rules, but would not be approved under EPA's rules (as determined by the State), the source must obtain a PSD permit from EPA before beginning construction. This condition applies only to sources which would be disapproved by EPA solely because of the different methods of calculating increment consumption. In order to obtain a permit from EPA, it is expected that the source would normally only have to be held to a lower particulate or SO_2 emission rate.

Action: EPA is today proposing to conditionally approve the Florida submittal as satisfying the requirements of an acceptable plan for implementing PSD. EPA is soliciting public comment on the proposals.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 161 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: July 22, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-33674 Filed 12-13-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-8-FRL 2246-1]

Approval and Promulgation of State Implementation Plans; Revisions to the Montana Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA today is proposing to approve revisions to Montana's Air Quality Rules as follows: (1) ARM 16.8.1109, "Conditions for Issuance of Permits," has been revised to specifically preclude the issuance of permits with future effective dates; (2) ARM 16.8.1114, "Transfer of Permit," has been revised to define the conditions under which a permit may be transferred; and (3) ARM 16.8.705, "Malfunctions," has been revised to conform with EPA guidelines. These revisions were submitted to EPA by the State of Montana on July 20, 1982.

These revisions are submittd to fulfill a commitment made to EPA by the Governor of Montana to revise its permit rules and to implement a new source review program consistent with section 173 of the Clean Air Act.

DATE: Comments due January 13, 1983.

ADDRESSES: Written comments should be addressed to: Max H. Dodson, Director, Montana Office, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59626. Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295;

Environmental Protection Agency, Montana Office, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59626.

FOR FURTHER INFORMATION CONTACT: Thomas O. Harris, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59626; (406) 449-5486; FTS 585-5486.

SUPPLEMENTARY INFORMATION: On April 24, 1979, the Governor of Montana submitted to EPA the SIP revision for Montana in response to the Part D requirements of the Clean Air Act. On August 2, 1979 (44 FR 45420), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, discussed certain provisions which, in EPA's judgment, did not comply with the requirements of the Act and requested public comment. Among the deficiencies noted were some relating to the State's new source review program and malfunction regulation.

In its March 4, 1980 notice of final rulemaking, 45 FR 14036, EPA disapproved Montana's malfunction regulation. Also in that notice, EPA announced the receipt of supplemental material submitted by the State on October 4, 1979 and January 8, 1980 relating to its new source review program. On the basis of this new material, EPA deferred action and requested additional public comment.

On September 23, 1980, in a notice of final rulemaking (45 FR 62982), EPA approved the Montana's new source review program. This approval was based in part on the submissions of October 4, 1979 and January 8, 1980, as well as an April 4, 1980 submission by the Governor of Montana, in which he reaffirmed the State's intention to revise its permit rules, and to implement a new source review program consistent with Section 173 of the Clean Air Act. The State's July 20, 1982 submission fulfills that commitment.

The State's permit regulations for its new source review program have been

revised in two respects. First, the revised regulations eliminate a provision which allowed sources a period of up to two years following permit issuance to come into compliance with applicable rules or standards. Second, the terms under which a permit may be transferred from one location to another have been made substantially more stringent. Under the revised regulation a permit may be transferred from one location to another only if: (a) The source is temporary (i.e. it is at a particular location for two years or less); (b) it will not significantly impact a nonattainment area or a Class I area;[1] and (c) a legal notice is published in a newspaper of general circulation in the area to which the transfer is to be made, allowing the public 15 days to comment on the proposed transfer. The State has thirty days after receiving a written notice of intent from the permittee to transfer location to either approve or disapprove the proposed action.

Montana's malfunction regulation has also been revised. The State's prior regulation was disapproved on March 4, 1980 (44 FR 14036), because it did not comply with EPA policy regarding malfunction regulations. EPA identified several deficiencies in the State's prior regulation: (1) It did not define the term "malfunction;" (2) it did not require source operators to submit to the State the information needed to determine if the condition in question was a malfunction or simply a violation of an emission standard; and (3) it allowed a malfunctioning source to continue to operate for an unspecified period of time. all of the deficiencies have been adequately addressed in the revised regulation. The regulation includes an appropriate malfunction definition and places the burden on the source operator to submit necessary information and demonstrate to the State's satisfaction that a malfunction occurred. In addition, the State may only elect to take no enforcement action if a number of requirements are satisfied including that the source operator immediately undertakes corrective action.

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

This notice of proposed rulemaking is issued under the authorities of Section 110 and Part D of the Clean Air Act (42 U.S.C. 7410).

Under 5 U.S.C. 605b, the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: October 28, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-33623 Filed 12-13-82; 8:45 am]

BILLING CODE 6560-50-M

[1] The revised regulation provides expressly that transferred sources may not significantly impact existing Class I areas in Montana. The State has committed that it will not approve a permit transference which would significantly impact any future Class I areas or any Class I areas in States surrounding Montana.

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40 CFR Part 60

[A-4-FRL 2232-2]

Standards of Performance for New Stationary Sources; Proposed Alternative Performance Test Requirement for Alumax of South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish an alternative performance testing frequency reguirement for Alumax of South Carolina's primary aluminum reduction plant in Mount Holly, South Carolina, as provided in 40 CFR 60.195(b). Rather than conduct monthly performance tests on the potline groups, this source would be allowed to test them once a year. The public is invited to submit written comments on this proposal. EPA is proposing an alternative performance testing frequency for Alumax of South Carolina since the Company has supplied data supporting this action in accordance with 40 CFR 60.195(b) which permits owners and operators to petition the Administrator for alternative testing requirements if certain emission standards can be demonstrated by the owner/operator.

DATE: Written comments must be received on or before January 13, 1983.

ADDRESS: Comments should be submitted in writing to Joe Riley, Air Management Branch, Air and Waste Management Division, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. Background information and comments received on the proposal will be available for public inspection at the same address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joe Riley at the above address, telephone 404/881-4901 (FTS 257-4901).

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of Section 111 of the Clean Air Act. Under the original standards, the affected source was required to conduct a performance test on startup and on any other occasion the agency might require a test under Section 114 of the Clean Air Act. On June 30, 1980 (45 FR 44202), EPA revised 40 CFR 60.195 to require performance testing at least once per month for the life of a new primary aluminum plant. At the same time, however, the agency provided that alternative test requirements could be established for the primary control system or an anode bake plant if the source could demonstrate that emissions have low variability during day-to-day operations.

On October 19, 1976, the Environmental Protection Agency (EPA) delegated to the South Carolina Department of Health and Environmental Control (SCDHEC) authority to administer Subpart S of 40 CFR Part 60. Under the terms of the delegation, performance tests were to be scheduled and performed in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Accordingly, SCDHEC has transmitted to EPA for its approval a petition for alterntive test requirements submitted by Alumax of South Carolina, Mount Holly Plant.

Alumax is requesting three changes in the testing requirements established for primary aluminum plants by 40 CFR Part 60. Specifically the source wishes to be allowed to (1) use the historic mean for primary emissions from the most recent test; (2) change the frequency of testing the anode bake plant from once a month to once a year; and (3) change the frequency of testing the primary control systems from once a month to once a year.

On the basis of the supporting information submitted, EPA proposes to grant the latter request since it meets the requirements of 40 CFR 60.195(b). Actual emissions from the primary potline control systems are far below the allowable emissions. Month-to-month variations in primary potline emissions are not great enough to likely result in

emissions in excess of the standard for fluorides.

The Agency does not find that the first two requests can be justified under 40 CFR 60.8(b), however. To use the average of all past performance tests of the primary potline control systems to calculate emissions would defeat the purpose of periodic testing, which is to detect any deterioration in the control systems.

The request for allowing annual testing of the anode bake plant cannot be allowed until additional data is obtained. The alternative test requirement proposed today would, therefore, apply only to the potline control systems of Alumax of South Carolina, in Mount Holly, South Carolina. This alternative requirement would not preclude the Agency or SCDHEC from requiring performance testing at any time. Finally, it could be withdrawn at any time that the Administrator found it was not adequate to assure compliance with emission standards applicable to this source.

The public is invited to participate in this rulemaking by submitting written comments on the proposed alternative test requirements. After carefully considering all pertinent comments received, the Administrator will take final action on Alumax of South Carolina's petition under 40 CFR 60.195(b).

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities since it affects only one entity. Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

(Secs. 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a))

Dated: October 6, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-33890 Filed 12-13-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 162

[OPP 30065; PH-FRL 2255-7]

Registration of Textile Biocides; Proposed Policy

AGENCY: Environmental Protection Agency (ERA).

ACTION: Proposed Rule Related Notice; Request for Comments.

SUMMARY: EPA proposes to establish formally the Agency's policy for the registration of chemicals used as biocides in the treatment of textiles and similar objects. The policy takes into account the varied exposure potential of various uses of treated fabric, and adopts a tier system for testing requirements and risk assessment. EPA solicits comments on the proposed policy.

DATE: Comments should be received by February 14, 1983.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Reto Engler, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-3661).

SUPPLEMENTARY INFORMATION:

I. Scope and Definition

This policy sets forth the registration requirements for chemicals (pesticides) incorporated into textiles, plastics, leather, or other similar materials for the purpose of providing a bacteriocidal, fungicidal, bacteriostatic or fungistatic effect. The pesticides are used for one or more of three purposes:

1. Prevention of deterioration by fungi and bacteria of fabrics exposed to adverse environmental factors.

2. Control of odor-causing bacteria and fungi in wearing apparel and other items such as mattress ticking, carpets, drapes, furniture covering, pillows, towels, etc.

3. Control of pathogenic organisms in fabric coming in contact with humans, i.e. bed sheets, wearing apparel, surgical dressing, etc.

For the purpose of this policy, the chemicals used in this fashion are defined as textile biocides even though the scope reaches beyond actual textiles and in some instances the chemicals impart only bacteriostatic rather than bacteriocidal action. The policy will apply to new chemicals used as textile biocides, old chemicals for which a new use as a textile biocide is requested, and to old chemicals already used as textile biocides for which major additional uses, which increase the potential for exposure, are requested. The policy also would apply to a Registration Standard covering a chemical used as textile biocide.

II. Background and Rationale

Textile biocides have been used by the industry for many years. They serve a useful function by preventing premature deterioration or fouling of natural and man-made fibers. The impregnation of the material usually occurs either at the point of manufacture (e.g., textile mill, tannery) or during use and cleaning (e.g., laundries, leather or plastic conditioning). Industry representatives have indicated to the Agency that the use of textile biocides although important, generally involves small production volume chemicals and therefore, excessive data requirements would prohibit innovative approaches to textile protection. These representatives further contend that textile biocides should be considered under the provisions of the minor use amendment of 1978 of FIFRA. The Agency, while recognizing some merit in this argument, concludes that a reduction in data requirements can not be solely predicated on a finding of minor production and use. Rather, the Agency concludes that data requirements for registering textile biocides should reflect the intended use of the material and the real or petential exposure to humans which would result. Therefore, the policy stated in this notice follows a stepwise approach intended to distinguish between uses where, *a priori*, no exposure can be assumed, uses where a potential for exposure exists but is presumed to be negligible, and uses where actual, measurable exposure does occur. This policy statement lists data requirements appropriate for each level of potential exposure.

III. Registration of Textile Biocides

It has been a longstanding Agency policy that the articles or materials treated with pesticides will not be considered pesticides unless pesticidal claims are made for the articles themselves (40 CFR 162.4). This policy remains unchanged. Only the product or formulation marketed for incorporation into textiles during the manufacturing process, or subsequent laundering, cleaning and preservation processes, will be registered.

In general, the Agency will focus its review on the active ingredient(s), and the chemical(s) and their degradation products which will acutually remain on the textile surface after treatment. The inert ingredients and impurities will be taken into consideration only if they are believed to present a particular problem with respect to human exposure.

IV. Policy For Registering Textile Biocides

A. Data Requirements for Evaluation of Risks to Man.

1. *General.* Because textile biocides are used for a multitude of different purposes, it is impossible to prescribe a uniform set of data requirements for risk assessment. Their mode of application varies greatly as well. Therefore, a uniform set of data to assess worker/user exposure and risk under all conditions of use cannot be prescribed. The Agency thus will link the data requirements to the potential for exposure. The following sections specifically outline the Agency's areas of concern and the "tier" approach the registrant should take in addressing the different levels of health effects evaluation.

2. *Labeling and user protection.* Acute toxicity data will be required to determine the appropriate precautionary labeling for textile biocides. Special concern over exposure of workers, including those who handle and install the treated fabric, may arise on a case-by-case basis, for example, products or treated textiles which are used in ways that would likely result in significant and repeated worker exposure.

3. *Risk assessment for populations other than workers exposed to treated fabric.* The risk to the general population from treated fabrics range from nil to a real and perceptible risk, commensurate with the toxicity characteristics and the potential for exposure. There are three distinct groups of treated textiles, each resulting in a different exposure potential.

The following listings are not all inclusive, but should provide general guidance for the Agency testing requirements. All the listed items have in the past been included in registration requests. For an item not listed, the registrant should provide a rationale for assigning it to one of the three groups since this will be the first and most important step in determining data requirements.

Group 1. Items with no or infrequent human contact: This group consists of industrial textiles such as tarpaulins, awnings, shades, tents, fire hoses, ropes, car tops, insulating material, etc., and of household items such as drapes, shower curtains, wall coverings, gaskets, trash bags/cans, etc. The Agency has determined that for this group of items no additional health effects data will be required beyond those discussed in IV. A. 2. above. For household items the Agency will, however, determine whether the textile biocide is likely to be vaporized and therefore could present a potential risk. If vaporization is likely, a risk assessment will be performed on a case by case basis, commensurate with the expected exposure level and chemical nature of the ambient air residues.

Group 2. Items with frequent but indirect contact with humans: This group consists of those items which have a potential for human exposure because of frequent and extended use. The actual exposure however, is mitigated because the items do not generally come in direct contact with the skin, i.e., they are covered with other material or are touched by clothed parts of the body. Representative items in this group are: carpets, mattress ticking/pads, shoes and boots, belts, furniture upholstery covers, car interiors, and rain coats. (Toweling may be a special case in this group. Although skin contact is direct and occurs in the presence of moisture, the contact is of a short duration. Depending on the physical-chemical properties of the biocide and its interaction with the textile, toweling may be considered in this group or group 3 below.)

For textile uses in this group the Agency will request that exposure estimates or determinations be made before additional health effects data are generated. The exposure estimate usually can be based on extraction studies and/or other pertinent scientific evidence indicating that the textile biocide is not likely to be significantly dislodged under normal use conditions. In many cases the applicant's exposure estimate will enable the Agency to come to the conclusion that the likelihood of actual exposure is negligible regardless of the potential toxicity of the material, i.e., similar to the items listed in group 1, and therefore no additional data would be required. If such a conclusion cannot be reached, the proposed use will be addressed as described for group 3 below.

Group 3. Fabric and other items which come in direct contact with the body: This group deserves special attention and raises significant concerns. Examples of items in this group are wearing apparel (socks, underwear, hosieries, blouses, shirts, etc.), bed sheets, sleeping bags, boat seats, baby bottles/nipples, sanitary napkins, bandages, and diapers. Not only are these items in close contact with the body, but the potential for exposure is often increased by the likelihood of moist conditions which would facilitate leaching and therefore exposure. In these cases, the registrant must apply the two tier approach to data development:

(i) Leachability of the chemical from different fabric types (e.g., cotton, synthetics) should be determined using simulated body fluids such as sweat and urine as extractants. Leaching studies should also address the effects, if any, detergent washing, dry cleaning, and pH changes of body fluids may have on the extractability of the textile biocide. Appropriate protocols for determining leachability shall be submitted to the Agency for review. If the chemical does not leach, no further studies are required.

(ii) If the chemical leaches, a determination of skin penetration using a radiolabeled compound should be made. Although some protocols for studying skin penetration have been developed, the Agency would prefer to review the protocols prior to the start of the study in order to provide input on such parameters as levels of exposure, target organs, metabolism, and excretion.

In cases where the second tier of studies demonstrates a significant dermal exposure with no dermal penetration, the Agency will require sufficient data to assess the hazard of topical skin contact. Data may include subchronic dermal exposure studies and dermal sensitization studies. The chemical nature of the biocide, length and amount of exposure, and the results of subchronic studies will determine the need for the long-term dermal exposure studies, or in lieu of the long-term studies, at least short term mutagenicity assays.

In cases where the second tier studies show both significant dermal exposure and dermal penetration, long-term/oncogenicity and reproductive effect studies may be required. The need for such studies will be evaluated in light of additional information developed or already at hand such as subchronic studies, genotoxicity studies, and metabolism studies.

B. Data Requirement for Evaluating Risks to the Environment

1. *General.* Although most textile biocides are applied to textiles indoors, the uses in the textile and leather industry may enable the biocide to reach the environment through the normal effluents of the factory. In the

area of environmental effects evaluation, the Agency will reduce the date requirements to an absolute minimum commensurate with the assumption that significant exposure of the environment is highly unlikely.

2. *Environmental fate data.* It has been the Agency's informal position not to require environmental fate studies on textile biocides, because of their limited use spectrum, and lack or release to the environment. This policy will be continued. The registrant, however, must address the issue of potential release from use/related applications (textile mills and tanneries). Labeling prohibiting direct discharges of used liquors and/or a determination of a low, insignificant residual level of biocide in effluents usually will suffice to eliminate further data requirements. If the evidence is not convincing for assuming a zero or low level discharge, hydrolysis data may be required or it must be determined that such discharges are generally in compliance with NPDES permits or effluent guidelines.

3. *Environmental effects data.* Because significant environmental exposure is considered unlikely, environmental effects (fish and wildlife) data requirements will be reduced accordingly. Environmental effects data will not be used for a risk assessment, but rather for identifying the toxicity profile for non-mammalian species. The Agency believes that a minimum level of basic data is necessary for emergency situations where a quick opinion and decision by the Agency may be required. Rather than the six basic acute wildlife studies normally required for pesticide chemicals, the Agency concludes that three acute studies would suffice to evaluate the chemical's toxicity for non-mammalian species. These studies would consist of an 8-day dietary study in bobwhite quail, and acute LC_{50} study in rainbow trout, and one aquatic invertebrate (*D. magna*) LC_{50} study.

C. Data Requirements for Evaluating Efficacy

1. *Non-public health uses.* Most applications of textile biocides are not related to controlling microorganisms of public health significance; rather, they relate to the control of odor- and/or deterioration-causing bacteria and fungi. In accordance with Agency policy of not reviewing efficacy studies for pesticidal uses which are not related to public health, such studies need not be submitted. However, the registrants are expected to conduct efficacy studies to support the claims made on the label. There is a multitude of testing schemes available ranging from laboratory studies to actual use situation studies. Some of these tests are listed in the draft guidelines. Upon request, the Agency will assist registrants in identifying the study(ies) which are best suited for demonstrating efficacy.

2. *Public health uses.* A minority of textile biocide uses are aimed at controlling microorganisms of public health significance, for example, treating of hospital bed sheets to control *Staphylococci.* For these uses efficacy studies must be submitted for review. These studies must demonstrate that the target organisms are quantitatively reduced or controlled in the treated item. The registrant is referred to subdivision G of the registration guidelines for acceptable protocols, or may submit an alternate protocol for review.

D. Other Data Requirements

Data requirements not related to health and safety evaluation, i.e., data on the basic chemistry of the active ingredient, manufacturing data, analytical chemistry data, and formulation-specific chemistry data, are the same as for other pesticide chemicals. These data are essential for the Agency to assess the basic physical/chemical properties of a pesticide.

Compliance With Executive Order 12291

Executive Order (EO) 12291 (40 FR 13193, February 19, 1981) requires that EPA prepare a Regulatory Impact Analysis for each major rule. The order defines a "major rule" as any regulation that is likely to 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 impact on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Agency's policy on the registration of textile biocides is not a major rule by these definitions. The policy does not impose new requirements on registrants which would significantly increase costs or have an adverse impact on trade. Instead, by adopting a tier approach, the Agency has identified certain uses of textile biocides for which data requirements are minimal. The Agency also concludes that this policy will in fact facilitate and expedite the registration of textile biocides, by enabling the registrant to categorize his specific use within three broad exposure-potential groups and to identify the data requirements associated with that group before submitting his application. Therefore, he can avoid the rejection of the application because of insufficient data.

This proposed policy was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Paperwork Reduction Act

The reporting or recordkeeping (information) provisions in this proposed policy have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Specific information requests required by this proposed policy are covered under OMB clearances 2000–0013 and 2000–0483 which have been approved by OMB through July 1984.

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: November 12, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs

[FR Doc. 82-33887 Filed 12-13-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 507

[Docket No. 82-58]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission in response to apparent unfavorable conditions in the foreign oceanborne trades between the United States and Venezuela proposes rules suspending the tariffs of Venezuelan carriers in those trades or, alternatively, restricting access of Venezuelan carriers to United States ports and cargoes except with authorization of the United States Government. The effect of the rules will be to adjust or meet these conditions by imposing burdens on Venezuelan flag carriers equal to those imposed on United States flag carriers by Venezuelan laws and regulations.

DATE: Comments on or before December 23, 1982 (original and 15 copies).

ADDRESS: Send comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 19(1)(b), Merchant Marine Act, 1920, (46 U.S.C. 876), as implemented in Commission General Order No. 33 (46 CFR Part 506), the Federal Maritime Commission (hereinafter referred to as the Commission) is authorized and directed to make rules and regulations affecting shipping in the foreign trade of the United States in order to adjust or meet general trade of the United States in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade of the United States and which arise out of, or result from, foreign laws, rules or regulations, or from competitive methods or practices employed by owners, operators, agents or masters of vessels of a foreign country.

The types of conditions which the Commission has found to be unfavorable to shipping in the foreign trade of the United States are generally set forth in 46 CFR 506.3. Among these are conditions which preclude or tend to preclude vessels in the foreign trade of the United States from competing in the trade on the same basis as any other vessel, and those which are discriminatory or unfair as between carriers. (46 CFR 506.3 (a) and (d)).

The Commission has pending before it two complaints from U.S. flag carriers in the U.S./Venezuelan trade. The complaints, in the form of petitions for rulemaking pursuant to General Order 33, allege that actions by the government of Venezuela and carriers of that nation have created conditions unfavorable to shipping in the foreign trades of the United States. The two carriers, Coordinated Caribbean Transport, Inc. (CCT) and Delta Steamship Lines, Inc. (Delta) contend that the government of Venezuela and Venezuelan flag carriers have, through the device of rigid enforcement of Venezuelan cargo reservations, laws and regulations, taken actions which impose burdens on U.S. carriers serving the U.S./Venezuelan trade that are not imposed on Venezuelan carriers in the same trades. The cargo restriction statutes of which CCT and Delta complain have been in existence for a number of years.[1] However, recent actions by the government of Venezuela have resulted in stricter enforcement of the cargo reservation system than has been the case in the past.

Although both CCT and Delta complain of conditions which arise from the same source (*i.e.*, the Venezuelan cargo restriction laws) their petitions set forth factual backgrounds which differ with the particular details of each carrier's situation. The Venezuelan cargo reservation laws reserve a large category of cargo to exclusive carriage by Venezuelan flag vessels or ships of asociated lines. The designation of associated lines is a matter controlled by the government of Venezuela.

Delta, while designated an associate carrier in certain of the U.S./Venezuela sub-trades, contends that recent strict enforcement measures by the Venezuelan government have caused shippers to cancel or refrain from booking shipments with Delta. Severe penalties and shipper confusion about Delta's authority to carry certain cargoes have apparently deterred shippers from using Delta's service. Delta has been granted associate status in the trades between the U.S. Gulf, North Atlantic, and Pacific and Venezuela, but does not possess associate status in the South Atlantic/Venezuela trade. CCT does not possess associate status in any of its Venezuelan operations and has been denied authorization necessary to transport reserved cargo from Miami to Venezuela. The Venezuelan government has denied CCT's request for access to reserved cargoes on the grounds that there exists adequate Venezuelan and United States steamship line service on the Miami/Venezuela route. CCT contends that this denial was arbitrary and unjustified because there was no U.S. flag service on the route in question.

Both CCT and Delta have brought to the Commission's attention the actions of shipowners and the Venezuelan government in exploiting the ambiguities and severity of Venezuelan cargo preference laws. They cite newspaper advertisements which remind shippers of serious penalties for violation of Venezuelan cargo preference schemes. They identify ambiguities in the wording of the cargo preference laws which permit the Venezuelan government to vary the scope of application of the reservations over a period of time. They cite numerous instances of communications from shippers which inform the U.S. flag carriers that shipments cannot be tendered because of the provisions of the cargo preference policies of the Venezuelan government.

The complaints of CCT and Delta have stimulated a number of comments by other parties. The Chemical Manufacturers Association, the Office of the United States Trade Representative, the United States Department of State, the Seafarers International Union, the Department of Transportation, and the Marine Engineers' Beneficial Association have all, to varying degrees, supported the petitions of the two carriers. The U.S. Atlantic and Gulf/Venezuela Conference has declined to take a position on the merits of the CCT petition. This Conference has urged the Commission to confine any retaliatory actions to the trade between Miami and Venezuela. In urging this limitation on possible action by the Commission, the conference is reacting to the fact that CCT has complained of conditions only in this trade. Three Venezuelan carriers, Compania Anomia Venezolana de Navegacion (CAVN), Linea Manaure C.A., and Naviera Central, C.A. oppose the petitions. These carriers contend that the Venezuelan cargo preference laws are legitimate exercises of the soverign rights of the government of Venezuela, and that no link has been established between actions by the government of Venezuela and a loss of cargo by either CCT or Delta. The Venezuelan carriers point to the

[1] Venezuela's law for the protection and development of the national merchant marine was enacted in 1973. It reserves large categories of cargo moving in the U.S./Venezuelan trade to either Venezuelan flag vessels or to carriers of other flags which have been granted "associate line" status. Implementing regulations were issued in early 1974. Articles 12 and 13 of the law require that a hundred percent of all imports by any governmental body or entity in which the Venezuelan government has capital participation, as well as all non-Official import operations financed or guaranteed by Venezuelan governmental credit organizations, must be carried in Venezuelan flag vessels or vessels chartered or leased by Venezuelan carriers. Article 12 also requires that cargo exported by governmental bodies in which Venezuela has capital participation are to be reserved for Venezuelan flag or Venezuelan-leased vessels unless those vessels are unable to provide the required service. Article 13 provides that imports subject to prior license requirements or enjoying any exchange or tax benefits in reduction shall also be reserved in their entirety for Venezuelan flag or Venezuelan-leased vessels. Article 9 requires that not less than 50 percent of all general cargo imports (measured by value) are not to be shipped in Venezuelan flag or Venezuelan-leased vessels. Article 14 establishes a program whereby foreign shipping companies may enter agreements with Venezuelan carriers which, subject to governmental approval, grant access to reserved cargoes provided that the foreign country reciprocally grant equal treatment to Venezuelan flag lines. These foreign carriers become "associate lines" and are entitled to compete for reserve cargoes on the same basis as Venezuelan flag lines. Article 15 authorizes the Ministry of Communications to administer a system of waivers in appropriate cases and to designate carriers authorized to carry Venezuelan reserve cargoes.

existence of cargo restrictions administered by the United States Government and contend that any confusion which exists in the minds of shippers is susceptible of being dispelled by representations from the U.S. flag carriers. They contend that U.S. flag market shares have increased in the trade and that current global economic conditions have influenced any recent decline in cargoes experienced by either of the two American lines.

In addition to comments from Venezuelan carriers, the Embassy of Venezuela has informed the Department of State that the Venezuelan government has not taken any kind of discriminatory actions against U.S. flag vessels. The Embassy points to the compatibility of its cargo preservation practices with the UNCTAD Code of Conduct for Liner Conferences and the U.S. practice of reserving certain export cargoes to its merchant marine.

Upon consideration of the documentation submitted to date, the appearance of conditions unfavorable to shipping in the foreign trades of the United States has been clearly established. The pleadings of the parties and the responses thereto leave little doubt that Venezuelan policies and actions have created a situation in our oceanborne trades with that country which imposes burdens on American flag and third flag carriers which are not experienced by Venezuelan carriers. The effects of these rules are such that non-Venezuelan flag carriers cannot participate in significant segments of the commerce of the United States without the permission of the government of Venezuela. This situation is particularly offensive when it inhibits the activities of United States carriers serving United States ports. Moreover, the general interests of the United States in the efficient movement of commerce between this country and its trading partners is threatened when the decrees of a foreign government result in significant burdens on carriers in the United States trades. Actions by foreign governments or foreign carriers which have the effect of unilaterally controlling access to and the methods of carriage of the export commerce of the United States are offensive to the interests of both U.S. carriers and the broader commercial interests of the United States.

Recent actions by the government of Venezuela in enforcing its cargo reservation laws have resulted in the apparent exercise of control by that government over the flow of exports from the United States. Vessels of the United States and third flag registry are precluded from competing in the export trade between the United States and Venezuela on the same basis as Venezuelan carriers. Acquisition of the associate status necessary to gain access to certain broad categories of cargoes moving between the United States and Venezuela is dependent on the unilateral action of the government of Venezuela. The government of Venezuela has essentially placed itself in a position of dictating rights of access to particular ports in the United States as well as access to particular types of cargo at those ports. Threats of sanctions imposed pursuant to Venezuelan domestic law appear to deter shippers and consignees from freely patronizing their carriers of choice. No such conditions have been imposed by the United States on Venezuelan flag carriers.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 and the Commission's General Order No 33, this agency must consider measures to counter the apparent existence of conditions unfavorable to shipping in the United States trades. In the interest of providing the Commission with the most complete information available, interested parties are encouraged to comment on the accompanying proposed regulation. All factual assertions should be attested to and accompanied by supporting documentation where possible.

Before promulgating final rules in response to conditions in this trade, the Commission will also consider regulations less severe than the accompanying proposed rules. The accompanying proposal states two alternative approaches. In addition to the suspension of tariffs, a second option has been proposed. Option B establishes a system of restrictive access to United States export cargoes under which Venezuelan flag carriers would have to obtain authorization from the United States Government in order to participate in the trades of the United States. Comments on the relative merits of both options is invited. Although the rules deal only with the export trade, the Commission also invites comments on the possibility that tariffs covering transportation from Venezuela to the United States trade may also be suspended.

The Commission views this to be a matter of great urgency. However, in order to provide all interested parties proper notice and a fair opportunity to comment on the proposed action, they are given until December 23, 1982 to file comments on the proposed rule and also to file additional factual submissions relating to conditions in the United States/Venezuela trade, including a certified copy of the Venezuelan law and translation thereof, statistics showing present or prospective cargo loss (see 46 CFR 506.6), and, where possible, sworn documents and affidavits.

List of Subjects in 46 CFR Part 506

Maritime carriers, Tariffs.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), Reorganization Plan No. 7 of 1961 (75 Stat. 840), and Commission General Order No. 33 (46 CFR Part 506), it is proposed to add a Part 507 to 46 CFR to read as follows:

Part 507—Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade

§ 507.1 Conditions unfavorable to shipping in the foreign trade with Venezuela.

The Federal Maritime Commission has determined that the Government of Venezuela has created conditions unfavorable to shipping in the foreign trade of the United States by enacting and enforcing laws and regulations which unreasonably deny vessels of United States and third-flag registry from competing in the ocean trade between the United States and Venezuela on the same basis as Venezuelan carriers or associates thereof, and additionally deny effective and equal access to cargoes in the trade. Moreover, the threat of sanctions imposed by said laws and regulations restrain persons importing and exporting in the trade between the United States and Venezuela from freely patronizing their preferred carriers, thus resulting in further conditions unfavorable to the foreign trade of the United States. The laws and regulations in issue unreasonably designate categories of export cargoes from the United States as reserved for carriage by Venezuelan-flag vessels or vessels of associated lines. Venezuelan law also requires that 50 percent of all general cargo imports must be shipped in Venezuelan-flag or leased vessels. The law provides for a waiver system whereby non-Venezuelan and non-associated vessels may carry reserved cargoes in case of nonavailability of vessels or specialized transportation requirements.

§ 507.2 [Option A] Tariffs of Venezuelan-flag carriers suspended.

On January 15, 1983, the following tariffs and all amendments thereto, insofar as they relate to the trade from

the United States to Venezuela, are suspended in full:

I. Linea Manaure, C.A.

Tariff FMC–2 Between U.S. South Atlantic & Gulf Ports and Venezuela.

II. Naviera Central, C.A.

Tariffs FMC–1 Between Puerto Rico and Venezuela; FMC–3 Between U.S. South Atlantic & Gulf Ports and Venezuela.

III. C.A. Venezolana de Navegacion (Venezuelan Line)

FMC–7 Points in Continental U.S. other than Florida to Venezuela; FMC–6 Points in Florida to Venezuela.

IV. Naviera Mercante, C.A. (Navimerca)

Tariff FMC–3 Between Puerto Rico and Venezuela.

The following tariffs and all amendments thereto are suspended in full insofar as they relate to the trade from the United States to Venezuela:

I. C.A. Naviera de Transporte y Turismo (Transytur Line)

Tariff FMC–2 between Cape Hatteras, North Carolina to Brownsville, Texas and Venezuela and Netherland Antilles.

II. Naviera Mercante, C.A. (Navimerca)

Tariff FMC–4 Between U.S. Altantic & Gulf and East Coast of South and Central America.

Tariffs which may be filed by or on behalf of the above—mentioned carriers in the ocean trade from the United States to Venezuela shall also be suspended.

Moreover, all affected conference or rate agreement tariffs shall be amended to reflect the suspensions enumerated above. Operation by any carrier under suspended, cancelled or rejected tariffs shall subject said carriers to all applicable remedies and penalities provided by law.

§ 507.2 [Option B] Venezuelan flag carriers without "authorized" status—suspension of tariffs.

(a) On January 15, 1983, the following tariffs and all amendments thereto, insofar as they relate to the trade from the United States to Venezuela, shall be suspended in full, unless the enumerated Venezuelan flag carriers first obtain "authorized" status pursuant to paragraph (b):

I. Linea Manaure, C.A.

Tariff FMC–2 Between U.S. South Atlantic & Gulf Ports and Venezuela.

II. Naviera Central, C.A.

Tariffs FMC–1 Between Puerto Rico and Venezuela; FMC–3 Between U.S. South Atlantic & Gulf Ports and Venezuela; FMC–4 Between U.S. Atlantic & Gulf Ports and Venezuela.

III. C.A. Venezolana de Navegacion (Venezuelan Line)

FMC–7 Points in Continental U.S. other than Florida to Venezuela; FMC–6 Points in Florida to Venezuela.

IV. Naviera Mercante, C.A. (Navimerca)

Tariff FMC–3 Between Puerto Rico and Venezuela.

The following tariffs and all amendments thereto shall be suspended in full insofar as they relate to the trade from the United States to Venezuela, unless the enumerated Venezuelan flag carriers first obtain "authorized" status pursuant to paragraph (b):

I. C.A. Naviera de Transporte y Turismo (Transytur Line)

Tariff FMC–2 between Cape Hatteras, North Carolina to Brownsville, Texas and Venezuela and Netherland Antilles.

II. Naviera Mercante, C.A. (Navimerca)

Tariff FMC–4 Between U.S. Atlantic & Gulf and East Coast of South and Central America.

Tariffs which may be filed by or on behalf of the above-mentioned carriers in the ocean trade from the United States to Venezuela shall also be suspended if the conditions of paragraph (b) ar not met.

In the event of suspension of tariffs pursuant to this paragraph, all affected conference of rate agreement tariffs shall be amended to reflect said suspensions. Operation by any carrier under suspended, cancelled or rejected tariffs shall subject said carrier to all applicable remedies and penalties provided by law.

(b) In order to avoid suspension of its tariffs pursuant to paragraph (a) above, each Venezuelan flag carrier enumerated in paragraph (a) must secure from the "authorized" status from the Federal Maritime Commission prior to the effective date of this rule. "Authorized" status shall be conferred upon a Venezuelan flag carrier only upon that carrier's submission to the Commission of a certificate from the government of Venezuela stating unequivocally that no law, regulation or practice of the government of Venezuela will (1) preclude or tend to preclude vessels owned or operated by Delta Steamship Lines, Inc., and Coordinated Caribbean Transport, Inc. from competing in the United States-Venezuela ocean trade on the same basis as any other vessel; (2) result in less than effective and equal access by Delta Steamship Lines, Inc. and Coordinated Caribbean Transport, Inc. to cargo designated as reserved or exonerated cargo under Articles 9, 12 and 13 of Venezuela's Law of Protection and Development of the National Merchant Marine; or (3) otherwise discriminate against Delta Steamship Lines, Inc. or Coordinated Caribbean Transport, Inc.

(c) Upon conferment of "authorized" status, it shall be the Commission's practice to obtain periodic reports containing carriage statistics in the United States-Venezuela ocean trade in order to monitor the conditions in the trade. By the Commission.*

Francis C. Hurney,

Secretary.

Vice Chairman Moakley, dissenting in part.

This proceeding commenced on October 8, 1982 with the petition of Coordinated Caribbean Transport, Inc. (CCT) for relief under section 19 of the Merchant Marine Act, 1920 (and under section 26 of the Shipping Act, 1916) from certain alleged discriminatory actions against CCT by the Government of Venezuela in the Miami/Venezuela trade. The Commission noticed the filing of that petition in the **Federal Register**, established a date for comments, and, on October 22, 1982 notified the Secretary of State of the petition and requested that the Department of State seek a resolution of the matter through diplomatic channels.

On November 1, 1982, while awaiting comments on CCT's petition, the Commission received a second petition from Delta Steamship Lines, Inc. (Delta) alleging that it, too, has been denied the right to lift U.S. export cargo in U.S. ports by virtue of the same Venezuelan laws and regulations cited by CCT. Delta asked the Commission to act immediately under section 19 of the Merchant Marine Act, 1920, without further proceedings, to suspend the tariffs of all Venezuelan carriers in these trades. Once again, the Commission noticed the petition in the **Federal Register**, invited comments and notified the Secretary of State, requesting that the Department seek a diplomatic solution.

On November 18, the Department of State responded to our request for comments in a letter which reads in pertinent part as follows:

"These appear to be *clear cases of discrimination by a foreign government against two carriers, creating conditions unfavorable to shipping in the foreign trade of the United States.*

It should be noted that Venezuelan ships have open access to U.S. ports and commercial cargo with limitations applying only to U.S. government-impelled cargo, a minimal portion of our total trade. In light of the long and mutually beneficial relations between the two countries we should expect reciprocal treatment by Venezuela. We believe that competitive access to cargo is essential if our foreign trades are to serve efficiently the interests of all participants. If the allegations in the Petitions are correct, these actions by the Government of Venezuela are in effect a barrier to the

* Vice Chairman Moakley's opinion, dissenting in part, and Commissioner Day's concurring opinion are attached.

traditional free flow or maritime trade between the two countries, working to the economic disadvantage of U.S. and Venezuelan shippers and consumers and hampering the export efforts of both countries. *This view is supported by an impressive collection of documents from both U.S. and Venezuelan companies included with the Petitions."* (Emphasis supplied)

Similarly, in a letter dated November 18, 1982, the Office of the United States Trade Representative offered the following comments:

"The U.S. Trade Representative's office considers that the arguments advanced by the petitioners *indicate a clear case of discrimination which are (sic) unfavorable to shipping and the foreign trade of the United States.*

There is little doubt, given the historical operations of CCT, Delta and other U.S. shipping companies in South American trades, that U.S.-flag carriers have the potential for offering successful service where unilateral government actions do not impede normal commercial operations. It is our opinion that the exclusion of CCT and Delta from any U.S.-Venezuelan trade routes will have a negative impact on competition and a deleterious effect on the shippers and consumers of both nations. We also believe that the restrictive policies of the Venezuelan Government are in *clear opposition to the Administration's policy intent in the maritime area."* (Emphasis supplied)

A second letter from the Department of State dated November 22, 1982, described the efforts it had made through diplomatic channels to resolve the problem and concluded the following:

"It does not appear at this time that the Government of Venezuela is prepared to take any action to alleviate its apparent discrimination against CCT or Delta in advance of the Commission proceedings."

In addition to these comments, the Commission now has a record consisting of input from five carriers, one conference, two labor unions, more than fifty individual shippers, one large shippers' association, one other cabinet level department of the U.S. Government (DOT) and the Venezuelan Embassy.

Against this background, the majority now states, some two months after the filing of the first of the two subject petitions,

"Upon consideration of the documentation submitted to date, the *appearance* of conditions unfavorable to shipping the foreign trades of the United States has been clearly established." (Emphasis supplied) (Order at p. 6)

I was under the impression that the *appearance* of conditions unfavorable to shipping had been established on October 8 by CCT's petition. None of the comments or other documentation received since that date contradicts or even disputes the essence of the CCT and Delta complaints. There are clearly Venezuelan laws and regulations which prevent U.S. carriers from carrying commercial U.S. export cargo from certain U.S. ports to Venezuela. The implementation of these provisions has clearly precluded shippers of "exonerated" cargo from their free choice of carriers.

This failure to make a finding on the basis of the present record that there *are* conditions unfavorable to shipping in these trades leaves the Commission in a preposterous and untenable position. We are proposing a rule to counter conditions that have not yet been found to exist.[1]

At the same time, the majority is inviting additional factual submissions relating to conditions in the United States/Venezuela trade. But there is no hint to the parties as to whether there are deficiencies in the present record which preclude the majority from reaching a conclusion on the existence of unfavorable conditions in these trades and, if so, what additional evidence is necessary. If no additional probative evidence is received, can the Commission put the proposed rule into effect?

Section 19 of the Merchant Marine Act, 1920 is an extraordinary law. It grants broad powers to this agency to retaliate against the actions of foreign governments and other foreign interests which create conditions unfavorable to shipping.

The legislative history of section 19 indicates that it was enacted to provide a means of reacting to foreign discrimination that was available neither through section 26 of the Shipping Act, 1916 [2] nor through the straightforward exercise by Congress of its authority to regulate commerce. The expressed intent was to convey to an administrative agency [3] the power to act very swiftly to counter actions of foreign governments that could be implemented, literally, overnight.[4] The example of such an effective foreign legal mechanism that the Sixty-sixth Congress continually referred to throughout this legislative process was the British "Order in Council" which was simply a decree of the King that could be put into effect at once.[5] Undue delay was clearly the evil that Congress sought to avoid by the enactment of section 19 [6] and the Commission's rules implementing that section recognize the urgency with which Congress intended that it be administered. These rules, contained in 46 CFR Part 506, read, in pertinent part, as follows:

"§ 506.9 Actions to meet conditions unfavorable to shipping in the foreign trade of the United States.

Upon a submission of a petition filed under the rules of this part, or upon its own motion, the Commission may find that conditions unfavorable to shipping in the foreign trade of the United States do exist, and *may, without further proceeding, issue regulations.*

* * * * *

"§ 506.10 Participation of interested persons.

In the event that participation of interested persons is deemed necessary by the Commission, notice will be published in the **Federal Register** and interested persons will then be allowed to participate in this procedure by the submission of written data, views of arguments, with or without

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[1] Recognizing that the rule itself must be based on such a finding, the majority would have the first two sentences of the proposed rule read as follows:

"The Federal Maritime Commission *has determined that the Government of Venezuela has created conditions unfavorable to shipping* in the foreign trade of the United States by enacting and enforcing laws and regulations which unreasonably deny vessels of the United States and third-flag registry from competing in the ocean trade between the United States and Venezuela on the same basis as Venezuelan carriers or associates thereof, and additionally deny effective and equal access to cargoes in the trade. Moreover, the threat of sanctions imposed by said laws and regulations restrain persons importing and exporting in the trade between the United States and Venezuela from freely patronizing their preferred carriers, *thus resulting in further conditions unfavorable to the foreign trade of the United States."* (Emphasis supplied)

[2] Section 26 authorizes the Commission to investigate foreign discrimination and to report the results of such investigations and its recommendations to the President who is then to seek a diplomatic resolution. If diplomacy fails, the President is to advise Congress, in order that they may act under the power vested in them by the commerce clause of the Constitution.

[3] At that time, the United States Shipping Board, a predecessor to this Commission.

[4] See Hearings on the Establishment of an American Merchant Marine, Committee on Commerce, U.S. Senate, 66th Congress, 2d Sess. 299, 300 (1919).

[5] A description of this British device and the Congressional intent to create a similar power in the Shipping Board is contained in the following dialogue:

"Mr. Clark. The English law is different from ours and more flexible in this respect. In addition to the law they have what is known as the 'order in council', and the 'order in council' may be likened to the cracker of the whip of English law, and just as a first-class 'mule-skinner' will be able to take his whip and fleck a fly from off his leaders with detriment to the fly and none to the leaders, so the British official with the 'order in council' is able to destroy the foreign competition without injury to British interests anywhere, while apparently actually conforming to the law.

* * * * *

Senator Chamberlain. Well, I have often wondered if there was any way in the world in which the United States under its Constitution can adopt any regulations or can confer any powers which would meet these constant orders in council, which may change every 24 hours to meet a good condition.

* * * I have often thought that a power could be conferred upon the Board enabling us to meet that order in council. It affects us not only in Canada, but in America, everywhere.

The Chairman. Why could we not give power to the Shipping Board to pass regulations to meet the situation started by the orders in council?

Senator Chamberlin. That is the only way we could protect ourselves." Id. at 1432, 1464.

[6] *"The Chairman* * * * The only question is whether we could do it under our form of government, whether we could give that power or not to an administrative body. Under that they could not overnight do like they do with these orders in council. They could meet these orders in council very promptly.

Mr. Clark. They could do specific things without undue delay. I think that would be very desirable legislation, in whatever form it might be devised, so as to conform to their requirements of all law making authority." Id. at 1484.

opportunity to present same orally." (Emphasis supplied)

Here, the Commission has invited and received extensive comments which support the existence of the conditions of which CCT and Delta complain. To delay the proceeding by inviting further comments on whether such conditions exist defeats the very purpose for the statute. This procedure is a far cry from the "order in council" after which it was intended to be patterned. If the majority is now of the opinion that section 19 cannot be implemented in the manner in which it was clearly intended, we should let that fact be known to Congress and seek to amend or repeal the law.

I would find on the basis of the extensive information gathered in this proceeding that there *are* conditions existing in the South Atlantic/Venezuelan trade that are unfavorable to shipping. Based upon this finding, we could proceed swiftly and more intelligently to considering and implementing methods to meet or adjust such conditions. I therefore dissent from that aspect of the majority opinion.

Commissioner Day Concurring:

I remain uncomfortable with our position that unfavorable conditions are merely "apparent."

I am disturbed that our concern for procedural due process may go beyond even the strictest requirements of the law. I agree that fairness dictates that we give all interested persons an equal opportunity to comment. That, basically is what due process requires. However, when I hear, as I have with reference to this proceeding, that strict rules of evidence and procedure must be followed, I worry about the viability of section 19 as a meaningful response to foreign discrimination.

I trust that my colleagues agree that this is not simply an ordinary, run-of-the-mill rulemaking.

We must move this matter with deliberate speed. I am confident that my fellow Commissioners agree.

[FR Doc. 82-33941 Filed 12-13-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 34 and 35

[CC Docket No. 82-678]

Amendment and Conforming Amendments to Annual Financial Reports Form O for Wire-Telegraph and Ocean-Cable Carriers and Form R for Radiotelegraph Carriers With Respect to Accounting for Customer-Premises Equipment After Detariffing; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: Due to the importance and complexity of the issues raised in the initial comments, the Commission has granted an extension of time for filing reply comments to CC Docket No. 82-678 Notice of Proposed Rulemaking, published October 1, 1982—47 FR 44781, which would amend Parts 34 and 35 of its Rules and Regulations regarding the accounting for customer-premises equipment (CPE) after detariffing and corresponding revisions to Annual Report Forms O and R. The date for filing reply comments has been extended from December 7, 1982, to December 14, 1982.

DATE: Reply comments are due on or before December 14, 1982.

ADDRESS: Comments in response to this notice should be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., 20554, Telephone No. (202) 634-1965.

Adopted: December 2, 1982.

Released: December 7, 1982.

In the matter of an amendment of Part 34, Uniform System of Accounts for Radiotelegraph Carriers, and Part 35, Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers of the Commission's Rules and Regulations and conforming amendments to annual financial reports Form O for Wire-Telegraph and Ocean-Cable Carriers and Form R for Radiotelegraph Carriers with respect to accounting for customer-premises equipment after detariffing, CC Docket No. 82-678; order.

1. We have before us a motion filed on November 30, 1982, by the Western Union Telegraph Company (WU) for an extension of time of one week to file reply comments on our Notice of Proposed Rulemaking (NPRM) in Docket 82-678. WU requests that the time for filing such reply comments be extended from December 7, 1982 to December 14, 1982.

2. In support of its motion WU states that several of the initial comments raise important issues which must be addressed, and at least one, the comments of the North American Telephone Association (NATA) raises complex issues concerning the methodology of assigning and allocating costs among services. In addition, WU states it was unable to obtain copies of NATA's comments from the Commission until Wednesday, November 24. Finally, due to the long holiday weekend, WU did not have sufficient time to review comments with personnel at company headquarters and respond to the issues within the remaining week. Therefore, a one-week extension is necessary.

3. We hereby grant WU's request to extend the date for filing reply comments from December 7, 1982, to December 14, 1982. This should provide all parties adequate time to analyze and address all the issues raised in this proceeding.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291, that the motion of WU for extension of time to file reply comments is granted to the extent set forth above.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-33884 Filed 12-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 20735; RM-1974; RM-2655]

Noncommercial, Educational FM Broadcast Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: The time for filing comments and reply comments in this proceeding concerning interference to reception of Channel 6 TV stations by noncommerical, educational FM stations is extended by six months. This action is necessary to allow the development of information needed to augment the technical record in this proceeding and is intended to provide adversary parties and opportunity to arrive at mutually acceptable approaches to the resolution of the educational FM/TV Channel 6 interference problem.

DATES: Comments are due June 6, 1983. Reply Comments are due on July 21, 1983.

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

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Policy and Rules Division (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: December 1, 1982.

Released: December 3, 1982.

In the matter of changes in the rules relating to noncommerical, educational FM broadcast stations, Docket No. 20735

RM–1974, RM–2655, order extending time for filing comments and reply comments.

1. On May 23, 1982, the Commission adopted a Second Further Notice of Proposed Rule Making (Second Further Notice) in the above-entitled matter which was released on May 27, 1982, and published in the **Federal Register** (47 FR 24144) on June 3, 1982. By subsequent Orders, the time for filing comments and reply comments was extended to December 6, 1982, and January 21, 1983, respectively.[1]

2. On November 24, 1982, the Commission received a "Request For Extension of Time" to file comments in this proceeding by National Public Radio, the National Association of Broadcasters, the Association of Maximum Service Telecasters, Taft Broadcasting Co., McGraw-Hill Broadcasting Co., Capital Cities Communications, Inc. and Storer Broadcasting Co. (Petitioners). A six month extension of the comment and reply comment period is requested. Petitioners desire to conduct several additional engineering studies and field tests intended to augment limited information contained in the record pertaining to certain methods of alleviating noncommerical, educational FM station interference to reception of TV Channel 6 signals. Subject areas include cross-polarization of educational FM and TV Channel 6 signals, the Commission's proposed definition of "collocation" of the two classes of stations, the efficacy of FM band-reject filters, the premises underlying the Commission's computer program "TVINT"[2] and the effect of multiple FM signals in determining desired-to-undesired signal ratios. The studies would be conducted concurrently and are expected to be completed and submitted to the Commission by June 6, 1983.

3. Because action on many applications for noncommerical, educational FM stations has been deferred pending resolution of the educational FM/TV Channel 6 interference issue, we are anxious to see this proceeding completed as soon as possible. However, we must admit that the time extensions hitherto granted were due to our own delay in releasing the second of two relevant FCC/OST reports.[3]

4. The request for extension of time was submitted jointly by parties having an adversary relationship in this proceeding, and there appears to be some hope of their reaching a mutually agreeable conclusion as to the best means of resolving the educational FM/TV Channel 6 interference issue. If such a consensus can be achieved, further delays in the resolution of this proceeding which could result from the regulatory appeal process may be avoided. In view of these considerations, we believe that the extension of time requested by the petitioners is warranted.

5. Accordingly, it is ordered that the time for filing comments and reply comments in Docket No. 20735 is extended to June 6, 1983, and July 21, 1983, respectively.

6. This action is taken pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.283 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 82-33883 Filed 12-13-82; 8:45 am]

BILLING CODE 6712-01-M

[1] *See* 47 FR 34811, August 11, 1982, and 47 FR 49690, November 2, 1982.

[2] *See* FCC/OST Report TM–82–2, "A Computer Program for Calculating the Effective Interference to TV Service" (TVINT).

[3] Specifically, FCC/OST Report TM–82–3, "Options for Relief of Interference to TV Channel 6 from Educational FM Stations". Consideration of this report and that referenced in Footnote 2, supra, are considered prerequisite to the filing of comprehensive comments in this proceeding.

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC–133]

Entry Flexibility—Regular-Route Passenger Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinuance of advance notice of proposed rulemaking proceeding.

SUMMARY: The Commission is discontinuing consideration of this proceeding which concerns the possibility of easing regulatory barriers to entry in the intercity bus industry. Further consideration is unnecessary because of the enactment of the Bus Regulatory Reform Act of 1982.

FOR FURTHER INFORMATION CONTACT:

James L. Brown, (202) 275–7898

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on November 8, 1979 (44 FR 64845), we set forth a proposal which was made by Transportation Consumer Action Project in a petition filed on August 17, 1979, seeking the institution of a rulemaking proceeding to improve the quality and availability of consumer travel options by easing regulatory barriers to entry in the intercity bus industry. We invited comments on that proposal, as well as an earlier proposal which had been filed by Trailways, Inc. on a similar subject.

On September 20, 1982, the Bus Regulatory Reform Act of 1982 was signed into law; the pertinent provisions of the new law became effective November 19, 1982. Sections 6 and 13 of the Bus Act substantially modify, and liberalize, entry provisions for motor passenger carriers. For regular-route applicants and those applicants that receive government financial assistance for the purchase or operation of buses, the Commission is directed to issue an operating certificate if the applicant established its fitness, unless opposing carriers are able to demonstrate that the proposed operations would not be consistent with the public interest. For other applicants that propose charter and special operations, the only standard for entry is that the applicant show its fitness.

The new statutory provisions substantially ease entry barriers which was the stated goal of the proposals in this proceeding. In light of the statutory mandate, no useful purpose would be served by further consideration of the issues which were presented in this proceeding.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

This proceeding is discontinued.

This decision is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: December 8, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate

Agatha L Mergenovich,

Secretary.

[FR Doc. 82-33883 Filed 12-13-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1003, 1043, and 1084

[Ex Parte Nos. MC-5 (Sub-2) and 159 (Sub-1)]

Motor Carrier and Freight Forwarder Insurance Procedures and Minimum Amounts of Liability

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes adopting procedures for filing evidence of security for the protection of the public which conform to the rules adopted by the U.S. Department of Transportation pursuant to the Motor Carrier Act of 1980. It is proposed to permit aggregation or coverage through multiple policies for motor passenger carriers, all motor property carriers and freight forwarders from the first dollar of coverage for bodily injury and property damage liability. The financial standard for qualifying insurance and surety companies woud be eliminated so that any state certified insurer or surety could underwrite the liablility of a motor carrier or freight forwarder.

The Commission is also proposing to increase the bodily injury and property damage minimum amounts of liability for freight forwarders operating motor vehicles to the same limits required for motor property carriers under the Motor Carrier Act of 1980.

Comments are sought on changing the present split limits for motor property carriers operating motor vehicles under 10,000 pounds (gross vehicle weight rating) to a combined single limit of $300,000 for bodily injury and property damage liability.

DATE: Written comments are due January 13, 1983.

ADDRESS: The original and, if possible, 10 copies of comments should be sent to: Ex Parte No. MC-5 (Sub-No. 2), Office of Compliance and Consumer Assistance, Room 6328, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Alice K. Ramsay, (202) 275-0854,
or
Margaret Richards, (202) 275-1538.

SUPPLEMENTARY INFORMATION:

Background

In Ex Parte No. MC-5 (Sub-No. 1), the Commission decided to adopt insurance rules and procedures which conform to the rules and regulations of the U.S. Department of Transportation (D.O.T.) under 49 CFR Part 387. Therefore, aggregation of minimum amounts of public liability from the first dollar is now permitted for certain motor carriers of property subject to Sections 29 and 30 of the Motor Carrier Act of 1980. The Commission is now considering similar aggregation for all other carriers and freight forwarders. We are also proposing to eliminate our financial resources requirement for insurance and surety companies.

Issues

Qualifications of and Agreements With Insurance and Surety Companies

At present the Commission will accept evidence of insurance and surety bonds only from those companies which possess and maintain surplus funds (policyholders' surplus) of not less than $1 million. This minimum is determined on the basis of the value of assets and liabilities as shown in the financial statements filed with and approved by the insurance regulatory authority of the state of domicile of the insurance or surety company.

We are proposing to eliminate the financial resources standard for insurance and surety companies under § 1043.8(b) and § 1084.6(b) because it no longer serves a useful purpose and it duplicates state regulation. Insurers and sureties would only have to comply with the state authority and designation of agent requirements to write policies and bonds for any carrier, broker, or freight forwarder under I.C.C. jurisdiction.

Each authorized insurance and surety company has a written agreement on file with the Commission stating that the insurer or surety will furnish a designation in writing of the name and address of a person upon whom court process may be served for a state in which it is not authorized to issue policies or bonds. We are considering eliminating this requirement and incorporating a statement of certification of state authority and designation of agents in each certificate of insurance and surety bond filed with the Commission, thereby eliminating the necessity of executing an agreement and thereby lessening the paperwork burden. The certification statement could read as follows:

> The filing of this certificate (bond) certifies compliance by the Company with the requirements for state authorization and designation of process agents under 49 CFR 1043.8 or 1084.6. Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

It is important to obtain either a signed agreement or a certification statement of this type from an insurer or surety company to protect the public from companies not in compliance with the state requirements. Commission staff can make available a list of companies with the proper state certification from which filings can be accepted.

Fees and Fees Payment

Companies are assessed processing fees on an annual basis for the filings they have made on behalf of their insureds during that past year. It is a fee of $10 per accepted certificate of insurance or surety bond, with a $50 minimum service fee for each insurer or surety. We are attempting to devise a fee payment procedure to minimize potential problems in collecting the fees when the number of companies making filings increases from approximately 400 to 800 or more companies. Suggestions are requested specifically with respect to how collection can be ensured and what action should be taken against a company for failure to pay the processing fees. If an insurance or surety company should be prohibited from making filings because it fails to pay the processing fees, how will this be made known to potential carrier insureds and what impact will it have upon them?

Comments are sought on all the issues presented above.

Aggregation

Motor carriers of property operating vehicles with gross vehicle weight ratings of 10,000 pounds or more may obtain liability coverage through multiple policies or bonds provided by more than one insurance or surety company. To provide this opportunity to other carriers and create uniformity in the insurance program, it is proposed that all carriers and freight forwarders be permitted to aggregate their coverage for public liability. The minimum amounts of public liability are great enough to warrant aggregation. We also anticipate much higher limits of liability for motor passenger carriers as a result of the Secretary of Transportation's implementation of the insurance provisions of the Bus Regulatory Reform Act of 1982.

However, the minimum cargo liability amounts of $5,000/$10,000 and the broker surety bonds of $5,000 and $10,000 probably would not be conducive to aggregation from a practical standpoint, due to their low limits. Comments are requested, however, on this reasoning and on whether allowing aggregation on the cargo liability and broker surety bond requirements would reduce entry barriers to any carrier, broker, insurer or surety, or eliminate any problems which would warrant extending aggregation to cargo coverage and broker surety bonds.

Freight Forwarder Limits of Liability

The insurance regulations of D.O.T. apply to any motor vehicle of 10,000 pounds or more GVWR transporting hazardous commodities in interstate or intrastate commerce and to for-hire, interstate transportation of nonhazardous property. Therefore, vehicles operated by or under the direction and control of a freight forwarder in the performance of transfer, collection or delivery service, are subject to D.O.T.'s insurance rules according to the commodities transported. We propose to adopt the higher limits of liability for freight forwarders in order to make these requirements conform with D.O.T.'s requirements. It would, in any event, be unreasonable to maintain different limits of liability on a motor vehicle dependent on whether the operator is a freight forwarder or a motor carrier of property.

As a paper reduction measure, it is also proposed to eliminate the separate freight forwarder insurance and surety bond forms and require freight forwarders to file the motor carrier insurance and surety bond forms which would be modified accordingly. The proposed rules under Section 1084 reflect the filing of the motor carrier forms by freight forwarders as evidence of insurance.

Small Freight Vehicles Under 10,000 Pounds, Limits of Liability

A suggestion was made by the Alliance of American Insurers to adopt combined single limits of liability for motor passenger carriers and motor carriers operating small vehicles operating under I.C.C. jurisdiction. Congress has recently enacted legislation which adopts a combined single limit for bodily injury, property damage, and environmental restoration liability depending on the seating capacity of the passenger vehicle. The passenger carrier insurance requirements will have to be addressed separately upon implementation of the insurance provisions of the Bus Regulatory Reform Act of 1982 by the Secretary of Transportation.

Thus, it is proposed in this proceeding only to adopt a combined single limit of $300,000 for bodily injury and property damage liability for carriers (motor carriers and freight forwarders) of property operating vehicles with a gross vehicle weight rating of under 10,000 pounds. However, we will also allow insurance companies the flexibility to write policies for split limit coverage of $300,000 bodily injury to each person/$300,000 bodily injury for each accident/$300,000 for property damage. This interpretation allowing uniform level split limits follows the decision published by D.O.T. in the **Federal Register** on March 25, 1982. D.O.T. noted the increasing trend toward combined single limits but did not want to put companies offering only split limit coverage at a competitive disadvantage. Thus we would be allowing the same flexibility by permitting the use of either combined single limit or split limit coverage provided the levels of financial responsibility written meet the required minimums.

Environmental and Energy Considerations

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires an agency issuing a notice of proposed rulemaking to provide an analysis of the impact on small entities.

The Commission is considering these proposed rules to eliminate any conflict with the insurance rules of the U.S. Department of Transportation, thus easing the burden on small entities. These rules will then conform to the statutory requirements under Sections 29 and 30 of the Motor Carrier Act of 1980, codified as 49 U.S.C. 10927.

The small entities affected by these proposed rules are included in approximately 25,000 motor carriers of property, 250 freight forwarder, and 800 insurance and surety companies writing commercial auto policies. Only motor carriers and freight forwarders operating under the jurisdiction of this Commission would be affected.

Most of the reporting and maintaining of insurance records is performed by the insurance and surety companies on behalf of their client motor carriers and freight forwarders. These companies have the professional skills necessary to submit the insurance filings and bonds, and maintain the proper records. An increase in filings of approximately 30 percent is expected, because the Commission will now accept filings from a greatly expanded number of companies and will also allow aggregation of policies and bonds.

These proposed rules overlap the insurance rules and regulations of the U.S. Department of Transportation, but they do not duplicate its rules because D.O.T. does not require evidence of insurance or bonds to be filed with the agency. This Commission has a statutory mandate to require such filings under 49 U.S.C. 10927.

Although a substantial number of small entities will be affected by these proposed rules, the impact will be beneficial because it should lower the carriers' costs for insurance and surety bonds. There are no significant alternatives which would accomplish the objectives stated in this proceeding.

A copy of this notice will be served on the Chief Counsel for Advocacy of the Small Business Administration. Any input that agency intends to make should be presented within the 30 day comment period.

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Maritime carriers, Motor carriers, Securities.

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

49 CFR Part 1084

Freight forwarders, Insurance, Surety bonds.

Proposed Rules

Parts 1043, 1084, and 1003, Subtitle B, Chapter X of Title 49 of the Code of Federal Regulations are amended as follows:

PART 1043—[AMENDED]

1. In § 1043.1, paragraph (a) is revised to read as follows:

§ 1043.1 Surety bond, certificate of insurance, or other securities.

(a) Public liability. Except as provided in paragraph (c) of this section, no common or contract carrier subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code shall engage in interstate or foreign commerce, and no certificate or permit shall be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the Commission surety bonds, certificates of insurance, proof of qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed in § 1043.2, conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance or use of motor vehicles in transportation subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code, or for loss of or damage to property of others, or, in the

case of motor carriers of property operating freight vehicles with gross vehicle weight ratings (GVWR) of 10,000 pounds or more, for environmental restoration.

* * * * *

2. In § 1043.2 paragraph (b) is revised to read as follows:

§ 1043.2 Security for the protection of the public: Minimum limits.

* * * * *

(b) Motor carriers subject to § 1043.1(a) are required to have security for the required minimum limits as follows:

Kind of equipment	Commodity transported	Combined single limit for bodily injuries or for property damage or for environmental restoration	
		July 1, 1981	July 1, 1983
Freight vehicles of 10,000 pounds or more GVWR.	(1) Property (nonhazardou)s	$500,000	$750,000
	(2) Hazardous substances as defined in 49 CFR 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A and B explosives, poison gas (Poision A), liquefied compressed gas, or large quantity radioactive materials as defined in 49 CFR 173.389.	1,000,000	5,000,000
	(3) Oil listed in 49 CFR 173.101; nuclear or radioactive waste; hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above.	500,000	1,000,000

Kind of equipment	Commodity transported	Combined single limit for bodily injuries or for property damage
Freight vehicles of 10,000 pounds or more GVWR.	(1) Property (Nonhazardous and hazardous)	$300,000

Kind of equipment	Limit for bodily injuries to or death of one person	Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $100,000 for bodily injuries to or death of one peson)	Limit for loss or damage in any one accident to propoerty of others (excluding cargo)
Passenger equipment (seating capacity): 12 passengers or less	$100,000	$300,000	$50,000
More than 12 passengers	100,000	500,000	50,000

* * * * *

3. Section 1043.4 is revised to read as follows:

§ 1043.4 Broker surety bond.

The Commission will not issue a broker license until a surety bond for the full limits of liability prescribed herein is in effect. The broker license shall remain in effect only as long as a surety bond remains in effect and shall ensure the financial responsibility of the broker for the supplying of transportation.

(a) A property broker must have a surety bond in effect for $10,000.

(b) A passenger broker must have a surety bond in effect for $5,000.

4. In § 1043.5, paragraph (b) is revised to read as follows:

§ 1043.5 Qualifications as a self-insurer and other securities or agreements.

* * * * *

(b) Other securities or agreements. The Commission will also consider applications for approval of other securities or agreements and will approve any such applications if satisfied that the security or agreement offered will afford the security for the protection of the public contemplated by 49 U.S.C. 10927.

5. Section 1043.6 is revised to read as follows:

§ 1043.6 Motor carrier surety bonds and certificates of insurance.

(a) Cargo liability. Each Form B.M.C. 34 certificate of insurance and Form B.M.C. 83 surety bond filed with the Commission must be for the full limits of liability required under § 1043.2(c).

(b) Public liability. The limits of liability required under § 1043.2(b) for bodily injury, property damage, or environmental restoration may be provided by an aggregation of Form B.M.C. 91X certificates of insurance or Form MCS–82 surety bonds or Form B.M.C. 82 surety bonds as applicable.

(c) Each policy of insurance in connection with the certificate of insurance which is filed with the Commission, shall be amended by attachment of the appropriate endorsement prescribed by the Commission.

6. In § 1043.7, paragraph (a) is revised to read as follows:

§ 1043.7 Forms and procedure.

(a) Forms. Endorsements for policies of insurance, surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the Commission.

(1) *Public liability.* For the limits of liability under § 1043.2(b) pertaining to freight vehicles with gross vehicle weight ratings under 10,000 pounds and passenger equipment, Form B.M.C. 90 endorsement and Form B.M.C. 91X certificate of insurance or Form B.M.C. 82 surety bonds are used. For the limits of liability under § 1043.2(b) pertaining to freight vehicles with gross vehicle weight ratings 10,000 pounds or more, Form MCS–90 endorsement and B.M.C. 91X certificate of insurance or Form MCS–82 surety bonds are used.

(2) *Cargo liability.* For the limits of liability under § 1043.2(c), Form B.M.C. 32 endorsement and Form B.M.C. 34 certificate of insurance or Form B.M.C. 83 surety bonds are used. When the limits of liability under § 1043.2(b) are met by more than one insurer or surety, separate endorsements and certificates of insurance or surety bonds are required for each insurer or surety. Surety bonds and certificates of insurance shall specify that coverage will remain in effect continuously until terminated as herein provided, except that in special or unusual circumstances permission may be obtained for filing certificates of insurance or surety bonds on terms meeting the particular needs of the situation.

Cross Reference: For list of forms prescribed, see § 1003.1(b) of this chapter.

* * * * *

7. Section 1043.8 is revised to read as follows:

§ 1043.8 Insurance and surety companies.

A certificate of insurance or surety bond will not be accepted by the Commission unless issued by an insurance or surety company which (a) is legally authorized to issue such bonds or underlying insurance policies in each state in which the motor carrier is authorized by the Commission to operate, or (b) is legally authorized to issue such policies or bonds in the state in which the carrier has its principal place of business or domicile, and will designate in writing upon request by the Commission, a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any state in which the carrier operates, or (c) is legally authorized to issue such policies or bonds in any state of the United States and is eligible as an excess or surplus lines insurer in any state in which business is written, and will designate in writing upon request by the Commission, a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any state in which the carrier operates.

PART 1084—[AMENDED]

8. Section 1084.1 is revised to read as follows:

§ 1084.1 Definitions.

(a) Freight forwarder means a person holding itself out to the general public (other than as a carrier, subject to Subchapter I, II, or III of Chapter 105, Subtitle IV of Title 49 of the United States Code) to provide transportation of property for compensation in interstate commerce and in the ordinary course of its business, (1) assembles and consolidates or provides for assembling and consolidating shipments and performs or provides for break-bulk and distribution operations of the shipments, and (2) assumes responsibility for the transportation from place of receipt to the place of destination, and (3) uses for any part of the transportation a carrier subject to Subchapter I, II, or III of Chapter 105, Subtitle IV of Title 49 of the United States Code.

(b) Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. The following combinations will be regarded as one motor vehicle: (1) A tractor and trailer or semitrailer when the tractor is engaged in drawing the trailer or semitrailer, and (2) a truck and trailer when both together bear a single load.

(c) Any one conveyance means any one railroad car, motor vehicle, truck, trailer, semitrailer, or any other vehicle (except a watercraft) used in the transportation of property performed by a freight forwarder subject to Subchapter IV of Chapter 105, Subtitle IV of Title 49 of the United States Code.

(d) Any one watercraft means any vessel or other artificial contrivance used in the transportation by water of property performed by a freight forwarder subject to Subchapter IV of Chapter 105, Subtitle IV of Title 49 of the United States Code.

(e) Fiduciary has the meaning defined in § 1132.5—Transfer of Operating Rights.

9. Section 1084.2 is revised to read as follows:

§ 1084.2 General requirements.

(a) *Cargo.* No freight forwarder shall engage in service subject to Subchapter IV of Chapter 105, Subtitle IV of Title 49 of the United States Code unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate of insurance, qualifications as a self-insurer or other securities or agreements, in the amounts prescribed in § 1084.3 for loss of or damage to property to which said freight forwarder performs service subject to Subchapter IV of Chapter 105, Subtitle IV of 49 of the United States Code.

(b) *Public liability.* No freight forwarder shall perform transfer, collection and delivery service subject to Subchapter IV, Chapter 105, Subtitle IV of Title 49 of the United States Code unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed in § 1084.3, conditioned to pay any final judgment recovered against such freight forwarder for bodily injuries to or the death of any person, or loss of or damage to property of others (except cargo), or, in the case of freight vehicles with gross vehicle weight ratings (GVWR) or 10,000 pounds or more, for environmental restoration, resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under its direction and control in the performance of transfer, collection or delivery service.

10. Section 1084.3 is revised to read as follows:

§ 1084.3 Limits of liability.

The minimum amounts referred to in § 1084.2 are prescribed as follows:

(a) *Cargo.* (1) For loss of or damage to property while carried on or resting in any one conveyance other than a watercraft—$5,000. (2) For loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place, or while carried on or resting in any one watercraft—$10,000.

(b) *Public liability.*

Kind of equipment	Commodity transported	Combined single limit for bodily injuries or for property damage or for environmental restoration	
		July 1, 1981	July 1, 1983
Freight vehicles of 10,000 pounds or more GVWR.	(1) Property (nonhazardous)	$500,000	$750,000
	(2) Hazardous substances as defined in 49 CFR 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A and B explosives, poison gas (Poison A), liquefied compressed gas, or large quantity radioactive materials as defined in 49 CFR 173.389.	1,000,000	5,000,000
	(3) Oil listed in 49 CFR 173.101; nuclear or radio waste; hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above.	500,000	1,000,000

Kind of equipment	Commodity transported	Combined single limit for bodily injuries or for property damage
Freight vehicles under 10,000 pounds GVWR.	Property (nonhazardous and hazardous)	$300,000

11. Section 1084.4 is revised to read as follows:

§ 1084.4 Surety bonds and certificates of insurance.

(a) *Cargo liability.* Each Form B.M.C. 83 surety bond and Form B.M.C. 34 certificate of insurance filed with the Commission must be for the full limits of liability required under § 1084.3(a).

(b) *Public liability.* The limits of liability required under § 1084.3(b) for bodily injury, property damage, or environmental restoration may be provided by an aggregation of Form B.M.C. 82 or Form MCS 82 surety bonds, as applicable, or policies of insurance which are evidenced by the filing of Form B.M.C. 91X certificates of insurance.

(c) Each policy of insurance in connection with the certificate of insurance which is filed with the Commission, shall be amended by attachment of the appropriate endorsement prescribed by the Commission.

12. Section 1084.5 is removed and reserved to read as follows:

§ 1084.5 [Reserved]

13. Section 1084.6 is revised to read as follows:

§ 1084.6 Insurance and surety companies.

A certificate of insurance or surety bond will not be accepted by the Commission unless issued by an insurance or surety company which (a) is legally authorized to issue such bonds or underlying insurance policies in each state in which the freight forwarder is authorized by the Commission to perform service, or (b) is legally authorized to issue such policies or bonds in the state in which the freight forwarder has its principal place of business or domicile, and will designate in writing upon request by the Commission, a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any state in which the freight forwarder performs service, or (c) is legally authorized to issued such policies or bonds in any state of the United States and is eligible as an excess or surplus lines insurer in any state in which business is written, and will designate in writing upon request by the Commission, a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any state in which the freight forwarder performs service.

14. In § 1084.7, paragraph (b) is revised to read as follows:

§ 1084.7 Qualifications as a self-insurer and other securities or agreements.

* * * * *

(b) Other securities and agreements. The Commission will consider applications for approval of other securities and agreements and will approve any such application if satisfied that the security or agreement offered will afford the security for the protection of the public contemplated by Section 10927(c), Title 49 of the United States Code.

15. In § 1084.8, paragraph (a) is revised to read as follows:

§ 1084.8 Forms and procedure.

(a) Forms. Endorsements for policies of insurance, surety bonds, certificates of insurance, applications to qualify as a self-insurer or for approval of other securities or agreements and notices of cancellation must be in the form prescribed and approved by the Commission. (1) Cargo liability. For the limits of liability under § 1084.3(a), Form B.M.C. 32 endorsement and Form B.M.C. 34 certificate of insurance or Form B.M.C. 83 surety bond are used. (2) Public liability. For limits of liability under § 1084.3(b), pertaining to freight vehicles with gross vehicle weight ratings under 10,000 pounds, Form B.M.C. 90 endorsement and Form B.M.C. 91X certificate of insurance or Form B.M.C. 82 surety bonds are used. For the limits of liability under § 1084.3(b) pertaining to freight vehicles with gross vehicle weight ratings of 10,000 pounds or more, Form MCS–90 endorsement and B.M.C. 91X certificate of insurance or Form MCS–82 surety bonds are used. When the limits of liability under § 1084.3(b) are met by more than one insurer or surety, separate endorsements and certificates of insurance or surety bonds are required for each insurer or surety. Surety bonds and certificates of insurance shall specify that coverage will remain in effect continuously until terminated as herein provided, except that in special or unusual circumstances permission may be obtained for filing certificates of insurance or surety bonds on terms meeting the particular needs of the situation.

* * * * *

PART 1003—[AMENDED]

§ 1003.1 [AMENDED]

16. Section 1003.1(b) is amended by removing the following form reference; **B.M.C. 91**

Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability Certificate of Insurance.

17. Section 1003.3(a) is revised to read as follows:

§ 1003.3 Freight Forwarder Forms.

(a) Application forms:

OP–1, Application for motor carrier authority, broker or freight forwarder authority, and water carrier exemption.

Cross Reference: Part 1100 of this chapter. (49 U.S.C. 10321, 10927, and 5 U.S.C. 553)

Decided: November 2, 1982

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33723 Filed 12–13–82; 8:45 am]

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49 CFR Parts 1043 and 1084

[Ex Parte No. MC–5 (Sub-3); Ex Parte No. 159 (Sub-2)]

General Investigation and Revocation Procedures Governing Failure To File or Maintain Prescribed Insurance or Other Security for Public Protection; Motor Carriers, Brokers and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; institution of a general investigation and revocation proceeding.

SUMMARY: The Commission is proposing to adopt an ongoing General Investigation Proceeding to which all motor carriers, brokers and freight forwarders will automatically become parties upon their failure to maintain the prescribed amounts of insurance or other security for public protection.

Under this proposal, the Commission intends to issue notices which will advise motor carriers, brokers or forwarders of their status in relation to the General Investigation and Revocation Proceeding in the event of a lapse in appropriate coverage.

This proposal is intended to encourage greater compliance with the insurance and surety requirements and to provide increased protection to the public and shippers by reducing the time period within which operating authorities will be revoked for failure to comply with the insurance and surety bond requirements of the Commission

DATE: Comments must be submitted on or before January 13, 1983.

ADDRESS: The original and 15 copies, if possible, be mailed to: Ex Part No. MC–5 (Sub-3), Ex Parte No. 159 (Sub-2), Room 6328, Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, D.C. 20423

FOR FURTHER INFORMATION CONTACT: Margaret Ginyard (202) 275–6749.

SUPPLEMENTARY INFORMATION: The Commission is considering the adoption of an open General Investigation and Revocation Proceeding pursuant to 49 U.S.C. 11701(a) to establish procedures for the revocation of operating rights under 49 U.S.C. 10925 for failure of a motor carrier, broker or forwarder to comply with the security requirements of 49 U.S.C. 10927 and 49 CFR 1043 and 1084.

Every regulated motor carrier, broker, or forwarder is resonsible for meeting the security requirements of the law, namely, to file and maintain evidence of security with the Commission in the prescribed amounts. A broker must meet this requirement by having a surety bond filed on its behalf. There are three optional ways for a motor carrier or forwarder to satisfy the requirements:

First, is to apply for and obtain approval from the Commission to be a self-insurer. (Once approved this status can be cancelled only with Commission approval.)

Second, is to have a surety bond or bonds filed on its behalf. (A surety bond for an authorized carrier or forwarder, while it continues to hold operating rights, can be cancelled or withdrawn only upon the filing of replacement evidence of security.)

Third, and the almost universally used option, is to obtain qualifying endorsements on a policy or policies of insurance and to have the insurer(s) file a certificate with the Commission that the required endorsement has been written for the protection of the public. (The certificate binds the insurance company until 30 days after a notice of cancellation is received by the Commission.)

All such filings by the regulated company, its surety(ies), or its insurer(s) are made with the Commission at Washington, D.C., and the responsibility for satisfying the security requirements remains that of the regulated company at all times.

Under the proposal, if a decision is made to adopt the General Investigation and Revocation Proceeding generally as set forth in Appendix A, that decision will be published in the **Federal Register.** Subsequently all new grantees of operating rights will be given notice of the proceeding. This will place the transportation entities on notice that they are prospective respondents to the General Investigation and Revocation Proceeding in the event of an imminent lapse in coverage. Should a lapse in coverage occur, a notice will advise the carrier, broker, or forwarder of its status as a party respondent to the general proceeding and make it subject to its ordering provisions.

Notices such as those set forth in Appendix B would advise each individual motor carrier, broker or forwarder of its status at each step in the suspension and revocation process. Copies of pertinent notices will be filed in the docket of motor carriers, brokers and forwarders upon the effective date of any revocation under these procedures.

These procedures implement 49 U.S.C. 10925 (b) and (c). Subsections (b) and (c) provide for revocation of operating rights on the Commission's own initiative for willful failure to comply with a regulation or order of the Commission within a period of not less than 30 days from an order compelling compliance. As such, these procedures would not alter substantive rights and responsibilities. They simply provide for a more orderly and expeditious method of protecting the public from uninsured motor carriers, brokers or forwarders.

Regulatory Flexibility

Section 603 of the Regulatory Flexibility Act (5 U.S.C. 603) requires that agencies, in initiating a rulemaking pursuant to 5 U.S.C. 553(b) prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities.

Section 605(b) of that Act provides that the regulatory flexibility analysis otherwise required by the Act shall not apply to any proposed or final rules if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

In order to determine whether an initial regulatory flexibility analysis is required or, in the alternative, a certification of non-applicability should be made, it is necessary to make a threshold determination concerning the term "significant economic impact" in light of the proposed rule.

The proposed rule would, if adopted, provide for revocation of motor carrier, broker and forwarder operating authorities within 90 days after the effective date of cancellation of insurance or surety withdrawal. This procedure is proposed pursuant to 49 U.S.C. 10925 (b) and (c) which empowers the Commission to revoke motor carrier, broker and forwarder authorities for willful failure to comply with the Interstate Commerce Act, Commission regulations or an order compelling compliance, after giving the holder of the certificate, permit or license at least 30 days to comply with the terms of the order compelling compliance.

In other words, the proposals simply articulate a statutory mandate which has been in effect for some time rather than altering substantive rights. They are, in essence, addressed to time periods which are in conformity with those required by the Interstate Commerce Act for processing revocation cases for failure to file or maintain insurance or surety bonds. While this action will affect regulated carriers of all sizes, the proposal generates no new economic consequences whatever. It is an internal administrative modification which does not deprive rights or confer benefits.

Consequently, the Commission certifies that, if these rules are promulgated, they will not have a significant economic impact on a substantial number of small entities.

This proceeding is not a major federal action significantly affecting energy consumption or the quality of the human environment.

This rulemaking is instituted for the purpose of determining whether a General Investigation and Revocation Proceeding should be adopted governing procedures for revocation of motor carriers', brokers' and forwarders' operating rights for failure to file and maintain appropriate evidence of insurance or other surety for public protections, and if so, whether the proposed regulations should be adopted.

List of Subjects

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds, and Brokers.

49 CFR Part 1084

Freight forwarders, Insurance, and Surety bonds.

Title 49 CFR is proposed to be adopted as follows:

PART 1043—[AMENDED]

1. Section 1043.7 would be amended by adding a new paragraph (f) to read as follows:

§ 1043.7 Forms and procedure.

* * * * *

(f) *Revocation Procedures for Failure to File and Maintain Insurance or Surety Bond.* In the event that a lapse in coverage occurs, the motor carrier or broker automatically becomes a party to General Investigation and Revocation Proceeding MC–C–11777, (FF–C–11778), and subject to its procedures and general ordering provisions.

(1) Notices, as provided for under the General Investigation and Revocation Proceeding will be sent to the carrier, broker or forwarder at each step in the process, to advise it of its status in relation to the general proceeding.

(2) Revocation will become effective 90 days from the effective date of cancellation or withdrawal unless, within 45 days after the effective date of cancellation, the carrier or broker responds to the Commission's second notice which describes its obligation to file a written statement, under oath, showing good cause why the operating rights should not be revoked or establishing that the carrier or broker is in full compliance with the Interstate Commerce Act and the Commission's regulations.

(3) Failure to respond or comply will result in the issuance of a third notice, again indicating that the operating authority will stand revoked 90 days from the effective date of cancellation.

PART 1084—[AMENDED]

2. Section 1084.8 would be amended by adding a new paragraph (g) to read as follows:

§ 1084.8 Forms and procedure.

* * * * *

(g) *Revocation Procedures for Failure To File and Maintain Surety Bond.* The terms and conditions of General Investigation and Revocation Proceeding MC–C–11777 (FF–C–11778); as set forth in 49 CFR 1043.7(f) will govern the procedures to be followed in revoking a freight forwarder permit for failure to maintain the required security for public protection.

49 U.S.C. 10925, 10927, 11701 and 5 U.S.C. 553)

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Decided: November 2, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix A—General Investigation and Revocation Proceeding Common and Contract Carriers by Motor Vehicle, Brokers and Freight Forwarders

[Nos. MC–C–11777 and FF–C–11778]

Decided ———

Motor Carriers, brokers and freight forwarders authorized by the Commission to engage in transportation in interstate or foreign commerce, are required to have on file with the Interstate Commerce Commission certificates of insurance or other evidence of security in the prescribed amounts to protect the public (49 U.S.C. 10927, 49 CFR 1043 and 49 CFR 1084). Moreover, operating rights of motor carriers and brokers remain in effect only as long as they satisfy the requirements of 49 U.S.C. 10927. When not in compliance with that section, a motor carrier, broker or forwarder is subject to suspension and revocation of its operating rights under 49 U.S.C. 10925.

In almost all instances the only issue involved in insurance or surety revocation proceedings is the resolution of the factual question of whether the carrier, broker, or forwarder has on file with this Commission all required certificates of insurance or surety bonds. The purpose of this general investigation and revocation proceeding is to establish new procedures for giving notice and for revoking operating rights when any required certificate of insurance or surety bond is not on file for a particular broker, forwarder, or common or contract carrier by motor vehicle. Each such carrier, broker, or forwarder will, at the time of its noncompliance, automatically become a party to this proceeding and subject to the procedures and actions taken in this decision.

Existing Procedures

When a notice of the cancellation of a certificate of insurance or other evidence of security is received as provided in 49 CFR 1043.7(d), 1084.8(d) and 1084.10(b), the Commission's Insurance Branch notifies the motor carrier, broker or forwarder involved. The motor carrier, broker or forwarder is advised of the continuing requirement to have certificates of insurance or other evidence of security on file, and that proceedings may be commenced to revoke its authority for failure to comply with the insurance requirements.

Failure by the motor carrier, broker or forwarder to file new certificates of insurance or other evidence of security on or before the effective date of the cancellation, results in institution of a revocation proceeding. More specifically, an initial compliance order is served on the carrier, broker or forwarder which requires it to show cause within 60 days why its operating authority should not be revoked. If the proceeding is not discontinued as a result of compliance within this 60-day period, a second order is served revoking the motor carrier's, broker's, or forwarder's authority effective 60 days following service of this second order.

Within either 60-day period the proceeding is discontinued if the carrier, broker or forwarder complies with the insurance or surety filing requirement or by petition establishes that good cause exists for discontinuance of the proceeding. If it does neither, its operating authority stands revoked effective 60 days after the service date of the second decision.

This procedure is time-consuming, inefficient and not in the best interests of the public. It involves considerable clerical activities, successive votes by members of the Revocation Board, and repetitive handling of the same file and successive decisions on the carrier's compliance or noncompliance. This process takes at least five months and sometimes much longer. This requires significant enforcement effort to assure that carriers, brokers or forwarders do not continue to operate without insurance or other security during this elapsed period.

This Proceeding and New Procedures

Under this proceeding the Commission will have an open investigation and revocation proceeding, automatically making all motor carriers, brokers and forwarders parties to this general investigation, upon their failure to maintain compliance with the insurance and surety requirements. They would thereby be subject to automatic notification and revocation under procedures established in this proceeding, dealing with each individual carrier's, broker's, or forwarder's failure to maintain evidence on file of its compliance with all insurance and surety requirements.

49 U.S.C. 10927 (a)(1) and (b) state that a certificate, permit or license remains in effect only as long as the motor carrier or broker satisfies the insurance or other security filing requirements of that Section. If evidence of insurance or other security in prescribed amounts is not on file, irrespective and independent of any notice given, a carrier or broker may not lawfully operate.

Under 49 CFR 1043 and 1084 this Commission requires notice in advance of any insurance or surety cancellation. Acting on each such cancellation notice, we are establishing a ministerial procedure to notify the carrier, broker, or forwarder regarding these provisions. In the same written notice we will advise it that, upon its noncompliance with Section 10927, it will automatically become a party to this proceeding and subject to the procedures and general ordering provisions established in this decision. We will also provide for notice of the details of the procedures leading to revocation.

Pursuant to 49 U.S.C. 11701(a), we hereby institute a general investigation to establish, in accordance with 49 U.S.C. 10925, how operating authority should be revoked for failure of a carrier to comply with the Commission's insurance regulations. Under existing procedures, upon being made the subject of a revocation proceeding, the carrier, broker or forwarder must file with the Commission a written statement: (a) Setting forth good cause why its operating authority should not be revoked, or, (b) establishing that it is in full compliance with the Interstate Commerce Act and the Commission's rules and regulations. This requirement will not be changed except that the filing period will be shortened from 60 days to 45 days.

The motor carrier, broker or freight forwarder will be notified upon Commission receipt of a cancellation notice that it will become a party to this proceeding upon noncompliance and subject to its procedures and general ordering provisions (rather than made the subject of a separate individual proceeding). It will also be notified that failure to respond or comply with the general ordering provisions of this decision shall result in revocation of its operating authority effective 90 days from the effective date of the insurance cancellation or surety bond withdrawal notice.

A copy of pertinent notices under the procedures established herein will be filed in the operating rights docket of carriers, brokers and forwarders which become parties to this proceeding upon the effective date of any revocation hereunder. (Representative sample notices are appended to this decision.)

We Find

The orderly oversight and enforcement of the insurance and surety requirements of the Act and our regulations require that a more automatic and certain method of handling our insurance and surety monitoring and compliance program be established. This is necessary both to protect the public and to assure timely and consistent handling of essentially ministerial aspects of insurance and surety revocation matters.

It Is Ordered

1. Under Section 11701(a) of the Act we hereby open this general investigation to decide how in accordance with Section 10925 of the Act, the operating rights of carriers, brokers and forwarders should be revoked for their failure to comply with the Act or the Commission's rgulations governing the filing of insurance or other security for the protection of the public This decision establishes procedures for such revocations.

2. Each motor carrier, broker and forwarder which holds operating rights authorizing it to engage in transportation, in interstate or foreign commerce, and which has failed to comply with Section 10927 of the Interstate Commerce Act and the Commission's regulations, 49 CFR 1043 and 49 CFR 1084 automatically is made a party to this proceeding upon the date of its failure to be in compliance.

3. Each such carrier, broker or forwarder is to be notified of the terms and requirements of this decision upon the Commission's receipt of a notice of cancellation or withdrawal of a required certificate of insurance or surety bond and, again, upon its failure to be in compliance.

4. Each such carrier, broker or freight forwarder is required to comply immediately with all applicable insurance and surety requirements; and, unless notified that it has achieved compliance; to file with the Commission a written statement under oath, within 45 days after the date of its failure to be in compliance, showing good cause why its operating rights should not be revoked. That statement must (a) set forth good cause why its operating right should not be revoked or (b) establish that it is in full compliance with the Act and the Commission's regulations.

5. Each such carrier, broker or forwarder is to be notified that failure to respond or comply with the terms of this decision shall, without further notice, subject it to the general ordering provisions of this proceeding and result in revocation of its operating rights effective 90 days from the date of its failure to be in compliance with the Commission's insurance requirements.

6. Upon the filing of a carrier's, broker's or forwarder's written statement in response to show cause provisions in ordering paragraph 4, the carrier's, broker's or forwarder's operating rights are ineffective until compliance is achieved or disposition is made of the issues raised in its statement in response to the show cause provisions.

7. Each such carrier's, broker's or forwarder's operating rights will remain ineffective from the date of noncompliance until it is in full compliance with the Act and the Commission's regulation or until they are revoked on the basis of: (1) Its having failed to respond; or, (2) the Commission's finding that it has failed to set forth sufficient cause for their not being revoked.

8. All notices relating to actions pursuant to this proceeding will be issued by the Chairman of the Revocation Board or his or her designee.

Note.—This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Appendix B-1—General Investigation and Revocation Proceeding Common and Contract Carriers by Motor Vehicle, Brokers and Freight Forwarders

In reply refer to:
K-870—Ref No. 111111.
Date ————————

[Nos. MC-C-11777; FF-C-11778]

Notice To

Docket No. MC-111111 (and All Subs thereunder)
Docket No. FF-111111 (and All Subs thereunder)
ABC Transportation Company, 123 Main Street,
Anywhere, U.S.A.

Notice

1. The Commission has been notified that your insurance will be cancelled or surety bond withdrawn by the enclosed notice(s) of cancellation or withdrawal.

Form BMC XX, Ace Insurance Co., XXXXX Policy No. ABC 123,
Cancelled effective ————————

2. You must have insurance or surety coverage in the prescribed amount in effect on a continuous basis. Your operating authority remains in effect only as long as you have on file with this Commission evidence of adequate security approved by the Commission. You must, therefore, arrange to have acceptable insurance certificate(s) or surety bond(s) filed with the Commission on or before the effective date(s) of cancellation in order to operate after that date. Verification frequently takes 10 days thus filing(s) should be made as soon as possible.

3. Any operations without sufficient insurance or surety bond will be unlawful and subject you to appropriate court proceedings including the civil forfeiture penalty provisions of 49 U.S.C. 11901, as well as any applicable penalty provisions for operating in violation of insurance requirements imposed by the Secretary of Transportation and Section 30 of the Motor Carrier Act of 1980.

4. On ————————, 1982, the Commission instituted a general investigation and revocation proceeding in No. MC-C-11777, (FF-C-11778), to assure insurance and surety compliance by all motor carriers, brokers, and freight forwarders regulated under the Interstate Commerce Act. Under the terms of the decision each motor carrier which fails to maintain required insurance filings with this Commission is automatically a party to the proceeding and subject to all its procedures and ordering provisions. A copy of the ordering provisions of that decision is also enclosed.

5. In the event that an acceptable certificate(s) of insurance or surety bond(s) is not filed on your behalf by the date of cancellation(s) indicated above you are ordered by the terms of the decision in the general investigation and revocation proceeding to make an acceptable insurance or bond filing(s). Unless the above action is taken, you must file with the Commission a written statement under oath, within 45 days from the date of cancellation:

(a) Setting forth good cause why your operating rights should not be revoked; or

(b) Establishing that you are in full compliance with the Act and the Commission's rules and regulations.

6. You are also notified that failure to respond or comply with the terms of the ordering provisions of MC-C-11777, (FF-C-11778) shall result in revocation of your operating rights effective 90 days from the date of cancellation indicated.

Absent a response to or compliance with the terms of the decision in No. MC-C-11777, (FF-C-11778), within 90 days of the date of cancellation(s) indicated, a copy of this notice will be filed in your operating rights docket(s) and your operating rights referenced in this notice will stand revoked.

———

Chief, Insurance Branch.

In order to provide the Commission with a temporary record of your replacement insurance, or surety bond, please furnish the information requested below and return to the Insurance and Revocation Unit, Interstate Commerce Commission, Washington, D.C. 20423. (This does not relieve you of the obligation of having acceptable certificate(s) of insurance, or surety bond(s), filed on your behalf).

Insurance or Surety Company(ies) ————————

Policy Number(s)————————
Effective date(s) ————————

If you have any questions please call (703) 823-5986 or 823-0927. Docket No. MC-111111

Appendix B-2

In reply refer to:
K-870F-Ref. No. ————————
Date: ————————

[Nos. MC-C-11777; FF-C-11778]

Notice To

Docket No. MC- ———— (and All Subs thereunder)
Docket No. FF- ———— (and All Subs thereunder)
ABC Transporters, Inc.,
123 Main Street,
Anywhere, U.S.A.

Notice

Form BMC XX,
XXXXX Policy No. ABC 123
Cancelled Effective ————————

1. Your policy(ies) of insurance or surety bond(s) was (were) cancelled or withdrawn as shown above, and no evidence of replacement insurance or surety bond was filed prior to the effective date of cancellation or withdrawal.

2. You are hereby notified that simultaneously with your failure to maintain appropriate security for the public protection, your status became that of party respondent to General Investigation and Revocation MC–C–11777, (FF–C–11778), and subject to the procedures and ordering provisions of that Proceeding.

3. As party respondent you are ordered by the terms of the decision in MC–C–11777, (FF–C–11778), to make an acceptable insurance or surety filing(s) or to file a written statement under oath with the Commission within 45 days from the effective date of cancellation or withdrawal of your prior coverage as shown above:

(a) Setting forth good cause why your operating rights should not be revoked; or

(b) Establishing that you are in full compliance with the Act and the Commission's rules and regulations.

4. Your are also notified that failue to respond or comply with the terms of the ordering provisions of MC–C–11777, (FF–C–11778) will result in revocation of your operating rights 90 days from the date of cancellation or withdrawal indicated above.

Absent a response to or compliance with the terms of the decision in No. MC–C–11777, (FF–C–11778), within 90 days of the date of cancellation or withdrawal indicated above, a copy of this notice will be filed in your operating rights docket(s) and your operating rights referenced in this notice will stand revoked.

———— ————,

Chief, Insurance Branch.

In order to provide the Commission with a temporary record of your replacement insurance, or surety bond, please furnish the information requested below and return to the Insurance and Revocation Unit, Interstate Commerce Commission, Washington, D.C. 20423. (This does not relieve you of the obligation of having acceptable certificate(s) of insurance of surety bond(s) filed on your behalf.

Insurance of Surety Company(ies): ————

Policy Number(s): ————

Effective Date(s): ————

If you have any questions please call (703) 823–5986 or 823–0927. Docket No. MC–111111

[Nos. MC–C–11777; FF–C–11778]

Appendix B–3—General Investigation and Revocation Proceeding Common and Contract Carriers By Motor Vehicle, Brokers and Freight Forwarders

In reply refer to:
K–870 R-Ref. No. ————
Date: ————

Notice To

Docket No. MC–111111 (and All Subs thereunder)
Docket No. FF–111111 (and All Subs thereunder)

Notice

Form BMC XX,
Ace Insurance Co.,
XXXXX Policy No. ABC 123
Cancelled effective ————

1. You are hereby notified that your insurance or surety bond which was cancelled or withdrawn has not been replaced.

2. You are further notified that you are in violation of the terms and ordering provisions of General Investigation and Revocation MC–C–11777, (FF–C–11778), in that you have not made an acceptable insurance or bond filing nor have you filed a written statement under oath within 45 days of the effective date of cancellation or withdrawal either: setting forth good cause why your operating rights should not be revoked or establishing that you are in full compliance with the Act and the Commission's regulations.

3. You are also notified that failure to respond or comply, within 90 days of the date(s) of cancellation or withdrawal, with the terms of the ordering provisions of MC–C–11777, (FF–C–11778), shall, *without further* notice, result in revocation of your operating rights effective 90 days from the date(s) of cancellation or withdrawal indicated.

Absent a response to or compliance with the terms of the decision in No. MC–C–11777 within 90 days of the date(s) of cancellation indicated, a copy of this notice will be filed in your operating rights docket(s) and your operating rights referenced in this notice will stand revoked.

———— ————

Chief, Insurance Branch.

In order to provide the Commission with a temporary record of your replacement insurance, or surety bond, please furnish the information requested below and return to the Insurance and Revocation Unit, Interstate Commerce Commission, Washington, D.C. 20423. (This does not relieve you of the obligation of having acceptable certificate(s) of insurance or surety bond(s) filed on your behalf.)

Insurance or Surety Company(ies) ————

Policy Number(s): ————

Effective Date(s): ————

If you have any questions please call (703) 823–5986 or 823–0927. Docket No. MC111111

Appendix B–4

INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C. 20423

In reply refer to:
K–870–Ref. No. 111111 of 0/00/00
T/0–1
Date:————

Re: Cancelled Insurance Status Report

ABC Transportation Company, 123 Main Street, Anywhere, U.S.A.

Dear Sir: Referring to our above-dated K–870 notice in regard to noncompliance with the insurance and surety rules and regulations, this is to advise that on 0/00/00, an insurance or surety filing for
was received.

As compliance was achieved before the cancellation or withdrawal of your previous coverage, our file regarding this matter is now closed.

Sincerely yours,

———— ————,

Chief, Insurance Branch.

Note.—This compùter generated letter will be sent by the Insurance Contractor with blind copies to ICC in Washington and the appropriate regional office.

Appendix B–5

INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C. 20423

In reply refer to:
K–870–F (or R as appropriate),
T/0–2
Date:————

Re: Cancelled Insurance Status Report

ABC Transportation Company, 123 Main Street, Anywhere, U.S.A.

Dear Sir: Referring to our above-dated K–870–F notice in regard to noncompliance with the insurance and surety rules and regulations, this is to advise that on 0/00/00, an insurance or surety filing for
was received.

Since compliance was achieved after cancellation of your prior coverage, you became a party respondent to MC–C–11777, (FF–C–11778). This will further advise you that the proceeding has been discontinued with regard to your operating rights at this time and your file reflects that discontinuance.

Sincerely yours,

———— ————,

Chief, Insurance Branch.

Note.—This computer generated letter will be sent by the Insurance Contractor with blind copies to ICC in Washington and the appropriate regional office. This letter replaces the discontinuance order.

Appendix B–6

INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C. 20423

In reply refer to;
K–870–F or R-Ref. No. llllll of T/0/3
Date:————

RE: Concelled Insruance Status Report

ABC Transportation Company, 123 Main Street, Anywhere, U.S.A

Dear Sir: Referring to our above-dated K 870F (or R as appropriate) notice in regard to noncompliance with the insurance rules and regulations, this is to advise that your statement was received in accordance with the show cause ordering provisions of General Investigation and Revocation MC–C–11777, (FF–C–11778).

You are further advised that your operating authority, which became ineffetive based upon your failure to maintian the required insruance or surety bond, remains ineffective until disposition of the issues raised in your statement.

You will be notified as to that disposition when a decision is made on the merits.

Sincerely yours,

———— ————,

Chief, Insurance Branch.

[FR Doc. 82–33722 Filed 12–13–82; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 47, No. 240
Tuesday, December 14, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Midwest Energy, Inc.; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to the proposed financing assistance to Midwest Energy, Inc., (Midwest) of Great Bend, Kansas. The financing assistance is necessary for the construction of 115 kV transmission facilities in Ellis, Russell, Cove, and Trego Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessments and Midwest's Borrower's Environmental Report may be reviewed at or obtained from Mr. William E. Davis, Director, Western Area-Electric, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–8848, or Mr. Jack D. Goodman, Manager, Midwest Energy, Inc., 1025 Patton Road, Great Bend, Kansas 67530, telephone (316) 792–1301, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from Midwest, has reviewed the BER submitted by Midwest and has determined that it represents an accurate assessment of the environmental impact of the proposed projects. The proposed projects consist of approximately 29.6 km (18.5 miles) of 115 kV transmission line between the proposed South Hays Switching Station and Gorham Substation and approximately 84 km (52.5 miles) of 115 kV transmission line between the Pheasant Run Substation and the Wakeeney Substation. Based on a BER and other support documents, REA prepared Environmental Assessments concerning the proposed projects and their impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed projects to resources including threatened and endangered species, important farmlands, cultural resources, floodplains and wetlands.

Alternatives examined include no action, energy conservation, rebuilding the existing system and alternate routes. After reviewing these alternatives, REA determined that the proposed projects are acceptable alternatives because they meet Midwest's needs with a minimum of adverse impact.

(Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: December 7, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–33911 Filed 12–13–82; 8:45 am]
BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Information and Steps Necessary To Form Research and Development Limited Partnerships (RDLP's)

AGENCY: Office of the Assistant Secretary for Productivity, Technology, and Innovation.

ACTION: Request for comments.

SUMMARY: This notice requests public comments on the first draft of a document prepared by the Department of Commerce entitled *Information and Steps Necessary to Form Research and Development Limited Partnerships* (RDLP's). The RDLP is a finding mechanism which allows businesses to accomplish research activities without paying for them out of retained earnings or borrowed capital. The needed revenues are obtained from investments made by limited partners, who in turn receive the promise of royalty (or other) payments should the research prove successful, as well as substantial tax benefits. Thus, the RDLP is a mechanism which can contribute to improved profits and competitiveness for U.S. business. The RDLP is one mechanism by which we, as a nation, can take fuller advantage of the opportunities for innovation made possible by our incomparable industrial base. Due to the size of the document, it is not reproduced in the **Federal Register**; however, copies may be obtained by ordering document number PB83–131516 from the National Technical Information Service. The price is ten dollars. The address is: The National Technical Information Service, Sales Department, 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487–4650.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Comments should be directed to: the Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Robert B. Ellert, Assistant General Counsel for Economic Affairs, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–5394.

SUPPLEMENTARY INFORMATION:

Administration Policy

This Administration believes that the most efficient and productive mechanism for the allocation of factors of production is the free market. Thus, the Administration's policy for sustained economic recovery is to minimize government intervention in the market: by cutting back on regulations and other barriers; by reducing Federal spending (including in commercially-oriented non-defense R&D); by providing investment incentives such as in the Economic Recovery Program; and by other measures leading to a stable policy and predictable economic framework conducive to long term investment decision. In recognition of the mounting competition to U.S. technological and economic leadership from abroad and the substantial commercial opportunities inherent in our unequaled technology infrastructure, the Administration is especially conscious of the need for private sector R&D in leading edge technologies such as

electronics, biotechnology, materials, transportation industries, flexible manufacturing, and the information and service sectors, and the corresponding need to commercialize such R&D rapidly into new products and processes.

Increased use of the research and development limited partnership (RDLP) device is one means to this end. The provision of information on the RDLP concept is one step in implementing the Administration's goal of fostering a cooperative relationship between the provate sector and the Government, while leaving business decision-making to those who do it best—the marketplace itself.

Issued: December 8, 1982.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 82-33835 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-18-M

International Trade Administration

Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Exporters' Textile Advisory Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department of Commerce officials concerning ways of increasing U.S. exports of textile and apparel products.

TIME AND PLACE: January 13, 1983 at 10:00 a.m. the meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, NW.)

AGENDA: (1) Review of export data, (2) Report on conditions in the export market, (3) Recent foreign restrictions affecting textiles, (4) Other Business.

PUBLIC PARTICIPATION: A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

FOR FURTHER INFORMATION CONTACT: Helen. L. LeGrade, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, Tel: 202/377-3737.

Dated: December 3, 1982.

Walter A. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-33836 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Galvanized Steel Wire Strand From the Republic of South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to inform the public that we are initiating a countervailing duty investigation to determine whether the Republic of South Africa (South Africa) is providing benefits which constitute bounties or grants within the meaning of the contervailing duty law on the manufacture, production or exportation of galvanized steel wire strand (strand) from South Africa. If our investigation proceeds normally, we will make a preliminary determination not later than February 10, 1982.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Theresa Link, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone (202) 377-0189.

SUPPLEMENTARY INFORMATION: On November 17, 1982, a petition in proper form was received from counsel on behalf of three domestic manufacturers of strand. Those manufacturers are: Bethlehem Steel Corporation, Florida Wire & Cable Company, and Indiana Steel Wire Company. The petition alleges that the government of South Africa pays or bestows, directly or indirectly, bounties or grants upon the manufacture, production or export of strand within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act").

Section 303 of the Act applies to this investigation since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act. Additionally, the merchandise covered by this investigation is dutiable. Therefore, no injury determination is required.

Scope of Investigation

The merchandise covered by this investigation is galvanized steel wire strand. It is used to support overhead electric wires by electric utitities. Strand is currently classified under 642.1142 and 642.1144 in the Tariff Schedules of the United States Annotated.

The petitioners allege that the following activities and programs exist and constitute bounties or grants.

1. Reduced Transportation Rates: The South African government and the South African Railways and Harbor Administration provide reduced rail freight rates for goods destined for export.

2. Purchases of Wire Rod from South African Iron and Steel Corporation (ISCOR) at Preferential Prices: ISCOR receives bounties or grants which it passes through in the form of lower wire rod prices to manufacturers of galvanized steel wire strand for export.

3. Government Benefits Directly to the South African Iron and Steel Industrial Corporation and Indirectly to Galvanized Steel Wire Strand Manufacturers: The South African government confers benefits in the form of direct capital grants, reduced taxes and reduced loan rates to ISCOR, the main supplier of wire rod for galvanized steel wire strand.

4. Finance Charges Aid Scheme for Exporters: The South African government rebates, tax-free, part of the export financing related to interest costs for those firms meeting certain export goals of manufactured goods.

5. Income Tax Bounties or Grants: The South African government grants tax deductions, tax exemptions, and investment allowances for certain export development expenses and employee training programs.

6. Steel Export Promotion Scheme: The South African government rebates part of the f.o.b. value of export containing rolled, drawn and forged steel.

7. 1980 Incentives Regime for Exporters: The South African government grants tax deductions to exporters for part of the import tariff on raw materials and other intermediate inputs obtained from local sources and for part of the value-added component of certain exports.

8. Government Labor Policies: The South African government provides labor benefits through a policy of differential wage rates.

Initiation of Investigation

The petition alleges the elements necessary for the imposition of countervailing duties under the Act and is accompanied by information reasonably available to the petitioners which supports those allegations. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to

determine whether South Africa is providing its producers and exporters of galvanized steel wire strand with certain benefits that are bounties or grants within the meaning of section 303 of the Act. If our investigation proceeds normally, we will announce our preliminary determination by February 10, 1983.

Dated: December 7, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33839 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-25-M

Kansas State University et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C 20230.

Docket No. 81-00283R. Applicant: Kansas State University, Department of Chemistry, Manhattan, Kansas 66506. Instrument: Vapor Synthesis Reactor with Accessories. Application is a resubmission, notice of which was published in the **Federal Register** of August 17, 1981.

Docket No. 82-0075R. Applicant: Syracuse University, Department of Chemistry, Bowne Hall, Syracuse, NY 13210. Instrument: Superconducting Fourier NMR Spectrometer, Model WM-360 WB and Components. Application is a resubmission, notice of which was published in the **Federal Register** of February 2, 1982.

Docket No. 82-00179R. Applicant: Brigham Young University, Department of Chemistry, 226 ESC, Provo, UT 84062. Instrument: Kelvin AC Double Bridge & Automatic Switch Unit. Application is a resubmission, notice of which was published in the **Federal Register** of May 20, 1982.

Docket No. 82-00181R. Applicant: University of Illionois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Instrument: Dye Laser-Excimer Laser Pumped, FL 2000E. Application is a resubmission, notice of which was published in the **Federal Register** of June 11, 1982.

Docket No. 83-40 Applicant: National Bureau of Standards, Washington, D.C. 20234. Instrument: Neutron Dose-Rate Equivalent Monitor Type 0949-4 with Accessories. Manufacturer: Atomic Research Establishment, United Kingdom. Intended Use of Instrument: The instrument is to be used primarily as a transfer standard for intercomparisons of neutron calibration facilities. The technique involves making measurements of the instrument's response to neutron source at different distances from the source. The resulting data are then analyzed in a prescribed manner to obtain the calibration factor for the instrument. The calibration factor thus obtained at other laboratories and, in particular, with the calibration factor determined by NBS. Application received by Commissioner of Customs: November 8, 1982.

Docket No. 83-42. Applicant: University of Pennsylvania, School of Medicine, 36th & Hamilton Walk, Philadelphia, PA 19104. Applicant: Electron Microscope, Model H-600-3 and Accessories. Manufacturer: Hitachi Scientific Instrument, Japan. Intended Use of Instrument: The instrument is intended to be used primarily for biological research projects in the academic discipline of pathology, and for teaching medical students, residents, and staff members. Studies will be conducted on human bioptic material and other tissues obtained at autopsy and the major emphasis will be on identifying the nature of the disease process. Application Received by Commissioner of Customs: November 8, 1982.

Docket No. 83-46. Applicant: University of Rochester, Department of Dental Research, 601 Elmwood Avenue, Rochester, New York 14642. Instrument: Program Controlled Automatic Feed Unit FAG-KT (72 Cages) and Accessories. Manufacturer: Andreas Hofer, Switzerland. Intended Use of Instrument: The instrument is intended to be used to investigate foods which are most likely to promote the development of tooth decay. In addition, it will facilitate the study of factors controlling the microbiology of the mouth and the transmission of bacteria from animal to animal. Graduate students in dentistry, nutrition, and behavioral science, all will be able to derive benefit by observing the influence of different meal patterns on behavior and development of disease. Application Received by Commissioner of Customs: November 8, 1982.

Docket No. 83-47. Applicant: US Army Natick Res. & Dev. Laboratories, Directorate for Procurement, Attn: DRDNA-PB, Kansas Street, Natick, MA 01760. Instrument: Electron Microscope Accessories (R.E. Detector and H5014 AE Amp Unit). Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use of Instrument: The instruments are accessories to an electron microscope manufactured by the same manufacturer and that is being used for studies of the following: (1) Ultrastructure of meat—effects of aging; storage and tenderization on myofibrillar and connective tissue components; (2) Ultrastructure of cryoprotection in planets; (c) Diffraction of crystals or particles; (d) Extension of shelf life or development of methods of preserving fresh vegetables for salads; (e) Changes in foods due to microbiological effects. Application Received by Commissioner of Customs: November 8, 1982.

Docket No. 83-58. Applicant: California Institute of Technology, 1201 East California Boulevard, Pasadena, CA 91125. Instrument: Electron Microscope Model EM 420 and Accessories. Manufacturer: Philips Electronics, The Netherlands. Intended Use of Instrument: The instrument is intended to be used for the study of communication between cells, the role such communication plays in the physiology of multicellular organisms and the consequences caused by defects in such communication. The major type of cell communication to be investigated is the direct exchange of materials between the cytoplasms of adjacent cells by means of specialized cell contacts called gap junctions. Application Received by Commissioner of Customs: November 9, 1982.

Docket No. 83-59. Applicant: Texas A & M University, Department of Civil Engineering, Ocean Engineering Program, College Station, Texas 77843. Instrument: Waverider Buoy with Accessories. Manufacturer: Datawell

Laboratoruim Voor Instrumentatie, The Netherlands. Intended Use of Instrument: The instrument is intended to be used to measure waves on a continuous basis in the Gulf of Mexico. This is part of a continuing wave monitoring project. The purpose of the project is to collect and analyze data regarding the wave climate in the area. Application Received by Commissioner of Customs: November 9, 1982.

Docket No. 83–60. Applicant: The State of University of New York, Stony Brook, N.Y. 11974. Instrument: Klystron Tube, Type VRB 2113A. Manufacturer: Varian of Canada Incorporated, Canada. Intended Use of Instrument: The instrument is intended to be used for studies of molecular line emission from trace gases in the earth's stratospheric layers. Investigations will be conducted to try to verify or disprove theoretical predictions relating chlorofluorocarbon release into the atmosphere with partial destruction of the earth's protective ozone layer. The research project in which the article is used gives training and Ph. D. thesis research activity to two graduate students studying atmospheric science and the development of high-sensitivity, high-frequency detection equipment. Application Received by Commissioner of Customs: November 9, 1982.

Docket No. 83–61. Applicant: Muhlenberg College, 2600 Chew Street, Allentown, PA 18104. Instrument: Electron Microscope EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use of Instrument: The instrument is intended to be used for teaching electron microscopy techniques to undergraduates in the course Biology 99—Seminar in Transmission Electron Microscopy. Application Received by Commissioner of Customs: November 9, 1982.

Docket No. 83–62. Applicant: Department of Justice, Federal Bureau of Investigation, Forensic Science Research Unit, FSRTC, FBI Academy, Quantico, VA 22135. Instrument: MS–80 Gas Chromatograph Mass Spectrometer System with Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended Use of Instrument: The instrument will be used to investigate the possible advantages offered by a dual sector, medium resolution mass spectrometer system for analyzing some types of forensic evidence. The inherent capabilities of such an instrument to take full advantage of the newly developed ionization techniques such as direct chemical ionization (DCI) and fast atom bombardment (FAB) will be explored. Some types of samples will include compounds or their derivatives with molecular weights over 1000 AMU, thermally liable molecules and extremely polar molecules for which the FBI currently has no suitable mass spectral procedures for analysis. Another feature of the instrument to be tested on forensic samples is the capability of assigning exact masses to molecular fragments thus giving the atomic formula of unknown components of questioned sample and lending more evidence to the identification of question substances. The instrument will also be used to provide instruction in the Forensic GC/MS specialized school now offered at the FBI Academy. Application Received by Commissioner of Customs: November 9, 1982.

Docket No. 83–65. Applicant: University of Texas, Department of Chemistry, Austin, TX 78712. Instrument: X-ray Photoelectron Spectrometer (ESCALAB 5). Manufacturer: VG Scientific Limited, United Kingdom. Intended Use of Instrument: The instrument is intended to be used for the following research in surface chemistry and physics:

(1) Examination of the surfaces of modified electrodes.

(2) Study of photoassisted and metal-support interactions at the gas-solid interface and the rections of hydrogen atoms at surfaces which have poor H_2 dissociative properties.

(3) Study of the interactions of a various Fischer-Tropsch catalysts with azo- and diazo-compounds which are being used as sources of surface hydrogen fragments.

(4) Study of metal salts on graphite as part of research on electrothermally heated graphite atomizers.

Application Received by Commissioner of Customs: November 9, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-33838 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-25-M

Liberty Manufacturing, Inc., et al.; Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Liberty Manufacturing, Inc., P.O. Box 328, Chester, Montana 59522, producer of parts for agricultural equipment (accepted November 15, 1982); (2) Sando Textile Finishers, Inc., 100 Oser Avenue, Hauppauge, New York 11787, producer of fabrics (accepted November 16, 1982); (3) Hickory Valley Originals, P.O. Box 70, Ojai, California 93023, producer of feather hatbands and other accessories and giftware (accepted November 16, 1982); (4) Process and Systems Engineering Company, Inc., P.O. Box 910, Mobile, Alabama 36601, producer of steel containment tanks, vessels and gates (accepted November 19, 1982); (5) Roblin Industries, Inc., 241 Main Street, Buffalo, New York 14203, producer of steel rods and bars (accepted November 19, 1982); (6) Best Steel Couplings, Inc., 520 North Mesquite, Box 6, Muenster, Texas 77252, producer of steel pipe couplings (accepted November 19, 1982); (7) Chips 'N Twigs, Inc., 642 North Broad Street, Philadelphia, Pennsylvania 19130, producer of men's and boys' suits, sportcoats and pants (accepted November 22, 1982); (8) Maine Dowel Corporation, 84 North Main Street, Farmington, Maine 04938, producer of wood dowels (accepted November 22, 1982); (9) Oehler Industries, Inc., P.O. Box 1086, Station D, Buffalo, New York 14210, producer of fabricated steel (accepted November 23, 1982); (10) American Tool and Machine Company, P.O. Box 2026, Fitchburg, Massachusetts 01420, producer of paper coating and laminating machines (accepted November 29, 1982); (11) B-D Crystal Enterprises, Inc., 1727 W. Galbraith Road, Cincinnati, Ohio 45239, producer of quartz crystals (accepted November 30, 1982); (12) Lektro, Inc., Route 2, Box 925, Warrenton, Oregon 97146, producer of battery driven vehicles, parts and accessories (accepted November 30, 1982); (13) Walpole Woodworkers, Inc., 567 East Street, Walpole, Massachusetts 02081, producer of chain link and cedar fences, outdoor furniture and tool houses (accepted December 1, 1982); (14) Abaddon Products Company, Inc., Drawer A, Montpelier, Idaho 83254, producer of motor sports helmets (accepted December 2, 1982); (15) Caaljo Fabrics and Trimmings, Inc., 578 Nepparham Avenue, Yonkers, New York 10701, producer of knit fabrics (accepted December 2, 1982); (16) Best Craft Handbags Corporation, 1 East 33rd Street, New York, New York 10016, producer of hangbags (accepted December 3, 1982); (17) Dunn and McCarthy, Inc., 41 Washington Street, Auburn, New York 13201, producer of women's footwear (accepted December 3, 1982); (18) Natures Heritage, Inc., 201 Dairy Road, Kahului, Hawaii 96732, producer of jewelry, decorative items and souvenirs (accepted December 3, 1982); (19) Schrader Stoves of Ohio, Inc., 5245 Dorr Street, Toledo, Ohio 43615, producer of stoves and accessories

(accepted December 3, 1982); (20) Avanti Knitting Mills, Inc., Route 38, Mount Holly, New Jersey 08060, producer of men's and women's sweaters (accepted December 3, 1982); (21) Plastic Industries, Inc., Box 669, Athens, Tennessee 37303, producer of furniture legs (accepted December 6, 1982); and (22) Lou Temco Uniforms, Inc., 31 West Prospect Street, Nanuet, New York 10954, producer of uniforms (accepted December 7, 1982);

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-33837 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of: Piher Semiconductores, S.A. Avda San Julian, s/n, Apartado Correos 177, Granallers (Barcelona), Spain.

By Orders of June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), and October 12, 1982, 47 FR 46558 (October 19, 1982), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of October 12, 1982 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provision of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Heights, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through February 1983 in the shipment release documents filed by Piher International Corp. in support of its application for this extension, provided all such exports are G–DEST under the Export Administration Regulations (15 CFR Part 368, *et seq.* (1982)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after Feburary 1983 should a continuing consideration of its aforesaid motion ential serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective immediately.

Dated: December 7, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-33834 Filed 12-13-82; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

SN 6–90,390 (4,356,958) Blood Cell Separator, Department of Health and Human Services

SN 6–239,448 (4,357,088) Macula-Disc Camera With Improved Resolution, Department of Health and Human Services

SN 6–237,617 (4,357,324) Prodrug Derivatives of 9B-D-Arabinofuranosyl-2-Fluoroadenine, Department of Health and Human Services

SN 6–266,462 (4,357,341) Specific Irreversible Antagonism of Histamine Receptors by Photoaffinity Actuated Compounds, Department of Health and Human Services

SN 6–25,132 (4,357,344) Polybutylbenzylphenols and Benzyl-3,4-Methylenedioxybenzenes in Insect Population Control, Department of Agriculture

SN 6–212,061 (4,357,549) Automatic Frequency Alteration Circuit, National Security Agency

SN 6–415,848 Improved Fiber Optic pH Probe for Tissue Measurements, Department of Health and Human Services

SN 6–416,107 HIgh Speed Preparative Countercurrent Chromatography With a Multiple Layer Coiled Column, Department of Health and Human Services

SN 6–329,869 Separation of Triphenyl-Phosphine Oxide From Methotrexate Ester and Purification of Said Esther, Department of Health and Human Services

SN 6–410,965 Method of Treating Cancers With Methylglyoxal Bis-Guanylhydrazone, Department of Health and Human Services
SN 6–436,124 Twin-Etalon Scanning Spectrometer, Department of Commerce

[FR Doc. 82–33909 Filed 12–13–82; 8:45 am]
BILLING CODE 3510–04–M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

The Public Advisory Committee for Trademark Affairs will meet from 9:30 a.m. until 5:00 p.m. on February 3, 1983, at the Bridge Hotel, Boca Raton, Florida.

The Committee was first established in 1970 and was reestablished in 1981 to advise the Patent and Trademark Office of steps that can be taken to increase the effectiveness of administration of the Trademark Act and to provide a continuing source of information from the private sector to the government.

The agenda for the meeting is as follows:

(1) Financial and statistical reporting, including fees.

(2) Computerization and automation, including assignments and classification.

(3) TMEO management responsibilities and management development.

(4) TTAB management responsibilities and management development.

(5) Trademark Rule changes.

(6) Trademark Manual of Examining Procedure.

The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come first-served basis. If time permits, oral comments by the public of three (3) minutes on each topic within the above agenda will be allowed. To insure proper consideration at the meeting, any comments or suggestions relating to the agenda items should be submitted in writing before January 24, 1983. Further comments and suggestions will be accepted after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. Please mark all correspondence to the attention of Committee Control Officer, Ellen J. Seeherman, Office of the Assistant Commissioner for Trademarks, Room CP 3–11C17, Telephone: 703–557–7464.

Dated: December 8, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82–33878 Filed 12–13–82; 8:45 am]
BILLING CODE 3510–16–M

DEPARTMENT OF EDUCATION

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—High School Equivalency Program

AGENCY: Department of Education.

ACTION: Application notice for fiscal year 1983.

Applications are invited for new grants under the High School Equivalency Program (HEP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for this program is contained in Section 418A of Title IV of the Higher Education Act, a amended by Pub. L. 96–374.

(20. U.S.C. 1070–2)

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of HEP is to provide grants to IHES and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by February 16, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.141, Washington, D.C.20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or, (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service Does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern standard time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 P.M. on the closing date.

Program Information: The Secretary awards HEP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker "drop-out" students in obtaining the equivalent of a secondary school diploma and subsequently gaining employment or being admitted to an IHE or other postsecondary education or training.

Available Funds: The Administration's budget for fiscal year 1983 does not include funds for the High School Equivalency Program. However, applications are invited to allow for sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

In fiscal year 1982, $5.851 million was available for this program. Twenty projects were approved.

Application Forms: Application forms and program information packages may be obtained by writing to Migrant

Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Donohoe Building, Room 1100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary also urges that an applicant not submit information that is not requested.

Special Procedures: The application is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide: (1) The comments of each clearinghouse that commented on its application; or (2) A statement that the applicant used the procedures of Part 1 of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206) that were published in the **Federal Register** on July 6, 1981 (at 46 FR 35072) as final regulations.

(2) The Education Department General Administrative Regulations (EDGAR, 34 CFR Parts 74, 75, 77 and 78).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Project Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Donohoe Building, Room 1100), Washington, D.C. 20202 Telephone No. (202) 245–2222.

(20 U.S.C. 1070d–2)

(Catalog of Federal Domestic Assistance No. 84.141; Migrant Education/High School Equivalency Program)

Dated: December 9, 1982.

[FR Doc. 82–33921 Filed 12–13–82; 8:45 am]

BILLING CODE 4000–01–M

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—College Assistance Migrant Program

AGENCY: Department of Education.

ACTION: Application notice for fiscal year 1983.

Applications are invited for new grants under the College Assistance Migrant Program (CAMP)) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for this program is contained in Section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 96–374. (20 U.S.C. 1070d–2).

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of CAMP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by February 16, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.149, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carriers.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or, (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern standard time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary awards CAMP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker students who are enrolled or are admitted for enrollment on a full-time basis in the first academic year at an IHE. CAMP provides assistance to help migrant and seasonal farmworker students in—

(1) Making the transition from secondary school to postsecondary school;

(2) Generating the motivation necessary to succeed in postsecondary school; and

(3) Developing the skills necessary to succeed in postsecondary school.

Available Funds: The Administration's budget for fiscal year 1983 does not include funds for the College Assistance Migrant Program. However, applications are invited to allow for sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

In fiscal year 1982, $1.16 million was available for this program. Six projects were approved.

Application Forms: Application forms and program information packages may

be obtained by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Donohoe Building, Room 1100), Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary also urges that an applicant not submit information that is not requested.

Special Procedures: The application is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide: (1) The comments of each clearinghouse that commented on its application; or (2) A statement that the applicant used the procedures of Part 1 of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable Regulations: The regulations that apply to CAMP include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206) that were published in the **Federal Register** on July 6, 1981 (at 46 FR 35072) as final regulations.

(2) The Education Department General Administrative Regulations (EDGAR, 34 CFR Parts 74, 75, 77 and 78).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Project Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Donohoe Building, Room 1100), Washington, D.C. 20202, Telephone No. (202) 245–2222.

(20 U.S.C. 1070d–2).

(Catalog of Federal Domestic Assistance No. 84.149; Migrant Education/College Assistance Migrant Program)

Dated: December 9, 1982.

Lawrence F. Davenport,

Assistance Secretary for Elementary and Secondary Education.

[FR Doc. 82–33922 Filed 12–13–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–82–029]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration; DOE.

ACTION: Notice of Approval of Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on December 14, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 F, 1000 Independence Avenue, SW., Washington, D.C. 20585,

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plant, to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was atributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities met the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences sighificant enough to warrant detailed documentation pursuant to the National Envrionmental Policy Act or its implementing regulations (40 CFR 1500 *et seq.*). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR

508.5 and section 808(d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by utilities listed below.

Each of the electric utilities whose plans are approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–093, 1000 Independence Avenue, SW., Washington D.C. 20585.

The following utilities' conservation plans are approved:

Utilities	FC Case No.
Baltimore Gas & Electric Co., Baltimore, MD	50154-9999-99-49
Cajun Electric Power Cooperative, Inc., Baton Rouge, La	50399-9999-99-49
Cedar Falls Utilities, Cedar Falls, Iowa	50467-9999-99-49
Central Power & Light Co., Corpus Christi, Tex	50496-9999-99-49
Cincinnati Gas & Electric Co., Cincinnati, Ohio	50556-9999-99-49
City of Austin, Austin, Tex	50135-9999-99-49
City of Bryan, Bryan, Tex	50354-9999-99-49
Dallas Power and Light Co., Dallas, Tex	50736-9999-99-49
Gulf States Utilities Co., Beaumont, Tex	51209-9999-99-49
Interstate Power Co., Dubuque, Iowa	51403-9999-99-49
Kansas Gas & Electric Co., Wichita, Kans	51478-9999-99-49
Lea County Electric Cooperative, Inc., Lovington, N. Mex	51612-9999-99-49
Lubbock Power & Light, Lubbock, Tex	51705-9999-99-49
Montana Power Co., Butte, Mont	51915-9999-99-49
Public Works Commission of the City of Fayetteville, Fayetteville, N.C	62004-9999-99-49
Salt River Project, Phoenix, Ariz	52564-9999-99-49
Southwestern Electric Power Co., Shreveport, La	52744-9999-99-49
The Toledo Edison Co., Toledo, Ohio	52927-9999-99-49
Western Power, Great Bend, Kans	68007-9999-99-49

Issued in Washington, D.C. on December 7, 1982.

Robert L. Davies

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-33892 Filed 12-13-82; 8:45 am]

BILLING CODE 6450-01-M

[Volume 787]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 7, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-MIDWESTERN EXPLORATION CO			RECEIVED:	11/08/82	JA: KS				
8308246	K-82-0386	1512920572	103			GRIMWOOD 1-13	GREENWOOD GAS	40.0	COLORADO INTERSTA
-NIELSON ENTERPRISES INC			RECEIVED:	11/08/82	JA: KS				
8308247	K-82-0760	1502320150	108			HEATON #1	SO ST FRANCIS GAS ARE	5.0	PEOPLES NATURAL G
NORTH DAKOTA INDUSTRIAL COMMISSION									
-CANTERRA PETROLEUM INC			RECEIVED:	11/08/82	JA: ND				
8308293	607	3305301465	102-2			GAJEWSKI 5-18	SIOUX	0.0	
8308294	608	3305301400	102-2			HOVDE 1-6	WILDCAT	0.0	
-CONSOLIDATED OIL & GAS INC			RECEIVED:	11/08/82	JA: ND				
8308291	605	3305301482	102-2			BERGE FLB #1-24	RAWSON	20.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION			RECEIVED:	11/08/82	JA: ND				
8308292	606	3300700800	102-2			J & G HURINENKO 3-1-4A	LITTLE KNIFE	43.0	MONTANA DAKOTA UT
-MARTIN OIL COMPANY			RECEIVED:	11/08/82	JA: ND				
8308298	612	3310500914	103			BLIKRE 2-1	LINDAHL	13.0	AMERADA HESS CORP
-SAMEDAN OIL CORPORATION			RECEIVED:	11/08/82	JA: ND				
8308296	610	3310501017	102-2			ETZEL #1-23	AVOCA	47.0	PHILLIPS PETROLEU
8308295	609	3310500932	102-2			JENNER #1-21	CATWALK	28.0	PHILLIPS PETROLEU
8308297	611	3310501023	102-2			JENNER #1-22	CATWALK	39.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALAN J ANTWEIL			RECEIVED:	11/08/82	JA: NM				
8308202		3002500000	103			LADY #1 1-L-4-20S-38E	WEST NADINE BLINEBRY	29.9	WARREN PETROLEUM
-ATAPCO			RECEIVED:	11/08/82	JA: NM				
8308250		3002500000	102-2			TALCO UNIT #2	TALCO (STRAWN)	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY			RECEIVED:	11/08/82	JA: NM				
8308251		3002526411	103			MYERS LANGLIE MATTIX UNIT #197		44.5	EL PASO NATURAL G
-MESA PETROLEUM CO			RECEIVED:	11/08/82	JA: NM				
8308249		3000561470	107-TF			BADGER COM #3	UNDESIGNATED PECOS SL	21.6	
8308207		3004560085	108			STATE COM F #1-X	BLANCO MESAVERDE	21.5	SOUTHERN UNION GA
-PENNZOIL COMPANY			RECEIVED:	11/08/82	JA: NM				
8308254		3002527433	103			STATE -C- #4	LOVINGTON PENN NORTHE	220.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	11/08/82	JA: NM				
8308257		3002502825	108			E VAC GB/SA UNIT TR 1910 #002	VACUUM GB/SA	2.0	EL PASO NATURAL G
8308252		3002527113	103			EAST VACUUM GB/SA UNIT TR 1904 #002	VACUUM GB/SA	0.0	EL PASO NATURAL G
8308253		3002527425	103			EV GB/SA UN TR2109 #2	VACUUM GB/SA	66.0	EL PASO NATURAL G
8308256		3002503069	108			VACUUM ABO UNIT #13-07	VACUUM ABO REEF	1.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO			RECEIVED:	11/08/82	JA: NM				
8308258		3004520704	108			BRUINGTON #3	BLANCO	15.0	SOUTHERN UNION GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308210		3004511821		108		CULPEPPER MARTIN #16	BASIN	20.0	SOUTHERN UNION GA
8308260		3004520634		108		RUPLE #2	BLANCO	20.0	SOUTHERN UNION GA
8308261		3004520651		108		TURNER #3	BLANCO	20.8	SOUTHERN UNION GA
8308259		3004510503		108		WEST SADIE #1	BLANCO	17.8	SOUTHERN UNION GA
-STEVENS OPERATING CORP				RECEIVED:	11/08/82	JA: NM			
8308255		3000500000		103		O'BRIEN "F" NO 2	TWIN LAKES - SAN ANDR	0.0	TRANSWESTERN PIPE
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/08/82	JA: NM			
8308209		3002500000		108		F J DANGLADE #1	BLINEBRY	2.0	EL PASO NATURAL G
8308208		3002500000		108		VAN ZANDT #1	LANGLIE MATTIX	1.0	EL PASO NATURAL G
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	11/08/82	JA: NM			
8308204		3002508764		108		HARRY LEONARD (NCT-D) #13	EUNICE SOUTH	11.7	EL PASO NATURAL G
8308206		3002506354		108		HARRY LEONARD (NCT-F) #10	BLINEBRY	4.9	EL PASO NATURAL G
8308205		3002506365		108		HARRY LEONARD (NCT-F) #18	BLINEBRY	1.8	EL PASO NATURAL G
8308203		3002510162		108		ROLLON BRUNSON	TUBB GAS & DRINKARD	21.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	11/08/82	JA: NM			
8308248		3001523976		102-4		RIO PENASCO "RT" COM #	UND WOLFCAMP	0.0	TRANSWESTERN PIPE

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OKLAHOMA CORPORATION COMMISSION

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-AIKMAN BROTHERS				RECEIVED:	11/08/82	JA: OK			
8308264	15157	3500700000		108		BOSTON #1	CHESTER (MORROW)	17.6	INTER NORTH INC
-AMERICAN LAND & TRADING CO INC				RECEIVED:	11/05/82	JA: OK			
8308219	17454	3512120727		103		HOPKINS #1	PINE HOLLOW	150.0	DELHI GAS PIPELIN
-AMERICAN LAND & TRADING CO INC				RECEIVED:	11/08/82	JA: OK			
8308283	17453	3512120774		103		WATSON #1	PINE HOLLOW	180.0	DELHI GAS PIPELIN
-ANADARKO PRODUCTION COMPANY				RECEIVED:	11/05/82	JA: OK			
8308223	17509	3501720776		103		MEYER "A" 1-24	PIEDMONT WEST	13.6	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY				RECEIVED:	11/05/82	JA: OK			
8308224	17487	3501121560		103		MEIER #33-1		200.0	OKLAHOMA GAS PIPE
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/09/82	JA: OK			
8308307	19470	3506100000		108		A H COX UNIT #1	KINTA	9.1	OKLAHOMA GAS & EL
-B J DANE OIL & GAS				RECEIVED:	11/10/82	JA: OK			
8308344	17548	3549211110		103		ED PATCHELL #1		2.3	WESTERN CRUDE INC
-BLUE QUAIL ENERGY INC				RECEIVED:	11/05/82	JA: OK			
8308240	17345	3501722244		103		STEWART - #1-1	JENNY LOU	0.0	CONOCO INC
-BOGERT OIL CO				RECEIVED:	11/10/82	JA: OK			
8308345	17524	3507323458		103		GRACE #2-17		180.0	PHILLIPS PETROLEU
-CARL E GUNGOLL				RECEIVED:	11/10/82	JA: OK			
8308355	01744	3504700000		103		BUSH #2	SOONER TREND	90.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	11/09/82	JA: OK			
8308302	17781	3507300000		108		C W O'HERN #1	DOVER-HENNESSEY	8.0	EXXON CO USA
8308306	17899	3500300000		108		GAY-ALLSPACH UNIT #1	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	11/10/82	JA: OK			
8308366	17900	3500300000		108		RALPH SOLF #1	E CHANEY DELL	12.0	CHAMPLIN PETROLEU
-CITIES SERVICE COMPANY				RECEIVED:	11/05/82	JA: OK			
8308239	17345	3500721911		103		BAGGERLY C #2			
-CLASSEN OIL AND GAS COMPANY				RECEIVED:	11/08/82	JA: OK			
8308285	17462	3507323494		103		M C GRIMES 07323494	MOCANE LAVERNE	182.5	COLORADO INTERSTA
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	11/08/82	JA: OK			
8308274	17164	3507300000		103		BOECHER #1	SOONER TREND	0.0	CONOCO OIL CO
8308275	17165	3507322203		103		MARIE #1	E KINGFISHER	12.0	PHILLIPS PETROLEU
-CROUCH PETROLEUM COMPANY				RECEIVED:	11/05/82	JA: OK	E KINGFISHER	12.0	PHILLIPS PETROLEU
8308232	17447	3509120410		103		DICK MARTIN JR #2-29	S E CHECOTAH	108.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308215	17443	3509120333		103		JANEWAY #1-26	S E CHECOTAH	24.0	COLUMBIA GAS TRAN
8308214	17442	3509120313		103		KLOECKLER 1-24	SE CHECOTAH	48.0	COLUMBIA GAS TRAN
8308243	17434	3509120384		103		MARTIN #2	S E CHECOTAH	40.0	COLUMBIA GAS TRAN
8308244	17436	3509120336		103		SIZEMORE #1-35	S E CHECOTAH	135.0	COLUMBIA GAS TRAN
8308216	17445	3509120324		103		STEWART #1	S E CHECOTAH	70.0	COLUMBIA GAS TRAN
8308245	17437	3509120337		103		TURNER #1-35	S E CHECOTAH	36.0	COLUMBIA GAS TRAN
-CUMMINGS OIL CO				RECEIVED:	11/05/82	JA: OK			
8308231	17448	3509322163		103		TAYLOR UNIT #1-12		0.0	AMINOIL USA INC
-DAVIS OIL COMPANY				RECEIVED:	11/10/82	JA: OK			
8308348	17452	3501722214		103		J A WITTROCK #1	TIPPERARY	0.0	PHILLIPS PETROLEU
-DETRITAL OIL				RECEIVED:	11/10/82	JA: OK			
8308350	17315	3504921902		103		B&D #1	NORTH HOOVER	0.0	AMINOIL USA INC
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	11/05/82	JA: OK			
8308234	17052	3507323321		103		HEIMBACH #1-35	SOONER TREND	0.0	ONG WESTERN INC
-EARTH ENERGY RESOURCES INC				RECEIVED:	11/08/82	JA: OK			
8308273	17112	3511921352		103		FLOHR #1A	SOUTHWEST STILLWATER	6.4	SUN GAS TRANSMISS
-EL DORADO DRILLING INC				RECEIVED:	11/05/82	JA: OK			
8308218	17560	3511921568		103		SCOOT #28-81-1		4.4	COLORADO GAS SYST
-EL DORADO DRILLING INC				RECEIVED:	11/09/82	JA: OK			
8308310	17561	3511921316		103		VERTIS-HUGHES #80-1		14.6	COLORADO GAS GATH
8308309	17559	3511921493		103		VIRTES-HUGHES #80-2		16.1	COLORADO GAS GATH
-EL DORADO DRILLING INC				RECEIVED:	11/10/82	JA: OK			
8308371	17562	3511921561		103		VIRTES-PENNY #24-80-1		255.5	COLORADO GAS GATH
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/10/82	JA: OK			
8308364	17822	3512920141		108		PIERCE #1	S E REYDON - HUNTON	22.0	EL PASO NATURAL G
8308365	17823	3502906789		108		PRITCHETT #1	ERICK SOUTH BR DOLOMI	9.9	EL PASO NATURAL G
-ENCINO OIL CORP				RECEIVED:	11/09/82	JA: OK			
8308308	19604	3514900000		107-DP		FULKER #1-4		0.0	
-F C D OIL CORP				RECEIVED:	11/08/82	JA: OK			
8308278	17310	3505320853		103		FRANCIS 1-27	EAST LAMONT	36.5	C R A INC
-FRENCH OIL				RECEIVED:	11/10/82	JA: OK			
8308349	17333	3503100000		103		SCHUMAN #1	PUMPKIN CENTER	0.0	MANN INDUSTRIES I
-GADSCO INC				RECEIVED:	11/10/82	JA: OK			
8308370	21726	3503920763		107-DP		ANDREW #1-5		365.0	TRANSWESTERN PIPE
8308369	21725	3503902072		107-DP		STEPHANIE #1-26		365.0	TRANSWESTERN PIPE
-GODFREY OIL PROPERTIES				RECEIVED:	11/08/82	JA: OK			
8308262	15064	3509500000		108		WARREN JONES #1		1.0	PIONEER GAS PRODU
8308263	15065	3509500000		108		WARREN JONES #2		1.0	PIONEER GAS PRODU
-HARRIS EXPLORATION CO				RECEIVED:	11/05/82	JA: OK			
8308230	17455	3507323249		103		INGLE #2	SOONER TREND	73.0	EXXON CO USA
-HARRY H DIAMOND				RECEIVED:	11/09/82	JA: OK			
8308320	17703	3506300000		108		BIRD #1	GREASY CREEK	4.8	OKLAHOMA GAS & EL
8308321	17704	3506300000		108		COLEMAN #1	GREASY CREEK	5.4	OKLAHOMA GAS & EL
8308299	17705	3506300000		108		STARKS #1	GREASY CREEK	7.3	OKLAHOMA GAS & EL
-HAZELWOOD PRODUCTION & EXPLORATION				RECEIVED:	11/08/82	JA: OK			
8308284	17361	3507122354		103		SINDELAR #1	DILWORTH	104.0	CITIES SERVICE GA
-HEARTLAND EXPLORATION INC				RECEIVED:	11/05/82	JA: OK			
8308242	17432	3504921893		103		STEWART #1-1	EAST WHITEBEAD	30.0	BUCKEYE NATURAL G
-HPC INC				RECEIVED:	11/08/82	JA: OK			
8308276	17239	3501722291		103		SHEDECK #1-35	SOUTHWEST YUKON	182.5	PHILLIPS PETROLEU
-INTER-STATES OIL & GAS INC				RECEIVED:	11/08/82	JA: OK			
8308280	17449	3508720671		103		DESPAIN #1-19		0.0	
-KENNEDY & MITCHELL INC				RECEIVED:	11/10/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308354	02196	3515300000		103		RICHMOND #12-136	QUINLAN NW CHESTER (N	30.0	INTER NORTH INC
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	11/10/82	JA: OK			
8308367	18409	3503920553		103		CITY OF WEATHERFORD 1-34	NW HYDRO	273.7	EL PASO NATURAL G
-MAHAN-ROWSEY INC.				RECEIVED:	11/10/82	JA: OK			
8308356	17574	3504921788		103		SEARCY #1		73.0	WARREN PETROLEUM
-MARLIN OIL CORPORATION				RECEIVED:	11/09/82	JA: OK			
8308300	17749	3500721767		108		SHEPHERD #1	N FOLLETT	9.0	INTER NORTH INC
-MASTERS ENERGY CORP				RECEIVED:	11/05/82	JA: OK			
8308237	17323	3508321980		103		GRAFF "A" 1	SOONER TREND	0.0	CONOCO INC
-MIDCO DRILLING INC				RECEIVED:	11/08/82	JA: OK			
8308267	16879	3507323408		103		SCHROEDER #1	NORTHEAST OKARCHE	100.0	PHILLIPS PETROLEU
-MOBIL OIL CORP				RECEIVED:	11/10/82	JA: OK			
8308363	17816	3504900000		108		J L MASSEGEE #1	GOLDEN TREND	8.8	WARREN PETROLEUM
8308362	17815	3513700000		108		SW V SPRINGER UT 20-11 TX-PECK #1	SHO VEL TUM	0.1	GETTY OIL CO
8308361	17814	3513700000		108		SW V SPRINGER UT9-10 DOAK ZIGLER#10	SHO VEL TUM	0.3	GETTY OIL CO
-MONSANTO COMPANY				RECEIVED:	11/09/82	JA: OK			
8308305	17846	3515320276		108		FERGUSON NO 1	NORTH WOODWARD	6.0	TRANSWESTERN PIPE
-MORAN EXPLORATION INC				RECEIVED:	11/10/82	JA: OK			
8308358	17588	3501722030		103		SMRCKA #4		0.0	PHILLIPS PETROLEU
-NATURAL GAS ANADARKO INC				RECEIVED:	11/05/82	JA: OK			
8308233	17021	3500700000		103		PUGH 1-16	BALKO	9.0	PHILLIPS PETROLEU
-NATURAL GAS ANADARKO INC				RECEIVED:	11/08/82	JA: OK			
8308271	16986	3500722210		103		GILGER 1-12		280.0	PHILLIPS PETROLEU
-NORTEX GAS & OIL CO				RECEIVED:	11/10/82	JA: OK			
8308368	18457	3505921022		102-4		NINE "A" 31 #1	MOCANE-LAVERNE	400.0	INTERNORTH INC
-OIL & GAS LOGISTICS INC				RECEIVED:	11/05/82	JA: OK			
8308220	17552	3503723124		103		ALDRIDGE #6		11.3	PHILLIPS PETROLEU
-P-T LTD 81				RECEIVED:	11/05/82	JA: OK			
8308226	17481	3504722828		103		STAMBUAGH 28-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8308227	17480	3504722837		103		SWAIM 16-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/09/82	JA: OK			
8308303	17802	3504721570		108		APEL B #2	SOONER TREND	15.8	TRANSOK PIPELINE
8308304	17804	3501720644		108		PETERS D #1	N W RICHLAND	17.0	OKLAHOMA GAS & EL
-QUANAH COMPANY				RECEIVED:	11/05/82	JA: OK			
8308235	17254	3507333160		103		HENRY-JOHN #1	SOONER TREND	35.0	PHILLIPS PETROLEU
8308236	17312	3501722151		103		KOWALSKY #1	SOONER TREND	35.0	PHILLIPS PETROLEU
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	11/10/82	JA: OK			
8308359	17593	3507323411		103		AHLEFELD #1	SOONER TREND	159.7	CONOCO INC
-READING & BATES PETROLEUM CO				RECEIVED:	11/10/82	JA: OK			
8308353	03608	3503920260		103		CARL PAYNE #2	SOUTH THOMAS	1460.0	PUBLIC SERVICE CO
-RED EAGLE OIL CO				RECEIVED:	11/05/82	JA: OK			
8308222	17510	3501121658		103		CRAVENS #1		365.0	DELHI GAS PIPELIN
-RED EAGLE OIL CO				RECEIVED:	11/10/82	JA: OK			
8308346	17511	3509322157		103		EDD #1	NORTHWEST FAIRVIEW	73.0	PIONEER GAS PRODU
-RICHARD WHEELER JR				RECEIVED:	11/05/82	JA: OK			
8308221	17551	3508321097		103		FAVOR #1	EAST HULL	2.6	EASON OIL CO
-SAMSON RESOURCES COMPANY				RECEIVED:	11/08/82	JA: OK			
8308265	15337	3507920429		103		REED #3-9-BRAZIL	KINTA	37.4	ARKANSAS LOUISIAN
-SAMSON RESOURCES COMPANY				RECEIVED:	11/10/82	JA: OK			
8308352	15194	3507720231		102-4	103	BROWNE #1-MID-ATOKA	KINTA	54.8	ARKANSAS LOUISIAN
-SAXON OIL COMPANY				RECEIVED:	11/08/82	JA: OK			
8308270	16978	3503120836		107-DP		BULL ELK #1		0.0	MICHIGAN-WISCONSI
-SEARCH DRILLING CO				RECEIVED:	11/05/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8308241	17427	3503920625		103		WILSON FARMS #1-3
-SENECA OIL COMPANY				RECEIVED:	11/05/82	JA: OK
8308217	17694	3501722138		102-4	103	BENNETT #3-20
-SINGER-FLEISCHAKER OIL OPR CO				RECEIVED:	11/08/82	JA: OK
8308281	17450	3502720599		103		POLK #2
8308282	17451	3502720583		103		ROBERTS #3
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/08/82	JA: OK
8308272	17013	3504700000		108		STATE SCHOOL LAND #1-A #1
-SUNDANCE ENERGY CORP				RECEIVED:	11/08/82	JA: OK
8308268	16925	3504721648		103		SEBRANEK #2-A
8308269	16925	3504721646		103		SEBRANEK 3A
-TENNECO OIL COMPANY				RECEIVED:	11/05/82	JA: OK
8308225	17486	3512120863		103		CABLE #1-18
-TENNECO OIL COMPANY				RECEIVED:	11/08/82	JA: OK
8308279	17336	3507720224		102-4		PIERCE #1-30
-TEXACO INC				RECEIVED:	11/08/82	JA: OK
8308266	16387	3515121253		103		BIXLER "C" #2
-TEXACO INC				RECEIVED:	11/09/82	JA: OK
8308301	17750	3513900000		108		E L ADDINGTON #1
-TRANS GLOBAL ENTERPRISES INC				RECEIVED:	11/10/82	JA: OK
8308357	17586	3507122448		103		HOLMAN #2
-TRIGG DRILLING COMPANY INC				RECEIVED:	11/08/82	JA: OK
8308286	17512	3508720742		103		JOHN BAILEY #2
8308287	17514	3508720766		103		PERKINS #1
-UNION TEXAS PETROLEUM				RECEIVED:	11/05/82	JA: OK
8308238	17330	3500320962		103		CURTIS MARLEY #2
-UNION TEXAS PETROLEUM				RECEIVED:	11/10/82	JA: OK
8308347	17466	3504722975		103		C V MILACEK #2
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	11/05/82	JA: OK
8308229	17473	3504321287		103		SQUIRES #1
-VINCO PRODUCTION				RECEIVED:	11/10/82	JA: OK
8308351	16581	3511100000		103		PAYNE #1
-VULCAN ENERGY CORP				RECEIVED:	11/08/82	JA: OK
8308277	17294	3508321906		103		BRYSON #1
-VULCAN OIL & GAS CORPORATION				RECEIVED:	11/08/82	JA: OK
8308288	17575	3511721050		103		CARRIGER #1
8308289	17576	3511721414		103		PEACOCK #7
8308290	17577	3511721423		103		STONEWALL #19
-VULCAN OIL & GAS CORPORATION				RECEIVED:	11/09/82	JA: OK
8308314	17581	3511721302		103		STONEWALL #10
8308313	17580	3511721344		103		STONEWALL #13
8308312	17579	3511721422		103		STONEWALL #15
8308311	17578	3511721450		103		STONEWALL #17
8308318	17585	3511721232		103		STONEWALL #4
8308317	17584	3511721233		103		STONEWALL #5
8308316	17583	3511721234		103		STONEWALL #6
8308315	17582	3511721354		103		STONEWALL #8
-WALKER CORP				RECEIVED:	11/09/82	JA: OK
8308319	17596	3501722211		103		MAIKA 9-2
-WALKER CORP				RECEIVED:	11/10/82	JA: OK
8308360	17597	3501722200		103		BERNARD PHILLIPS 26-1
-WESTERN OIL RESOURCES LTD				RECEIVED:	11/05/82	JA: OK
8308228	17479	3511721030		103		NEJ 1-24

FIELD NAME	PROD	PURCHASER
SE ALEDO	481.0	DELHI GAS PIPELIN
	912.5	PHILLIPS PETROLEU
	0.0	SUN GAS CO
	0.0	SUN GAS CO
S E ZION	15.0	ARKANSAS-LOUISIAN
GARBER	1.0	ARCO OIL & GAS CO
GARBER	1.0	ARCO OIL & GAS CO
S BREWER	844.0	TENNESSEE GAS PIP
BUZZARD GAP	187.0	
WAYNOKA NE	76.6	CITIES SERVICE GA
CARTHAGE N W	4.3	PANHANDLE EASTERN
EAST BLACKWELL	1.0	CORONADO TRANSMIS
WALNUT CREEK	100.0	
WALNUT CREEK	100.0	
HODGE AREA	219.0	PANHANDLE EASTERN
HODGE	146.0	PANHANDLE EASTERN
S E LENORA	280.0	PANHANDLE EASTERN
	0.0	PHILLIPS PETROLEU
SOONER TREND	21.9	EASON OIL CO
TERLTON NORTH	36.5	H J D CATTLE CO
TERLTON NORTH	36.5	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	36.5	E J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	3.7	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
N E BRYAN	36.5	H J D CATTLE CO
YUKON	160.0	CONOCO INC
YUKON	146.0	CONOCO INC
JENNINGS	5.7	MID-AMERICA GAS L

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-CABOT OIL & GAS CORP				RECEIVED:	11/05/82	JA: WV			
8308151		4703903781		107-DV		BERRY HILLS LAND #5	WASHINGTON	21.0	TENNESSEE GAS PIP
8308181		4703903781		103		BERRY HILLS LAND #5	WASHINGTON	21.0	TENNESSEE GAS PIP
8308155		4703501577		107-DV		BROTHERTON #1	RIPLEY	15.0	TENNESSEE GAS PIP
8308180		4703501577		103		BROTHERTON #1	RIPLEY	15.0	TENNESSEE GAS PIP
8308153		4700500451		107-DV		H C BALLARD #4	SCOTT	15.0	TENNESSEE GAS PIP
8308152		4703903768		107-DV		TYLER #1	JEFFERSON	20.0	TENNESSEE GAS PIP
8308182		4703903768		103		TYLER #1	JEFFERSON	20.0	TENNESSEE GAS PIP
-CARSON PETROLEUM CORP				RECEIVED:	11/05/82	JA: WV			
8308150		4704102962		108		L L D PETERS #3A	INDIAN FORK	12.0	CONSOLIDATED GAS
8308149		4701702666		108		SEVERIN #2A	ST CLAIR	13.0	CONSOLIDATED GAS
8308154		4701703025		107-DV		SMITH #4A	ST CLAIR	25.0	COLUMBIA GAS TRAN
-CHASE PETROLEUM				RECEIVED:	11/05/82	JA: WV			
8308188		4703302448		107-DV		BURNSIDE #1	TENMILE DISTRICT	30.0	
8308187		4703302449		107-DV		BURNSIDE #2	TENMILE DISTRICT	30.0	
8308194		4701703006		107-DV		CHARLES PRIMM #1	CENTRAL DISTRICT	20.0	
8308186		4703302489		107-DV		DOLAN #1	TENMILE DISTRICT	15.0	
8308195		4701702820		107-DV		HOSKINSON #1	GRANT DISTRICT	5.0	CONSOLIDATED GAS
8308196		4701703027		107-DV		LEGGETT #2	CENTRAL DISTRICT	30.0	COLUMBIA GAS TRAN
8308190		4703302228		107-DV		LEONARD #1	TENMILE DISTRICT	30.0	CONSOLIDATED GAS
8308185		4703302635		107-DV		ROBINSON #1	TENMILE DISTRICT	20.0	
8308192		4704103152		107-DV		SPICER #1	HACKERS CREEK DISTRIC	10.0	
8308191		4704102871		107-DV		STALNAKER #2	COURTHOUSE DISTRICT	40.0	CONSOLIDATED GAS
8308201		4704102898		107-DV		STALNAKER #3	COURTHOUSE DISTRICT	20.0	CONSOLIDATED GAS
8308193		4704102888		107-DV		STALNAKER #4	COURTHOUSE DISTRICT	20.0	CONSOLIDATED GAS
8308198		4704102889		107-DV		STALNAKER #5	COURTHOUSE DISTRICT	20.0	CONSOLIDATED GAS
8308199		4704102890		107-DV		STALNAKER #6	COURTHOUSE AND SKIN C	20.0	CONSOLIDATED GAS
8308200		4704102891		107-DV		STALNAKER #7	SKIN CREEK DISTRICT	20.0	CONSOLIDATED GAS
8308197		4703302659		107-DV		WHITE BROOKS #1	GRANT DISTRICT	15.0	
8308164		4703302701		103		WHITE-BROOKS #2	GRANT DISTRICT	15.0	
8308189		4703302701		107-DV		WHITE-BROOKS #2	GRANT DISTRICT	15.0	
-CHESTERFIELD CORP				RECEIVED:	11/05/82	JA: WV			
8308184		4709702143		103		KESLING #1 - 47-097-2143		1447.0	PARTNERSHIP PROPE
8308183		4700101458		103		RADABAUGH #1 - 47-001-1458		1144.0	PARTNERSHIP PROPE
-CITIES SERVICE COMPANY				RECEIVED:	11/05/82	JA: WV			
8308148		4710900842		107-TF		BAILEY "A" #3	GILBERT	912.5	COLUMBIA GAS TRAN
8308163		4704700838		107-TF		CHEMICAL BANK "A" #1	BRADSHAW	72.0	
8308160		4704700837		107-TF		CHEMICAL BANK "A" #2	BRADSHAW	21.6	
8308162		4704700853		107-TF		CHEMICAL BANK "A" #3	BRADSHAW	67.0	
8308161		4704700854		107-TF		CHEMICAL BANK "A" #4	BRADSHAW	26.0	
8308159		4701900456		103		HARRAH "A" #1	CAULEY	61.0	EQUITABLE GAS CO
8308145		4704700841		107-TF		LOPIN "A" #1	BRADSHAW	44.0	CONSOLIDATED GAS
8308146		4704700842		107-TF		LOPIN "A" #2	BRADSHAW	26.0	CONSOLIDATED GAS
8308158		4701702990		103		MAXWELL "A" #75	SMITHBURG	50.0	CONSOLIDATED GAS
8308147		4710900841		107-TF		RAMSAY COAL CO "A" #5	GILBERT	106.9	COLUMBIA GAS TRAN
8308165		4708100554		107-DV		ROWLAND "A" #46	CLEARFORK	500.0	COLUMBIA GAS TRAN
-INLAND EXPLORATION INC				RECEIVED:	11/05/82	JA: WV			
8308157		4708525335		107-DV		GRADY #1	UNION	15.0	ROARING FORK GAS
8308156		4708525359		107-DV		TINGLER #1-A	UNION	18.0	ROARING ROCK GAS
-STERLING DRILLING & PROD CO INC				RECEIVED:	11/05/82	JA: WV			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308212		4700701619		108		MCCUMBERS #419	BIRCH DISTRICT	18.0	EQUITABLE GAS CO
8308211		4701501827		108		MULLINS #306	BUFFALO DISTRICT	42.4	EQUITABLE GAS CO
8308213		4701501830		108		MULLINS #309	BUFFALO DISTRICT	9.4	EQUITABLE GAS CO
-STONESTREET LANDS CO				RECEIVED:	11/05/82	JA: WV			
8308176		4701501926		103		A J STARCHER #1-S-163	ELMIRA	23.0	COLUMBIA GAS TRAN
8308172		4701501978		103		E BOGGS #1-S-164	ELMIRA	20.0	COLUMBIA GAS TRAN
8308169		4701501984		103		E H DOTSON #1-S-229	ELMIRA	18.0	COLUMBIA GAS TRAN
8308175		4701501949		103		E SNIDER #1-S-194	ELMIRA	25.0	COLUMBIA GAS TRAN
8308174		4701501976		103		E SNODGRASS #1-S-192	ELMIRA	18.0	COLUMBIA GAS TRAN
8308173		4701501997		103		EARL SNODGRASS #2-S-197	ELMIRA	22.0	COLUMBIA GAS TRAN
8308179		4701501913		103		ROYALTY #1-S-122	ELMIRA	24.0	COLUMBIA GAS TRAN
8308171		4701501981		103		SHOMO #1-S-207	ELMIRA	22.0	COLUMBIA GAS TRAN
8308170		4701501983		103		SHOMO #2-S-222	ELMIRA	20.0	COLUMBIA GAS TRAN
8308168		4701501998		103		TWO B F MURPHY #1-S-242	ELMIRA	18.0	COLUMBIA GAS TRAN
8308178		4701501923		103		WAVIE STARCHER #1-S-189	ELMIRA	30.0	COLUMBIA GAS TRAN
8308177		4701501924		103		WAVIE STARCHER #2-S-190	ELMIRA	25.0	COLUMBIA GAS TRAN
-THOMAS HALLORAN ASSOCIATES				RECEIVED:	11/05/82	JA: WV			
8308166		4710700953		107-DV		FRANK WELTER #1	UNION	12.0	COLUMBIA GAS TRAN
8308167		4710700953		103		FRANK WELTER #1		12.0	COLUMBIA GAS TRAN
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
**********									
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/08/82	JA: CO 1			
8308325	CD0434-82	0506706240		107-TF		SOUTHERN UTE #1-5 32-9 (TF)	IGNACIO BLANCO	244.0	NORTHWEST PIPELIN
8308333	CD0438-82	0506706238		107-TF		SOUTHERN UTE #11-4 32-9 (TF)	IGNACIO BLANCO	145.0	NORTHWEST PIPELIN
8308329	CD0429-82	0506706251		107-TF		SOUTHERN UTE #12-5 32-8 (TF)	IGNACIO BLANCO	74.0	WESTERN SLOPE GAS
8308342	CD0444-82	0506706385		107-TF		SOUTHERN UTE #14-2 32-9 (TF)	IGNACIO BLANCO	388.0	NORTHWEST PIPELIN
8308343	CD0445-82	0506706345		107-TF		SOUTHERN UTE #14-3 32-9 (TF)	IGNACIO BLANCO	344.0	NORTHWEST PIPELIN
8308335	CD0447-82	0506706346		107-TF		SOUTHERN UTE #14-4 32-9 (TF)	IGNACIO BLANCO	175.0	NORTHWEST PIPELIN
8308336	CD0448-82	0506706352		107-TF		SOUTHERN UTE #15-4 32-9 (TF)	IGNACIO BLANCO	308.0	NORTHWEST PIPELIN
8308324	CD 0435-82	0506706303		107-TF		SOUTHERN UTE #2-4 32-9 (TF)	IGNACIO BLANCO	278.0	NORTHWEST PIPELIN
8308328	CD0430-82	0506706267		107-TF		SOUTHERN UTE #20-1 32-9 (TF)	IGNACIO BLANCO	91.0	WESTERN SLOPE GAS
8308334	CD0446-82	0506706268		107-TF		SOUTHERN UTE #20-2 32-9 (TF)	IGNACIO BLANCO	214.0	WESTERN SLOPE GAS
8308331	CD0422-82	0506706183		107-TF		SOUTHERN UTE #21-1 32-9 (TF)	IGNACIO BLANCO	265.0	WESTERN SLOPE GAS
8308340	CD-0423-82	0506706383		107-TF		SOUTHERN UTE #21-2 32-9 (TF)	IGNACIO BLANCO	405.0	WESTERN SLOPE GAS
8308332	CD0439-82	0506706370		107-TF		SOUTHERN UTE #21-3 32-9 (TF)	IGNACIO BLANCO	309.0	WESTERN SLOPE GAS
8308337	CD0426-82	0506706262		107-TF		SOUTHERN UTE #22-1 32-9 (TF)	IGNACIO BLANCO	262.0	WESTERN SLOPE GAS
8308326	CD0425-82	0506706428		107-TF		SOUTHERN UTE #22-2 32-9 (TF)	IGNACIO BLANCO	351.0	WESTERN SLOPE GAS
8308339	CD0428-82	0506706407		107-TF		SOUTHERN UTE #22-3 32-9 (TF)	IGNACIO BLANCO	360.0	WESTERN SLOPE GAS
8308327	CD0431-82	0506706261		107-TF		SOUTHERN UTE #23-1 32-9 (TF)	IGNACIO BLANCO	385.0	WESTERN SLOPE GAS
8308330	CD0424-82	0506706180		107-TF		SOUTHERN UTE #24-1 32-9 (TF)	IGNACIO BLANCO	132.0	WESTERN SLOPE GAS
8308338	CD0427-82	0506706351		107-TF		SOUTHERN UTE #24-2 32-9 (TF)	IGNACIO BLANCO	348.0	WESTERN SLOPE GAS
8308323	CD 0436-82	0506706308		107-TF		SOUTHERN UTE #31-2 33-8 (TF)	IGNACIO BLANCO	36.0	NORTHWEST PIPELIN
8308322	CD 0437-82	0506706375		107-TF		SOUTHERN UTE #32-2 33-8 (TF)	IGNACIO BLANCO	136.0	NORTHWEST PIPELIN
8308341	CD-0462-82	0506706473		107-TF		SOUTHERN UTE 17-2 32-11 (TF)	IGNACIO BLANCO	170.0	WESTERN SLOPE GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33696 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 7, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-CHASE PETROLEUM			RECEIVED:	11/08/82		JA: WV			
8308379		4708504834		107-DV		BEN MCCULLOUGH #1	CLAY DISTRICT	67.5	CONSOLIDATED GAS
8308373		4708504835		107-DV		BEN MCCULLOUGH #2	CLAY DISTRICT	73.8	CONSOLIDATED GAS
8308376		4701702788		107-DV		BRITTON-LEGGETT #2	CENTRAL DISTRICT	121.5	CONSOLIDATED GAS
8308378		4708504876		107-DV		BRITTON-LEGGETT #3	CLAY DISTRICT	90.0	CONSOLIDATED GAS
8308372		4708504971		107-DV		BYHAM #1	UNION DISTRICT	29.0	
8308382		4708505080		107-DV		DELANCEY #1	CLAY DISTRICT	0.0	
8308381		4708505195		107-DV		ELDER #1	CLAY DISTRICT	28.0	
8308386		4708505259		107-DV		ELLIS #1	CLAY DISTRICT	0.0	
8308388		4708505239		107-DV		FOX-NEWBROUGH #1	CLAY DISTRICT	20.0	
8308377		4701702541		107-DV		GARRETT #1	GREENBRIER DISTRICT	30.0	CONSOLIDATED GAS
8308385		4708505206		107-DV		HARRIS-IRELAND #1	UNION DISTRICT	15.0	
8308380		4708505199		107-DV		HARRIS-REXROAD #1	UNION DISTRICT	0.0	
8308387		4708505260		107-DV		HAYMOND #1	CLAY DISTRICT	25.0	
8308384		4708505217		103		RUSSELL WILSON #1	UNION DISTRICT	10.0	
-CITIES SERVICE COMPANY			RECEIVED:	11/08/82		JA: WV			
8308374		4710500916		107-DV		CABOT "A" #2	FLAT FORK	11.0	
8308375		4703501630		107-DV		KIRKPATRICK "A" #1	FLATFORK	36.0	
8308383		4708703452		107-DV		MCCLUNG "A" #1	FLATFORK	20.0	
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	11/08/82		JA: WV			
8308435		4703301603		108		A A POST WN-8175	UNION	2.0	GENERAL SYSTEM PU
8308462		4704102716		108		A A ROHRBAUGH WN-8434	FREEMANS CREEK	2.0	GENERAL SYSTEM PU
8308399		4700100386		108		A H HUDKINS WN-10972	ELK	13.0	GENERAL SYSTEM PU
8308451		4703301406		108		A J LODGE WN-4276	BRIDGEPORT	2.0	GENERAL SYSTEM PU
8308501		4701701928		108		A NEELY EST WN-1843	SALEM	19.0	GENERAL SYSTEM PU
8308437		4704100042		108		A P WHITE WN-8385	FREEMANS CREEK	3.0	GENERAL SYSTEM PU
8308472		4703300544		108		A W RHODES WN-11293	UNION	5.0	GENERAL SYSTEM PU
8308421		4700100284		108		ABNER STOUT WN-10781	ELK	1.0	GENERAL SYSTEM PU
8308470		4700500918		108		ALBERT H COLE WN-10314	SHERMAN	2.0	GENERAL SYSTEM PU
8308469		4700500925		108		ALBERT H COLE WN-10315	SHERMAN	2.0	GENERAL SYSTEM PU
8308486		4702103090		108		ALBERT VAN HORN WN-6580	CENTER	16.0	GENERAL SYSTEM PU
8308505		4701701519		108		ALICE GIBSON WN-11007	GRANT	3.0	GENERAL SYSTEM PU
8308477		4703300117		108		ALISON BARTLETT HEIRS WN-11044	COAL	1.0	GENERAL SYSTEM PU
8308481		4703300049		108		ANITA B GOFF BARTLETT WN-11056	COAL	1.0	GENERAL SYSTEM PU
8308480		4703300070		108		ANITA B GOFF ETAL WN-11055	COAL	1.0	GENERAL SYSTEM PU
8308422		4700100205		108		ARTIE J COLE WN-10712	PLEASANTS	20.0	GENERAL SYSTEM PU
8308401		4700100527		108		BEATRICE C HOPKINS WN-11269	UNION	1.0	GENERAL SYSTEM PU
8308407		4700100578		108		BEATRICE POLING WN-11473	PLEASANT	16.0	GENERAL SYSTEM PU
8308466		4702103088		108		BENNETT-SHOCK WN-6539	CENTER	10.0	GENERAL SYSTEM PU
8308488		4702103073		108		BOGGS-PEARCY WN-6013	CENTER	3.0	GENERAL SYSTEM PU
8308460		4704500041		108		BOONE COUNTY COAL CORP WN-9255	LOGAN	19.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308457		4704500271		108		BOONE COUNTY COAL CORP WN-9678	LOGAN	2.0	GENERAL SYSTEM PU
8308408		4700100583		108		BOYD H EVERSON WN-11492	PHILIPPI	14.0	GENERAL SYSTEM PU
8308440		4704100746		108		BRIDGET CUMMINGS WN-8463	COURT HOUSE	1.0	GENERAL SYSTEM PU
8308459		4704500225		108		BRUCE MCDONALD HOLDING CO WN-9387	TRIADELPHIA	7.0	GENERAL SYSTEM PU
8308458		4704500226		108		BRUCE MCDONALD HOLDING CORP WN-9388	TRIADELPHIA	3.0	GENERAL SYSTEM PU
8308419		4700100356		108		BURTON A ROY WN-10920	ELK	11.0	GENERAL SYSTEM PU
8308394		4701004790		108		BURTON A ROY WN-11187	ELK	9.0	GENERAL SYSTEM PU
8308509		4701301435		108		C A COLLINS WN-9983	SHERIDAN	2.0	GENERAL SYSTEM PU
8308420		4700100258		108		C M BOWMAR WN-10775	PHILIPPI	13.0	GENERAL SYSTEM PU
8308438		4703301548		108		C N SWIGER WN-8018	UNION	2.0	GENERAL SYSTEM PU
8308489		4702103071		108		C W FISHER WN-5985	TROY	1.0	GENERAL SYSTEM PU
8308506		4701302728		108		CARRIE WELBORN WN-8997	WASHINGTON	4.0	GENERAL SYSTEM PU
8308502		4701701896		108		D C STOUT WN 12477	SOUTHWEST DISTRICT	19.0	GENERAL SYSTEM PU
8308434		4700100203		108		D DICKENSON WN-10675	ELK	11.0	GENERAL SYSTEM PU
8308464		4704101426		108		D H BONNETT WN-10055	HACKERS CREEK	4.0	GENERAL SYSTEM PU
8308426		4700100246		108		DEMETRIUS DICKENSON WN-10752	ELK	15.0	GENERAL SYSTEM PU
8308411		4700100378		108		DORIS C STOUT WN-10959	UNION	19.0	GENERAL SYSTEM PU
8308468		4701300593		108		E C KNOTTS WN-8546	WASHINGTON	3.0	GENERAL SYSTEM PU
8308452		4703301402		108		E C TETRICK WN-4146	SARDIS	6.0	GENERAL SYSTEM PU
8308403		4700100542		108		ESTHER E OBRIEN WN-11289	UNION	13.0	GENERAL SYSTEM PU
8308395		4701004800		108		ETHEL CALIHAN WN-11189	ELK	15.0	GENERAL SYSTEM PU
8308400		4700100511		108		F L PHILLIPS WN-11403	PLEASANT	2.0	GENERAL SYSTEM PU
8308398		4701005030		108		GENERAL G PROUDFOOT WN-11191	PLEASANT	9.0	GENERAL SYSTEM PU
8308410		4700100606		108		GERALD OVERFIELD WN-11506	WEST	14.0	GENERAL SYSTEM PU
8308414		4700100357		108		GLEN G DOUGLAS WN-10919	ELK	5.0	GENERAL SYSTEM PU
8308507		4701302484		108		GRANT ROBERTS WN-11375	CENTER	2.0	GENERAL SYSTEM PU
8308474		4703300427		108		GUINN MINTER WN-10852	UNION	6.0	GENERAL SYSTEM PU
8308500		4701900095		108		GUY D BROWN WN-9999	FALLS	15.0	GENERAL SYSTEM PU
8308415		4700100287		108		H R GEORGE WN-10814	UNION	0.3	GENERAL SYSTEM PU
8308428		4700100037		108		H T WINANS WN-8999	UNION	4.0	GENERAL SYSTEM PU
8308443		4703301519		108		H W CARTER WN-7946	CLARK	5.0	GENERAL SYSTEM PU
8308478		4703300099		108		HAM EDWARDS WN-8028	UNION	1.0	GENERAL SYSTEM PU
8308396		4701004900		108		HARRISON RITCHIE OIL & GAS CO WN-1*	PHILIPPI	7.0	GENERAL SYSTEM PU
8308423		4700100229		108		HERBERT BENNETT WN-10740	UNION	12.0	GENERAL SYSTEM PU
8308508		4701302404		108		HUNTER M BENNETT WN-11149	SHERMAN	17.0	GENERAL SYSTEM PU
8308487		4702103078		108		I N HARDMAN WN-6127	CENTER	5.0	GENERAL SYSTEM PU
8308498		4703300538		108		J A HARDWAY WN-11265	UNION	3.0	GENERAL SYSTEM PU
8308491		4702102255		108		J D SMITH WN-11530	DEKALB	3.0	GENERAL SYSTEM PU
8308454		4703300551		108		J K MUSSER WN-11310	GRANT	6.0	GENERAL SYSTEM PU
8308430		4700100046		108		J L BRYAN WN-9069	UNION	5.0	GENERAL SYSTEM PU
8308504		4701701667		108		J T & RUTH A CARTER WN-11180	GRANT	4.0	GENERAL SYSTEM PU
8308476		4703300244		108		JACKSON ARNOLD WN-10345	ELK	11.0	GENERAL SYSTEM PU
8308450		4703301424		108		JACKSON ARNOLD WN-4803	BRIDGEPORT	2.0	GENERAL SYSTEM PU
8308475		4703300262		108		JAMES A ROBEY WN-11062	EAGLE	13.0	GENERAL SYSTEM PU
8308439		4704100706		108		JAMES R MCCLAIN WN-10317	COLLINS SETTLEMENT	10.0	GENERAL SYSTEM PU
8308463		4704102327		108		JOHN CASEY WN-8251	FREEMANS CREEK	4.0	GENERAL SYSTEM PU
8308436		4703301608		108		JOHN W MCKINLEY WN-8185	UNION	5.0	GENERAL SYSTEM PU
8308427		4700100254		108		JOHNSON -PITZER WN-10754	COVE	5.0	GENERAL SYSTEM PU
8308473		4703300461		108		KATHRYN L ELB WN-10947	ELK	13.0	GENERAL SYSTEM PU
8308432		4700100078		108		L C STOUT WN-9869	UNION	2.0	GENERAL SYSTEM PU
8308405		4700100559		108		L DOW PHILLIPS WN-11384	PLEASANTS	16.0	GENERAL SYSTEM PU
8308467		4701300844		108		L S WITT WN-8971	WASHINGTON	13.0	GENERAL SYSTEM PU
8308513		4745000803		108		LAWSON HEIRS INC WN-10344	LOGAN	12.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308449		4703301461		108		LEEMAN MAXWELL WN-3529	KENNEDY	5.0	GENERAL SYSTEM PU
8308391		4713010350		108		LILLIE L KNOTTS WN-9383	LEE	14.0	GENERAL SYSTEM PU
8308490		4702103068		108		LOHAN PEARCY WN-5868	CENTER	3.0	GENERAL SYSTEM PU
8308485		4702103528		108		LOHAN-PEARCY WN-5753	CENTER	6.0	GENERAL SYSTEM PU
8308424		4700100232		108		LONNIE E WOLFE WN-10741	PHILIPPI	15.0	GENERAL SYSTEM PU
8308495		4721011230		108		LOUIS BENNETT WN-10209	CENTER	8.0	GENERAL SYSTEM PU
8308493		4702101996		108		LOUIS BENNETT WN-11161	CENTER	17.0	GENERAL SYSTEM PU
8308511		4701301103		108		LOUIS BENNETT WN-9644	SHERMAN	3.0	GENERAL SYSTEM PU
8308497		4702100961		108		LOUIS BENNETT WN-9830	CENTER	1.0	GENERAL SYSTEM PU
8308496		4702101034		108		LOUIS BENNETT WN-9958	CENTER	6.0	GENERAL SYSTEM PU
8308425		4700100242		108		LUCILLE C CHESSER WN-10743	PHILIPPI	16.0	GENERAL SYSTEM PU
8308456		4703300000		108		M S BLAIR WN-6948	ELK	7.0	GENERAL SYSTEM PU
8308503		4701701807		108		M T WILLIAMS WN 12117	GREENBRIER DISTRICT	21.0	GENERAL SYSTEM PU
8308409		4700100594		108		MARTHA D STRADER WN-11226	UNION	8.0	GENERAL SYSTEM PU
8308393		4700100460		108		MARYHA D STRADER WN-10923	UNION	10.0	GENERAL SYSTEM PU
8308510		4701301313		108		MCKINLEY-SIMMONS WN-9921	LEE	2.0	GENERAL SYSTEM PU
8308512		4701700130		108		MRS W S HADDOX WN-4933	PINE GROVE	18.0	GENERAL SYSTEM PU
8308471		4700100607		108		MYRON B HYMES WN-11517	WEST	13.0	GENERAL SYSTEM PU
8308479		4703300075		108		N E DAVIS WN-11050	EAGLE	9.0	GENERAL SYSTEM PU
8308494		4702101836		108		NELSON D MATTHEW WN-10834	DEKALB	1.0	GENERAL SYSTEM PU
8308429		4700100040		108		NEWTON ANGLIN WN-9046	ELK	3.0	GENERAL SYSTEM PU
8308483		4703300021		108		NORVAL E DAVIS WN-11051	EAGLE	2.0	GENERAL SYSTEM PU
8308482		4703300022		108		NORVEL DAVIS WN-11049	EAGLE	5.0	GENERAL SYSTEM PU
8308417		4700100352		108		OCTAVIA BOYLES WN-10908	PHILIPPI	18.0	GENERAL SYSTEM PU
8308392		4701004320		108		ORMA CASTO WN-11034	UNION	19.0	GENERAL SYSTEM PU
8308389		4705500083		102-2		POCAHONTAS LAND 12715	ROCK	7.0	GENERAL SYSTEM PU
8308444		4703301510		108		PORTER MAXWELL WN-7866	GRANT	1.0	GENERAL SYSTEM PU
8308397		4700100502		108		RICHARD STUART WN-11199	ELK	6.0	GENERAL SYSTEM PU
8308455		4703305490		108		ROBINSON - SMITH WN-11298	GRANT	6.0	GENERAL SYSTEM PU
8308447		4703301474		108		S D GORE HEIRS WN-7406	COAL	4.0	GENERAL SYSTEM PU
8308412		4700100361		108		SALLIE PAUGH WN-10934	UNION	15.0	GENERAL SYSTEM PU
8308448		4703301471		108		SIMON B SWIGER EN-7387	SARDIS	3.0	GENERAL SYSTEM PU
8308446		4703301475		108		SOLOMON D GORE WN-7409	EAGLE	4.0	GENERAL SYSTEM PU
8308404		4700100544		108		STALNAKER-SMITH WN-11316	PLEASANT	9.0	GENERAL SYSTEM PU
8308413		4700100359		108		STEPHEN C BIESCZAD WN-10918	ELK	8.0	GENERAL SYSTEM PU
8308465		4704101494		108		SUSAN R HALL WN-10850	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8308390		4701300936		108		THOS J WOLVERTON WN-9106	SHERIDAN	2.0	GENERAL SYSTEM PU
8308442		4703301520		108		TILTON T CARTER WN-7947	CLARK	3.0	GENERAL SYSTEM PU
8308499		4701900197		108		VANETTA LAND CO WN-11457	FALLS	7.0	GENERAL SYSTEM PU
8308433		4700100150		108		VIRGINIA B POLING WN-10410	PHILIPPI	10.0	GENERAL SYSTEM PU
8308406		4700100570		108		VIVIAN GRUBBS WN-11402	ELK	14.0	GENERAL SYSTEM PU
8308445		4733015060		108		W G ALLEN WN-7759	SARDIS	6.0	GENERAL SYSTEM PU
8308431		4700100049		108		W L MORRISON WN-9068	UNION	10.0	GENERAL SYSTEM PU
8308461		4704102717		108		W S WHITE WN-8443	FREEMANS CREEK	2.0	GENERAL SYSTEM PU
8308441		4703301544		108		W WILLIAMS WN-8011	UNION	4.0	GENERAL SYSTEM PU
8308484		4703300012		108		WARREN W REYNOLDS WN-11059	COAL	4.0	GENERAL SYSTEM PU
8308416		4700100329		108		WILBUR CASTO WN-10868	UNION	17.0	GENERAL SYSTEM PU
8308418		4700100353		108		WILBUR CASTO WN-10913	UNION	12.0	GENERAL SYSTEM PU
8308492		4702102060		108		WORTHY DAVIS WN-11234	CENTER	5.0	GENERAL SYSTEM PU
8308453		4703301273		108		Z W MORRIS WN-1003	UNION	17.0	GENERAL SYSTEM PU
8308402		4700100533		108		ZONA J NUZUM WN-11279	UNION	9.0	GENERAL SYSTEM PU

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 273.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108.: Stripped wall
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33897 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 7, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES **********									
-ADOBE OIL & GAS CORPORATION			RECEIVED:	11/12/82		JA: PA			
8308737	18039	3702120173	103			ALLAN VARNER #1	HASTINGS	24.0	COLUMBIA GAS TRAN
8308571	17826	3700522295	108			ELANORE MONTGOMERY #1	ELDERTON	10.0	INDUSTRIAL ENERGY
8308573	17829	3700522359	108			FRANK S THOMPSON #2	ELDERTON	9.0	INDUSTRIAL ENERGY
8308736	18037	3703321393	103			HENNETH HARCHICK #2	HASTINGS	25.0	COLUMBIA GAS TRAN
8308572	17828	3712921536	108			LOUISE DEFORNO #1	SALINA	17.0	INDUSTRIAL ENERGY
8308574	17830	3713121547	108			SAMUEL P LONG #1	SALTSBURG	1.0	INDUSTRIAL ENERGY
8308735	18036	3706327107	103			STANLEY CHILENSKI #1	CLYMER	25.0	COLUMBIA GAS TRAN
8308575	17831	3712921580	108			VERNA S POOLE #1	GREENSBURG	40.0	INDUSTRIAL ENERGY
-ALCOVE INVESTMENTS			RECEIVED:	11/12/82		JA: PA			
8308631	17908	3700522634	103			M J & O C HILTY #1	COWANSHANNOCK	25.0	
8308630	17907	3700522725	103			M J & O C HILTY #2	COWANSHANNOCK	25.0	
-ANGERMAN ASSOCIATES INC			RECEIVED:	11/12/82		JA: PA			
8308545	17765	3700522393	108			W B & G J RISHEL #1 - ARM-22393	W PENNA - UPPER DEVON	8.6	INDUSTRIAL ENERGY
-BARON CREST ENERGY PROGRAM #3			RECEIVED:	11/12/82		JA: PA			
8308669	17664	3700522489	103			CREST LAND CO & PENN PARK DEV #3	APOLLO	1.8	PEOPLES NATURAL G
8308528	17666	3700522491	103			CRESTLAND & PENN PARK #5	APOLLO	1.8	PEOPLES NATURAL G
-BARON CREST ENERGY PROGRAM NO 2			RECEIVED:	11/12/82		JA: PA			
8308670	17665	3700522441	103			CREST LAND CO & PENN PARK DEV #2	APOLLO	2.5	PEOPLES NATURAL G
-BOYD & SHRIVER			RECEIVED:	11/12/82		JA: PA			
8308652	16933	3706326945	103			JOHNSTON - #526	EAST MAHONING	0.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP			RECEIVED:	11/12/82		JA: PA			
8308655	17124	3703921702	102-2			ANNA BOYLE #1	WAYNE	50.0	TENNESSEE GAS PIP
8308656	17125	3703921702	107-TF			ANNA BOYLE #1	WAYNE	50.0	TENNESSEE GAS PIP
8308653	17122	3703921711	107-TF			GROVER HEFFERNAN #2	WAYNE	50.0	TENNESSEE GAS PIP
8308654	17123	3703921711	102-2			GROVER HEFFERNAN #2	WAYNE	50.0	TENNESSEE GAS PIP
8308663	17580	3708520423	107-TF			HERMAN KAMIN #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8308664	17581	3708520423	102-2			HERMAN KAMIN #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8308665	17582	3708520447	107-TF			HUGH HOLLABAUGH #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8308666	17583	3708520447	102-2			HUGH HOLLABAUGH #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-CARDINAL OIL CO			RECEIVED:	11/12/82		JA: PA			
8308643	14906	3703921513	107-TF			HENDERSON #1 81-67 PA PER CRA-21513	CONNEAUT	0.0	COLUMBIA GAS TRAN
8308644	14908	3703900000	107-TF			R ERTMAN #2 81-72 PA PER CRA-21487	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CARLON OIL & GAS CO INC			RECEIVED:	11/12/82		JA: PA			
8308641	11433	3706325156	108			CATALANO #1	ROSSITER	18.0	CONSOLIDATED GAS
8308699	17999	3703321428	103			GERARD MURRAY #1	REED-DEEMER	30.0	
-CASTLE GAS CO INC			RECEIVED:	11/12/82		JA: PA			
8308738	18059	3706323470	108			C K MCQUOWN #1 (C-378) IND-23470	GRANT TOWNSHIP	5.1	PEOPLES NATURAL G
8308739	18061	3706324663	108			R STRONG #3(133A)(C-574) IND-24663	WHITE TOWNSHIP	5.9	PEOPLES NATURAL G
8308740	18062	3706324603	108			TEARING RUN CO #1 (C-535) IND-24603	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8308741	18063	3706324690	108			TEARING RUN CO #2 (C-534) IND-24690	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308742	18064	3706324691		108		TEARING RUN CO #3 (C-533) IND-24691	CENTER TOWNSHIP	16.5	COLUMBIA GAS TRAN
8308743	18065	3706324911		108		TEARING RUN CO #4 (C-566) IND-24911	CENTER TOWNSHIP	16.5	COLUMBIA GAS TRAN
8308744	18066	3706324912		108		TEARING RUN CO #5 (C-567) IND-24912	CENTER TOWNSHIP	16.5	COLUMBIA GAS TRAN
8308745	18067	3706324914		108		TEARING RUN CO #6 (C-580) IND-24914	CENTER TOWNSHIP	16.0	COLUMBIA GAS TRAN
8308746	18068	3706324915		108		TEARING RUN CO #7 (C-581) IND-24915	CENTER TOWNSHIP	16.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	11/12/82	JA: PA			
8308527	17652	3703321344		103		IRMA FORNEY WN-1903	BURNSIDE	96.0	GENERAL SYSTEM PU
-CUMBERLAND OIL CORP				RECEIVED:	11/12/82	JA: PA			
8308514	11869	3712330126		107-TF		MIDWEST CAMPERS #2	SUGAR GROVE	20.0	NATIONAL FUEL GAS
-DORAN & ASSOCIATES INC				RECEIVED:	11/12/82	JA: PA			
8308678	17941	3706326962		103		JUNE WALBECK #1 KN-18	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
8308516	15769	3703320963		108		M HARRIS UNIT #1	UPPER DEVONIAN SANDS	30.0	CONSOLIDATE GAS S
-DORSO ENERGY				RECEIVED:	11/12/82	JA: PA			
8308546	17793	3702120152		102-2		GERALD F LEIDEN #166	UNKNOWN	35.0	
8308672	17792	3702120153		102-4		J & H LEIDEN HEIRS #164	UNKNOWN	35.0	
-ENVIROGAS INC				RECEIVED:	11/12/82	JA: PA			
8308533	17685	3704920613		108		BAUER #2	LAKESHORE	1.0	NATIONAL FUEL GAS
8308534	17686	3704920601		108		C ANDERSON #1	LAKESHORE	0.4	NATIONAL FUEL GAS
8308539	17692	3704920637		108		C BECKMAN #3A	NORTH EAST	1.0	NATIONAL FUEL GAS
8308537	17690	3704920666		108		D CHESLEY #1	NORTH EAST	2.0	NATIONAL FUEL GAS
8308535	17688	3704920614		108		E SMITH #1	LAKESHORE	2.0	NATIONAL FUEL GAS
8308671	17684	3704920586		108		HOOVER #1	LAKESHORE	0.2	NATIONAL FUEL GAS
8308532	17683	3704920557		108		KUHL #1	LAKESHORE	4.0	NATIONAL FUEL GAS
8308530	17681	3704920546		108		PHILLIPS #4	LAKESHORE	6.0	NATIONAL FUEL GAS
8308540	17693	3704920715		108		R ANDERSON #1B	NORTH EAST	14.0	NATIONAL FUEL GAS
8308536	17689	3704920652		108		R CHESLEY #1	NORTH EAST	4.0	NATIONAL FUEL GAS
8308538	17691	3704920644		108		RODENCAL #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8308531	17682	3704920668		108		SPACHT #1	NORTH EAST	5.0	NATIONAL FUEL GAS
8308529	17680	3704920641		108		W ALLEN #1	NORTH EAST	5.0	NATIONAL FUEL GAS
8308525	17633	3704920474		108		WEAVER #2	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	11/12/82	JA: PA			
8308547	17789	3703321183		102-2		BARRY D EINSIG #5 F-3407	CHERRY TREE	15.0	COLUMBIA GAS TRAN
8308734	18034	3703321364		102-2		CONSOLIDATED RAIL CORP #1 F-3559	CHERRY TREE	80.0	COLUMBIA GAS TRAN
8308732	18032	3703321365		102-2		CONSOLIDATED RAIL CORP #2 F-3560	CHERRY TREE	100.0	COLUMBIA GAS TRAN
8308733	18033	3703321366		102-2		CONSOLIDATED RAIL CORP #3 F3561	CHERRY TREE	120.0	COLUMBIA GAS TRAN
8308731	18031	3703321358		102-2		J D TONKIN JR #1 F-3558	CHERRY TREE	100.0	COLUMBIA GAS TRAN
-FELMONT OIL CORPORATION				RECEIVED:	11/12/82	JA: PA			
8308696	17960	3702120046		102-4		HOPKINS & IRVIN #1 F-314	DRISCOLL HOLLOW	0.0	COLUMBIA GAS TRAN
8308640	9070	3702120091		103		MARTIN L BEARER #7 F-289	DRISCOLL HOLLOW	0.0	
8308639	9069	3702120093		103		MARTIN L BEARER #8 F-290	DRISCOLL HOLLOW	0.0	
-FOX OIL & GAS INC				RECEIVED:	11/12/82	JA: PA			
8308555	17808	3712920953		108		ALBERT MCMURRAY #2 90	HEMPFIELD	20.5	WASHINGTON STEEL
8308556	17809	3712920954		108		ALBERT MCMURRAY #3 92	HEMPFIELD	20.5	WASHINGTON STEEL
8308551	17802	3712926781		103		CHARLES R CESSNA #1 264	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8308550	17801	3712926993		103		IRA WIDDOWSON #6 265	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8308554	17807	3712920951		108		PAUL THOMAS #1	HEMPFIELD	20.5	WASHINGTON STEEL
8308557	17810	3712921033		108		PENNSYLVANIA VISSAT #1 95	HEMPFIELD	20.5	WASHINGTON STEEL
8308558	17811	3712921065		108		PENNSYLVANIA VISSAT #2 97	HEMPFIELD	20.5	WASHINGTON STEEL
8308552	17805	3712920949		108		RONALD OVERLY #1	HEMPFIELD	20.5	WASHINGTON STEEL
8308553		3712920950		108		RONALD OVERLY #2	HEMPFIELD	20.5	WASHINGTON STEEL
-G & G GAS INC				RECEIVED:	11/12/82	JA: PA			
8308642	16420	3703121013		103		HOLLOBAUGH #1	ELDER	10.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	11/12/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308629	17906	3706321022		108		A FLOYD STEAR #1	NORTH MAHONING	0.0	T W PHILLIPS GAS
8308625	17902	3706527300		108		ANDREW H GRESOCK #1	YOUNG	0.0	T W PHILLIPS GAS
8308616	17893	3706526780		108		ANDY LASKA #1	YOUNG	0.0	T W PHILLIPS GAS
8308609	17886	3706526990		108		ANDY LASKA #2	PERRY	0.0	T W PHILLIPS GAS
8308602	17879	3706524940		108		C K MOHNEY #1	PERRY	0.0	T W PHILLIPS GAS
8308613	17890	3706321170		108		CARL E GRIFFITH #1	WEST MAHONING	0.0	T W PHILLIPS GAS
8308615	17892	3706321013		108		CLAY STITLER #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308611	17888	3706321273		108		D B & R D MARSHALL #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308604	17881	3706321271		108		DAVID & FRANK WELLS #2	WEST MAHONING	0.0	T W PHILLIPS GAS
8308600	17877	3706321429		108		DAVID R & FRANK E WELLS #1	WEST MAHONING	0.0	T W PHILLIPS GAS
8308603	17880	3706321351		108		DAVID R WELLS #1	WEST MAHONING	0.0	T W PHILLIPS GAS
8308606	17883	3706321451		108		FRANK & DAVID WELLS #2	WEST MAHONING	0.0	T W PHILLIPS GAS
8308599	17876	3706321189		108		FRANK J NIEL #1	WEST MAHONING	0.0	T W PHILLIPS GAS
8308618	17895	3706321317		108		G S GRIFFITH #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308617	17894	3706527230		108		IRVIN T NORTH #1	YOUNG	0.0	T W PHILLIPS GAS
8308627	17904	3706321156		108		J PAUL HOPKINS #1	EAST MAHONING	0.0	T W PHILLIPS GAS
8308628	17905	3706321406		108		J W FAIRMAN #1	WASHINGTON	0.0	T W PHILLIPS GAS
8308608	17885	3706321440		108		J W FAIRMAN #2	WASHINGTON	0.0	T W PHILLIPS GAS
8308614	17891	3706321157		108		JAMES R HADDEN #1	EAST MAHONING	0.0	T W PHILLIPS GAS
8308610	17887	3706527180		108		JULIA LASKA #1	YOUNG	0.0	T W PHILLIPS GAS
8308623	17900	3706527190		108		L B CUNNINGHAM #1	YOUNG	0.0	T W PHILLIPS GAS
8308626	17903	3706321357		108		LESLIE BERESNYAK #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308612	17889	3706321332		108		MARY DILTS #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308601	17878	3706321231		108		NINA M LEWIS #1	EAST MAHONING	0.0	T W PHILLIPS GAS
8308668	17650	3706522593		103		R & P COAL CO #43	WINSLOW	0.0	COLUMBIA GAS TRAN
8308526	17649	3706522595		103		R & P COAL CO #50 (595A)	WINSLOW	0.0	COLUMBIA GAS TRAN
8308605	17882	3763212040		108		ROBERT C WELLS #1	WEST MAHONING	0.0	T W PHILLIPS GAS
8308607	17884	3706321039		108		ROBERT W BURKETT #1	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308619	17896	3706321040		108		ROBERT W BURKETT #2	SOUTH MAHONING	9.0	T W PHILLIPS GAS
8308622	17899	3706526940		108		THEODORE DYMOND #1	YOUNG	0.0	T W PHILLIPS GAS
8308621	17898	3706520695		108		THEODORE DYMOND #2	YOUNG	5.0	T W PHILLIPS GAS
8308667	17650	3706522546		103		THEODORE VERN RAKE #1 (98A)	HENDERSON	0.0	COLUMBIA GAS TRAN
8308624	17901	3706321428		108		ZOE M IRWIN #2	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308598	17875	3706321238		108		ZOE M IRWIN #4	SOUTH MAHONING	0.0	T W PHILLIPS GAS
8308620	17897	3706321325		108		ZOE M IRWIN #5	SOUTH MAHONING	0.0	T W PHILLIPS GAS
				RECEIVED:	11/12/82	JA: PA			
-KEPCO INC									
8308548	17797	3705921737		102-4		C A MILLIRON #2 (PK-50)	RUFF CREEK	14.0	NEW JERSEY NATURA
8308673	17798	3705921683		102-4		MARGARET & LUTHER COLE NO 4 (PK-20)	RUFF CREEK	20.0	NEW JERSEY NATURA
8308658	17351	3705921674		103		REED O HUFFMAN PK-10	OAK FOREST	5.0	NEW JERSEY NATURA
8308518	17015	3705921681		102-4		T L BEASLEY #1 (PK-14)	RUFF CREEK	26.0	NEW JERSEY NATURA
8308549	17800	3705921729		102-4		T L BEASLEY #3 (PK-36)	RUFF CREEK	17.0	NEW JERSEY NATURA
8308674	17799	3705921730		102-4		T L BEASLEY #4 (PK-37)	RUFF CREEK	17.0	NEW JERSEY NATURA
				RECEIVED:	11/12/82	JA: PA			
-LAKE ERIE #1									
8308659	17469	3704921888		107-TF		GEORGE MINIACI #1 82-16 ERI 21888	CONNEAUT	0.0	COLUMBIA GAS TRAN
				RECEIVED:	11/12/82	JA: PA			
-MEDINA OIL & GAS CO									
8308697	17967	3703121006		103		MEDINA OIL & GAS COMPANY #1	FISHER	0.0	NATIONAL FUEL GAS
				RECEIVED:	11/12/82	JA: PA			
-MERIDIAN OIL & GAS ENT INC									
8308645	15159	3703921465		107-TF		HELEN WEBB #5	SUMMERHILL	7.0	NATIONAL FUEL GAS
8308646	15160	3703921465		103		HELEN WEBB #5	SUMMERHILL	7.0	NATIONAL FUEL GAS
				RECEIVED:	11/12/82	JA: PA			
-MITCHELL ENERGY CORPORATION									
8308676	17812	3708520448		107-TF		FRY UNIT #1-72	JAMESTOWN (MEDINA/WHI	410.0	COLUMBIA GAS TRAN
8308677	17813	3708520448		103		FRY UNIT #1-72	JAMESTOWN (MEDINA/WHI	410.0	COLUMBIA GAS TRAN
				RECEIVED:	11/12/82	JA: PA			
-NEA CROSS CO									

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308647	15418	3704921926		102-2		HARRINGTON #2	WATERFORD	10.0	NATIONAL FUEL GAS
8308648	15419	3704921926		107-TF		HARRINGTON #2	WATERFORD	10.0	NATIONAL FUEL GAS
-PEOPLES NATURAL GAS CO				RECEIVED:	11/12/82	JA: PA			
8308698	17992	3706327058		103		MUSSER FORESTS INC #3 - IND-27058	W PENNA - UPPER DEVON	60.0	PEOPLES NATURAL G
-PHILLIPS PRODUCTION CO				RECEIVED:	11/12/82	JA: PA			
8308662	17470	3706327119		103		EMANUEL L BREWER #1	WASHINGTON	25.0	
8308660	17380	3706325501		108		GEORGE A VOYTUS #1	MONTGOMERY	2.0	COLUMBIA GAS TRAN
8308541	17694	3703321412		102-2		WILLIAM DUNLAP #3	BURNSIDE	80.0	
-R & L DEVELOPMENT CO				RECEIVED:	11/12/82	JA: PA			
8308519	17026	3706300000		103		R & L DEVELOPMENT CO #3	BOLIVAR	20.0	T W PHILLIPS GAS
-REX-HIDE REALTY INC				RECEIVED:	11/12/82	JA: PA			
8308695	17959	3712922099		103		L R & SALLY KEITH #1	SALEM	45.0	
8308693	17956	3712922095		103		LOGAN D BRANTHOOVER #2	SALEM	25.0	
8308694	17958	3712922096		103		WILLIAM BORBONUS #3	DERRY	35.0	
-S T JOINT VENTURE 81A				RECEIVED:	11/12/82	JA: PA			
8308657	17228	3703321301		102-2		SWISSTOCK #1-SB	KNOW	25.0	COLUMBIA GAS TRAN
-T W PHILLIPS GAS & OIL CO				RECEIVED:	11/12/82	JA: PA			
8308562	17817	3706300000		108		A C HAWK #1	WASHINGTON	0.3	T W PHILLIPS GAS
8308683	17946	3706320530		108		AMERICAN TRUSTEE & TRANS CORP #1	WEST WHEATFIELD	3.2	T W PHILLIPS GAS
8308596	17873	3706300000		108		ANTHONY FORMOSA #1	WASHINGTON	1.7	T W PHILLIPS GAS
8308592	17869	3706300000		108		B S CONNER #1	WASHINGTON	3.2	T W PHILLIPS GAS
8308712	18012	3706300000		108		BAIR & STIFFLER #1	RAYNE	2.8	T W PHILLIPS GAS
8308689	17952	3706300000		108		BALKO & AUKER #2	BUFFINGTON	2.3	T W PHILLIPS GAS
8308717	18017	3712900000		108		BEN FRANKLIN COAL CO #1	ALLEGHENY	4.3	T W PHILLIPS GAS
8308718	18018	3712920231		108		BEN FRANKLIN COAL CO #2	ALLEGHENY	1.6	T W PHILLIPS GAS
8308687	17950	3706300000		108		BETHLEHEM CUBA IRON MINES #3-2524	PINE	1.1	T W PHILLIPS GAS
8308690	17953	3706300000		108		BETHLEHEM CUBA IRON MINES CO #1-75	BUFFINGTON	1.0	T W PHILLIPS GAS
8308715	18015	3706300000		108		BLAIR WYNCOOP #1	RAYNE	0.2	T W PHILLIPS GAS
8308579	17855	3706320199		108		BRYAN MILLER #1	WASHINGTON	1.5	T W PHILLIPS GAS
8308700	18000	3706320438		108		C W & MARGARET BIEGENWALD #1	GRANT	2.3	T W PHILLIPS GAS
8308588	17865	3706320222		108		CARL BRADY #1	WASHINGTON	0.6	T W PHILLIPS GAS
8308703	18003	3706300000		108		CHARLES T BELL #1	RAYNE	1.2	T W PHILLIPS GAS
8308589	17866	3706300000		108		CHARLOTTE CAMPBELL #1	WASHINGTON	1.5	T W PHILLIPS GAS
8308590	17867	3706320508		108		CHARLOTTE CAMPBELL #2	WASHINGTON	1.5	T W PHILLIPS GAS
8308591	17868	3706320578		108		CHARLOTTE CAMPBELL #3	WASHINGTON	2.0	T W PHILLIPS GAS
8308701	18001	3706320616		108		CLAIR BURKETT #1	GRANT	3.4	T W PHILLIPS GAS
8308587	17864	3706320197		108		CLARENCE M BOTHELL #1	WASHINGTON	1.2	T W PHILLIPS GAS
8308568	17824	3706500000		108		CLARISSA READING #1	YOUNG	0.4	T W PHILLIPS GAS
8308570	17825	3706500000		108		CLARISSA READING #2	YOUNG	5.2	T W PHILLIPS GAS
8308722	18022	3712900000		108		D L LESLIE #3	LOWER BURRELL	1.1	T W PHILLIPS GAS
8308727	18027	3712920451		108		DANIEL BEIGHLEY #1	UPPER BURRELL	0.5	T W PHILLIPS GAS
8308594	17871	3706320219		108		DONALD & SARA DONAHUE #1	WASHINGTON	0.2	T W PHILLIPS GAS
8308581	17858	3706320229		108		E H STEVING #1	WASHINGTON	0.8	T W PHILLIPS GAS
8308583	17860	3706320453		108		E L WATTERSON #1	WASHINGTON	0.8	T W PHILLIPS GAS
8308584	17861	3706320454		108		E L WATTERSON #2	WASHINGTON	2.7	T W PHILLIPS GAS
8308582	17859	3706300000		108		EARNEST STEWART #2	WASHINGTON	0.4	T W PHILLIPS GAS
8308704	18004	3706300000		108		EASTERN COAL CORP #1	RAYNE	0.6	T W PHILLIPS GAS
8308721	18021	3712920286		108		F W HAFERLAND #1	LOWER BURRELL	0.7	T W PHILLIPS GAS
8308684	17947	3706300000		108		GEORGE & ANNA KOMAR #1	WEST WHEATFIELD	0.5	T W PHILLIPS GAS
8308688	17951	3706300000		108		GOMER J SMITH #1	GREEN	1.8	T W PHILLIPS GAS
8308565	17820	3706300000		108		J A MCCURDY #1	WASHINGTON	1.9	T W PHILLIPS GAS
8308566	17821	3706300000		108		J A MCCURDY #2	WASHINGTON	0.8	T W PHILLIPS GAS
8308597	17874	3706300000		108		J C GROVE #1	WASHINGTON	1.0	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308706	18006	3706300000		108		J H MANNER #1	RAYNE	11.9	T W PHILLIPS GAS
8308560	17815	3706300000		108		J H WEAVER & CO #2	CANOE	0.7	T W PHILLIPS GAS
8308728	18028	3712900000		108		J P HAMILTON #1-81 A	UPPER BURRELL	2.9	T W PHILLIPS GAS
8308567	17822	3706500000		108		JAMES CUMMINGS #1	YOUNG	1.5	T W PHILLIPS GAS
8308719	18019	3712920168		108		JAMES M COOK #2	LOWER BURRELL	0.5	T W PHILLIPS GAS
8308691	17954	3706300000		108		JAMIE CRESPO #1	BUFFINGTON	1.0	T W PHILLIPS GAS
8308692	17955	3706300000		108		JOHN DUTKO #1	BUFFINGTON	2.8	T W PHILLIPS GAS
8308726	18026	3712900000		108		JOHN J BECKER #1	UPPER BURRELL	2.2	T W PHILLIPS GAS
8308681	17944	3706300000		108		JOSEPH T JACKSON #3	BRUSH VALLEY	1.2	T W PHILLIPS GAS
8308682	17945	3706320128		108		JOSEPH T JACKSON #4	BRUSH VALLEY	1.5	T W PHILLIPS GAS
8308569	17823	3706500000		108		L M LEWIS #2	YOUNG	1.0	T W PHILLIPS GAS
8308707	18007	3706300000		108		LEWIS & MCMILLEN #1	RAYNE	3.5	T W PHILLIPS GAS
8308564	17819	3706300000		108		LIGHTCAP & LITTLE #1	WASHINGTON	0.7	T W PHILLIPS GAS
8308576	17853	3706300000		108		LINDBERG & BEATTY #1	WASHINGTON	0.6	T W PHILLIPS GAS
8308710	18010	3706300000		108		LUCINDA SNYDER #1	RAYNE	4.5	T W PHILLIPS GAS
8308711	18011	3706300000		108		LUCINDA SNYDER #2	RAYNE	6.3	T W PHILLIPS GAS
8308713	18013	3706300000		108		M B WYNCOOP #1	RAYNE	3.1	T W PHILLIPS GAS
8308729	18029	3712920312		108		MARGARET J HAMILTON	UPPER BURRELL	1.9	T W PHILLIPS GAS
8308686	17949	3706300000		108		MARY BURGOON #1	PINE	0.3	T W PHILLIPS GAS
8308720	18020	3712900000		108		MARY M COPELAND #1	LOWER BURRELL	1.5	T W PHILLIPS GAS
8308580	17857	3706300000		108		MRS JAY SOURWINE #2	WASHINGTON	0.5	T W PHILLIPS GAS
8308730	18030	3712900000		108		MRS LIZZIE HALL #2	UPPER BURRELL	1.4	T W PHILLIPS GAS
8308595	17872	3706320358		108		MURRAY J FAIRMAN #1	WASHINGTON	1.4	T W PHILLIPS GAS
8308561	17816	3706300000		108		MURRAY S FLEMING #1	WASHINGTON	3.0	T W PHILLIPS GAS
8308578	17855	3706300000		108		MYRTLE J MCKENDRICK #1	WASHINGTON	0.7	T W PHILLIPS GAS
8308585	17862	3706320231		108		N H & H C WETZEL #1	WASHINGTON	0.9	T W PHILLIPS GAS
8308586	17863	3706300000		108		R C BEATTY #1	WASHINGTON	0.5	T W PHILLIPS GAS
8308716	18016	3706300000		108		R F CONRAD #1	BUFFINGTON	2.2	T W PHILLIPS GAS
8308708	18008	3706300000		108		REBECCA J PETERMAN #1	RAYNE	1.2	T W PHILLIPS GAS
8308685	17948	3706300000		108		RT REV H C BOYLE #2	PINE	0.5	T W PHILLIPS GAS
8308559	17814	3706300000		108		SNYDER (WINGERT) #2	CANOE	0.6	T W PHILLIPS GAS
8308724	18024	3712920517		108		T E MAXWELL EST #1	LOWER BURRELL	1.2	T W PHILLIPS GAS
8308593	17870	3706300000		108		T J DAVIS #1	WASHINGTON	0.7	T W PHILLIPS GAS
8308577	17854	3706300000		108		T T LYNCH #1	WASHINGTON	0.7	T W PHILLIPS GAS
8308563	17818	3706300000		108		W C JAMISON #1	WASHINGTON	0.6	T W PHILLIPS GAS
8308725	18025	3712900000		108		W J BEACOM #1-63 A	U BURRELL	0.3	T W PHILLIPS GAS
8308714	18014	3706300000		108		W S WETZEL #1	RAYNE	0.3	T W PHILLIPS GAS
8308680	17943	3706322354		108		WILLIAM C LEASURE #1-117	BRUSH VALLEY	0.7	T W PHILLIPS GAS
8308679	17942	3706321486		108		WILLIAM C LEASURE #1-134	BRUSH VALLEY	0.7	T W PHILLIPS GAS
8308723	18023	3712920320		108		WILLIAM KITZER #2	LOWER BURRELL	1.4	T W PHILLIPS GAS
8308705	18005	3706300000		108		WILSON B LIGHTCAP #2	RAYNE	2.0	T W PHILLIPS GAS
8308702	18002	3706321615		108		WINIFRED P CLARK #1	GRANT	0.8	T W PHILLIPS GAS
8308709	18009	3706300000		108		WM SCHURR #1	RAYNE	0.6	T W PHILLIPS GAS
-THERMOCLAD CO				RECEIVED:	11/12/82	JA: PA			
8308543	17756	3704920967		107-TF		THERMOCLAD CO #1 API 37-049-20967		36.5	NATIONAL FUEL GAS
8308544	17757	3704920967		102-2		THERMOCLAD CO #1 API 37-049-20967		36.5	NATIONAL FUEL GAS
-TURM OIL INC				RECEIVED:	11/12/82	JA: PA			
8308651	16780	3706326940		103		JOHN B KLIMKIEWICZ #1	COAL RUN	48.0	T W PHILLIPS GAS
8308515	13917	3700522660		103		ROBERT W & BETTY M STEWART #1	BRYAN	36.0	APOLLO GAS CO
-UNION DRILLING INC				RECEIVED:	11/12/82	JA: PA			
8308661	17394	3706326832		103		KENNETH ALSOP #1 0644	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8308517	15982	3706325774		108		ROBERT BARCLAY #1 0728	CHERRYHILL TOWNSHIP	8.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED:	11/12/82	JA: PA			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308523	17195	3703921762		107-TF		DANIEL O GRINNELL #1 (CS-16A)	CAMBRIDGE SPRINGS	31.5	COLUMBIA GAS TRAN
8308634	17926	3703921762		103		DANIEL O GRINNELL #1 (CS-16A)	CAMBRIDGE SPRINGS	35.4	COLUMBIA GAS TRAN
8308524	17197	3703921657		107-TF		DEVON HUMMEL #1 (CS-15A)	CAMBRIDGE SPRINGS	31.5	NATIONAL FUEL GAS
8308635	17927	3703921657		103		DEVON HUMMELL #1 (CS-15A)	CAMBRIDGE SPRINGS	35.4	NATIONAL FUEL GAS
8308522	17192	3703921621		107-TF		EDWARD STYBORSKI #2 (CS-21A)	CAMBRIDGE SPRINGS	31.5	NATIONAL FUEL GAS
8308633	17925	3703921621		103		EDWARD STYBORSKI #2 (CS-21A)	CAMBRIDGE SPRINGS	35.4	NATIONAL FUEL GAS
8308520	17186	3703921656		107-TF		PAUL A HELD JR #1 (CS-5A)	CAMBRIDGE SPRINGS	31.5	NATIONAL FUEL GAS
8308637	17929	3703921656		103		PAUL A HELD JR #1 (CS-5A)	CAMBRIDGE SPRINGS	35.4	NATIONAL FUEL GAS
8308632	11227	3703921261		102-2		RICHARD W ROEDER #2 (W-117)	ATHENS (ROME)	0.0	COLUMBIA GAS TRAN
8308638	11226	3703921261		107-TF		RICHARD W ROEDER #2 (W-117)	ATHENS (ROME)	0.0	COLUMBIA GAS TRAN
8308521	17190	3703921678		107-TF		WILLIAM H ENGEL #1 (CS-14A)	CAMBRIDGE SPRINGS	31.5	NATIONAL FUEL GAS
8308636	17928	3703921678		103		WILLIAM H ENGEL #1 (CS-14A)	CAMBRIDGE SPRINGS	35.4	NATIONAL FUEL GAS
-WILLIAM S BURKLAND				RECEIVED:	11/12/82	JA: PA			
8308675	17804	3705100000		108		MINOR #1			
8308542	17744	3705120042		107-TF		WORK FARM #2	NEW GENEVA	3.5	COLUMBIA GAS TRAN
-4-R INVESTMENT CO				RECEIVED:	11/12/82	JA: PA	WALTERSBURG	3.7	PEOPLES NATURAL G
8308649	16228	3703921588		103		RIDGEFIELD FARMS #5	CUSSAWAGO	20.0	COLUMBIA GAS TRAN
8308650	16229	3703921588		107-TF		RIDGEFIELD FARMS #5	CUSSAWAGO	20.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additoinal purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such meterial is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–2: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old UCS lease

Section 107–DP: 13,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PK: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33898; Filed 12–13–82 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 7, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ACCO OIL & GAS CO			RECEIVED: 11/10/82 JA: TX						
8308767	F-03-51389	4220131261		102-4		COOKE #1	MYKAWA NEW (MIOCENE 3	120.0	UNITED TEXAS TRAN
-ALPS OIL CO			RECEIVED: 11/10/82 JA: TX						
8308932	F-08-059235	4210332976		103		M B MCKNIGHT "B"-7	SAND HILLS (MCKNIGHT)	12.1	WARREN PETROLEUM
-AMERICAN QUASAR PETROLEUM CO			RECEIVED: 11/10/82 JA: TX						
8308816	F-7C-56335	4210534043		103	107-TF	SCHEUBER 3A-26	SEC 26 BLK LK TC RR C	0.0	INTRATEX GAS CO
-AMOCO PRODUCTION CO			RECEIVED: 11/10/82 JA: TX						
8308793	F-10-53232	4239330856		103		G A MAHLER #5L	MENDOTA NW (GRANITE W	491.0	MICHIGAN WISCONSI
-ARCO OIL AND GAS COMPANY			RECEIVED: 11/10/82 JA: TX						
8309027	F-10-59370	4229530733		108		SIM PAINE #3	BRADFORD (CLEVELAND)	16.3	INTER NORTH INC
-B A BECKER			RECEIVED: 11/10/82 JA: TX						
8309025	F-01-59367	4250730917		103		PRYOR RANCH "A" #2 - #81137	SERBA (ESCONDIDO)	30.0	ESPERANZA TRANSMI
8309024	F-01-59366	4250731004		103		PRYOR RANCH "A" #3 - #81138	SERBA (ESCONDIDO)	75.0	ESPERANZA TRANSMI
8309026	F-01-59368	4250731004		103		PRYOR RANCH "A" #4 - #81139	SERBA (ESCONDIDO)	20.0	ESPERANZA TRANSMI
-BELCO PETROLEUM CORPORATION			RECEIVED: 11/10/82 JA: TX						
8308752	F-7C-46979	4210533238		108		UNIVERSITY 13-3	INGHAM QUEENS	0.0	EL PASO NATURAL G
8308753	F-7C-047063	4210533239		108		UNIVERSITY 13-4	INGHAM QUEENS	0.0	EL PASO NATURAL G
8308754	F-7C-047064	4210533240		108		UNIVERSITY 13-5	INGHAM QUEENS	0.0	EL PASO NATURAL G
-BOB BLACK OPERATING			RECEIVED: 11/10/82 JA: TX						
8308961	F-7C-059296	4239932513		103		GEORGE PRUSER JR #2 (58914)	ELM CREEK (GARDNER 40	58.0	UNION TEXAS PETRO
-BURNS - MOORE OIL CO			RECEIVED: 11/10/82 JA: TX						
8308868	F-09-058423	4207700000		102-4		CASTLE MORRIS #1	SHANNON W (CONGL)	50.0	LONE STAR GAS CO
-CHALMERS OPERATING CO INC			RECEIVED: 11/10/82 JA: TX						
8308834	F-7B-057746	4205931886		108		JOHN A HUTCHISON JR "A" 079196	HUTCHISON NE (KING)	20.0	DELHI GAS PIPELIN
-CHAPMAN EXPLORATION INC			RECEIVED: 11/10/82 JA: TX						
8308944	F-09-059260	4223733925		103		CHERRYHOMES K-1	CHAPMAN-CHERRYHOMES (	16.0	LONE STAR GAS CO
-CIMMARON OIL CO INC			RECEIVED: 11/10/82 JA: TX						
8308749	F-7B-39858	4222130632		102-4		MAYNE C #3	GRANBURY N E	109.5	EMPIRE PIPELINE C
-CLAY MOORE			RECEIVED: 11/10/82 JA: TX						
8308911	F-8A-059043	4207931377		103		H H ANDERSON #.	LEVELLAND	984.0	CITIES SERVICE CO
-CLEMCO INC			RECEIVED: 11/10/82 JA: TX						
8308758	F-06-48906	4218330447		103	107-TF	BILL MACKEY #1	WILLOW SPRINGS (COTTO	150.0	UNITED GAS PIPELI
-CONOCO INC			RECEIVED: 11/10/82 JA: TX						
8308794	F-04-53313	4247933142		102-2	107-TF	VAQUILLAS RANCH "A" #14	VAQUILLAS RANCH (WILC	95.0	E I DUPONT DE NEM
-CORNELL OIL CO			RECEIVED: 11/10/82 JA: TX						
8308838	F-8A-057829	4250100000		103		CORNELL UNIT (19453) #6383	WASSON FIELD	0.0	SHELL OIL CO
-COUNTY MANAGEMENT INC			RECEIVED: 11/10/82 JA: TX						
8308757	F-03-48734	4214931138		102-2	103	G & W UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	PERRY GAS PRODUCT
-DAMSON OIL CORPORATION			RECEIVED: 11/10/82 JA: TX						
8308800	F-06-54230	4234730671		102-4		WILMA LUNSFORD #1-C	NACONICHE CREEK E	400.0	LIBERTY NATURAL G
8308799	F-06-54227	4234730671		102-4		WILMA LUNSFORD 1-T	NACONICHE CREEK	400.0	LIBERTY NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/10/82	JA: TX			
8308787	F-10-52644	4234130771		103		ZWACK-BARNSDALL 210 #2	PANHANDLE WEST	287.0	INTERNORTH INC
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/10/82	JA: TX			
8308785	F-10-52610	4239330894		103		MCMORDIE #3	ST CLAIR	316.0	EL PASO NATURAL G
8308786	F-10-52611	4239330895		103		MCMORDIE #4	ST CLAIR 9200	548.0	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	11/10/82	JA: TX			
8308934	F-10-059241	4206531157		103		BOBBITT #5 (ID #05870)	PANHANDLE CARSON	50.0	GETTY OIL CO
-ESTATE OF H L HUNT				RECEIVED:	11/10/82	JA: TX			
8308791	F-09-53106	4218130851		103		JOE ROBERTSON #4	SHERMAN (OIL CREEK 10	360.0	CHEVRON CO USA IN
-ESTATE OF WM D MCBEE				RECEIVED:	11/10/82	JA: TX			
8308928	F-06-059197	4245930532		103	107-TF	RAY GAS UNIT #2 WELL #2	ROSEWOOD (COTTON VALL	0.0	WESTERN GAS CORP
-ESTATE OIL & GAS CORP				RECEIVED:	11/10/82	JA: TX			
8308763	F-06-50874	4220330894		103		WHITE-DAVID #1 ID#N/A	LANSING NORTH (PETTIT	182.5	TEJAS GAS CORP
-EXXON CORPORATION				RECEIVED:	11/10/82	JA: TX			
8308955	F-04-059288	4227331336		102-4		K R ALAZAN 327-F (101252)	ALAZAN (H-92)	712.0	ARMCO STEEL CORP
8308954	F-04-059287	4227331678		102-4		K R BORREGOS 575 (101248)	BORREGOS (R-13 W-2)	1150.0	ARMCO STEEL CORP
8308959	F-04-059292	4227331686		102-4		K R EAST LAURELES B-16 (101239)	BINA NE (H-81)	657.0	ARMCO STEEL CORP
8308958	F-04-059291	4226130684		103		K R SAN JOSE DE LA PARRA 39-F101016	CALANDRIA (I-76)	290.0	ARMCO STEEL CORP
8308847	F-08-058090	4200333279		103		MEANS-QUEEN #1 OIL UNIT #1251	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8308804	F-08-54964	4200333152		103		MEANS/SAN ANDRES/UNIT #2658	MEANS	15.0	PHILLIPS PETROLEU
8308953	F-04-059286	4204730936		102-4		RJK JR TR PATRICIO PASTURE 20 10093	PITA WEST (I-31)	800.0	ARMCO STEEL CORP
8308888	F-8A-058526	4216532347		103		ROBERTSON CLEARFORK UNIT #6101	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8308957	F-04-059290	4226130706		103		SAUZ RANCH TENERIAS 18 (101021	CALANDRIA (H-59)	750.0	ARMCO STEEL CORP
8308956	F-04-059289	4204731064		103		VFGU #1 Q-100 (101125)	VIBORAS (MASSIVE FIRS	657.0	ARMCO STEEL CORP
-FAGADAU ENERGY CORP				RECEIVED:	11/10/82	JA: TX			
8309030	F-09-059406	4223732305		103		W F GLEASON #3 #081323	JACK COUNTY REG (GAS)	250.0	LONE STAR GAS CO
-GEOCHEMICAL SURVEYS INC				RECEIVED:	11/10/82	JA: TX			
8308827	F-7C-057582	4243532675		103	107-TF	HALBERT RANCH #1	SONORA SAWYER CANYON	36.0	EL PASO NATURAL G
8308811	F-7C-55886	4243532640		103	107-TF	HALBERT RANCH #2	SAWYER (CANYON)	36.0	EL PASO NATURAL G
8308828	F-7C-057583	4243532676		103	107-TF	HALBERT RANCH #3	SONORA SAWYER CANYON	36.0	EL PASO NATURAL G
-GEOSOUTHERN ENERGY CORP				RECEIVED:	11/10/82	JA: TX			
8308854	F-03-058247	4214900000		102-2	103	ASHLIE #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	11/10/82	JA: TX			
8308960	F-05-059293	4222300000		102-4		JOHN BEEZLEY #1	REILLY SPRINGS	0.0	
8308808	F-03-55644	4204100000		102-2		N GODWIN #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-GOLDEN PETROLEUM CORP				RECEIVED:	11/10/82	JA: TX			
8308766	F-09-51169	4223734137		102-4		WOODHOUSE #5	STRAHAN (CADDO)	5.0	LONE STAR GAS CO
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	11/10/82	JA: TX			
8308905	F-8A-058928	4244531061		103		M E JACOBSON #32	SLAUGHTER	13.5	AMOCO PRODUCTION
8308906	F-8A-058929	4244531062		103		M E JACOBSON #33	SLAUGHTER	15.7	AMOCO PRODUCTION
-GULF OIL CORPORATION				RECEIVED:	11/10/82	JA: TX			
8308929	F-10-059225	4219530014		108		BUCKNER BAPTIST #1	CLEMENTINE	17.0	INTER NORTH INC
8308866	F-08-058346	4213530435		108		C A GOLDSMITH #1302	GOLDSMITH (5600)	1.8	PHILLIPS PETROLEU
8308864	F-08-058333	4213530614		108		C A GOLDSMITH #1313	LAWSON SAN ANDRES	3.1	PHILLIPS PETROLEU
8308862	F-08-058330	4213501285		108		C A GOLDSMITH #916	LAWSON SAN ANDRES	1.4	PHILLIPS PETROLEU
8308861	F-08-058326	4213501291		108		C A GOLDSMITH #922	LAWSON SAN ANDRES	1.7	PHILLIPS PETROLEU
8308863	F-08-058332	4213501309		108		C A GOLDSMITH #931	LAWSON SAN ANDRES	4.0	PHILLIPS PETROLEU
8308880	F-8A-058456	4207900615		108		DUGGAN SLAUGHTER UNIT #161C	SLAUGHTER	0.6	AMOCO PRODUCTION
8309033	F-08-59409	4247532675		103		HUTCHINGS STOCK ASSN #1183	WARD-ESTES NORTH	65.0	CABOT CORP
8308930	F-04-059231	4250531479		103		J M VELA #5	LAREDO (LOBO)	201.0	VALERO TRANSMISSI
8309031	F-08-59407	4246131245		108		MCELROY CONSOLIDATED #1 #M-1022	MCELROY	2.0	PHILLIPS PETROLEU
8309035	F-08-59411	4246131278		108		MCELROY CONSOLIDATED #1 #M-1024	MCELROY	19.0	PHILLIPS PETROLEU
8309036	F-08-59412	4246131279		108		MCELROY CONSOLIDATED #1 #M-1025	MCELROY	18.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309037	F-08-59413	4246100651		108		MCELROY CONSOLIDATED #1 #M-502	MCELROY	1.0	PHILLIPS PETROLEU
8309032	F-08-59408	4246130618		108		MCELROY CONSOLIDATED #1 #M-925	MCELROY	5.0	PHILLIPS PETROLEU
8309038	F-08-59414	4246130198		108		MCELROY CONSOLIDATED #1 #41	MCELROY	10.0	PHILLIPS PETROLEU
8309034	F-08-59410	4246100614		108		MCELROY CONSOLIDATED #1 #7-399	MCELROY	22.0	PHILLIPS PETROLEU
8309040	F-08-59416	4246102451		108		MCELROY CONSOLIDATED #1 WELL #M-559	MCELROY	19.0	PHILLIPS PETROLEU
8309039	F-08-59415	4246130194		108		MCELROY CONSOLIDATED #1 WELL #39	MCELROY	6.0	PHILLIPS PETROLEU
8308756	F-04-48055	4247933182		103	107-TF	W H MCKENDRICK #4	LAREDO (NAVARRO)	49.0	VALERO TRANSMISSI
8308851	F-08-058142	4210330088		108		W N WADDELL #1013	DUNE	0.3	
8308850	F-08-058141	4210330075		108		W N WADDELL #1018	DUNE	0.2	
8308837	F-08-057777	4210300962		108		W N WADDELL #158	DUNE	0.5	
8308831	F-08057726	4210301183		108		W N WADDELL #326	DUNE	0.6	
8308832	F-08-057727	4210301187		108		W N WADDELL #330	DUNE	0.2	
8308833	F-08-057730	4210301190		108		W N WADDELL #342	DUNE	0.3	
8308840	F-08-057904	4210301307		108		W N WADDELL #463	WADDELL	0.1	
8308842	F-08-057907	4210301345		108		W N WADDELL #503	WADDELL	0.6	
8308841	F-08-057906	4210301362		108		W N WADDELL #528	DUNE	0.5	
8308848	F-08-058117	4210302278		108		W N WADDELL #830	WADDELL	0.4	
8308849	F-08-058119	4210310839		108		W N WADDELL #855	WADDELL	1.5	
-H E BRYAN INC									
8308783	F-10-52444	4220500000		103		THOMPSON #1	WEST PANHANDLE	65.0	PHILLIPS PETROLEU
				RECEIVED:		11/10/82 JA: TX			
-H L S ENTERPRISES INC									
8308856	F-09-058296	4250500000		103		A SHANAFELT #1 22057	H L S CONGLOMERATE	0.0	SOUTHWESTERN GAS
				RECEIVED:		11/10/82 JA: TX			
-H-M OIL CO									
8308921	F-03-059180	4248132102		103		MINNIE LEE #1 WELL (ID #15038)	TWIN BASIN FIELD	0.0	TENNESSEE GAS PIP
				RECEIVED:		11/10/82 JA: TX			
-HENRY HYDROCARBON INC									
8308777	F-09-52117	4223732864		102-4		YOWELL NO 3-B	PERRIN SOUTH (CONGL 4	40.0	TEXAS UTILITIES F
				RECEIVED:		11/10/82 JA: TX			
-HNG OIL COMPANY									
8308843	F-7C-057965	4243500000		103	107-TF	RICHARDSON "138" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8308845	F-7C-057967	4243500000		103	107-TF	RICHARDSON "4" #2	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8308844	F-7C-057966	4243500000		103	107-TF	SHURLEY "123" #6	SAWYER (CANYON)	0.0	INTRATEX GAS CO
-HUDSON PETROLEUM INC									
8308951	F-7C-059281	4208100000		102-4		WILLCOCKSON "B" - 2 (LEASE="B")	BUFFALO CREEK (CADDO	182.0	
				RECEIVED:		11/10/82 JA: TX			
-HUMBLE EXPLORATION CO INC									
8308751	F-03-46102	4214900000		102-2	103	ELIZABETH A #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
				RECEIVED:		11/10/82 JA: TX			
-INTEGRATED ENERGY INC									
8308941	F-7C-059256	4210532351		108		ODESSA "4" #2X	INGHAM	12.0	EL PASO NATURAL G
				RECEIVED:		11/10/82 JA: TX			
-INVESTEK INC									
8308782	F-09-52380	4223700000		103		HENDERSON A #3	STRAHAN	102.0	SOUTHWESTERN GAS
				RECEIVED:		11/10/82 JA: TX			
-J M HUBER CORPORATION									
8308805	F-10-55173	4223331336		103		MAGNOLIA HERRING #26	PANHANDLE	46.0	COLORADO INTERSTA
				RECEIVED:		11/10/82 JA: TX			
-JAMES B HARBIN									
8308922	F-7B-059181	4204900000		108		W B ROBERTS 018147	SALT CREEK MARBLE FAL	80.0	LONE STAR GAS CO
				RECEIVED:		11/10/82 JA: TX			
-JOHN H YOUNG INC									
8308820	F-03-57048	4214931365		102-2		HERNANDEZ #1	GIDDINGS (EDWARDS GAS	0.0	CLAJON GAS CO
				RECEIVED:		11/10/82 JA: TX			
-JOHN L COX									
8308797	F-7C-53930	4246131904		103		MCGILL "64" #1	MCGILL (PENNA)	20.0	PHILLIPS PETROLEU
8308764	F-08-50983	4231732504		103		O W ORSON #1-X RRC#22424	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8308759	F-7C-49466	4246131868		103		POWELL "29" #2	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8308765	F-7C-51032	4246131890		103		POWELL "32" #2	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8308824	F-7C-57375	4238332290		103		ROCKER B "N" #9-X (RRC #05142)	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
-JOHNNY G JONES									
8308789	F-08-52927	4213533688		103		J E PARKER "1-A"	HARPER	2.7	PHILLIPS PETROLEU
-L & M OIL CO									
				RECEIVED:		11/10/82 JA: TX			

JD NO	JA CKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8308887	F-78-058492	4236732227		103		FORT WOLTERS #1
-L M YOUNG				RECEIVED:	11/10/82	JA: TX
8308946	F-78-059264	4204933190		103		YOUNG-BERG #7 (14583)
8308945	F-78-059263	4204933191		103		YOUNG-BERG #8 (14583)
-LEEPER OIL EXPLORATION & PRODUCTION				RECEIVED:	11/10/82	JA: TX
8308938	F-08-058976	4231732505		103		GLASCOCK #1
-LOUISIANA CRUDE OIL & GAS CO INC				RECEIVED:	11/10/82	JA: TX
8309029	F-78-59384	4213331632		102-4		MERYL SNEED "C" #1 (14855)
-MARATHON OIL COMPANY				RECEIVED:	11/10/82	JA: TX
8308977	F-03-059315	4232131235		103		OHIO-SUN UNIT #3-L
-MARIANAS OPERATING CO INC				RECEIVED:	11/10/82	JA: TX
8308969	F-78-059304	4208331701		102-4		ARNETT #2 (15077)
8308965	F-78-059300	4208331557		102-4		FREEMAN -C- #1 (14625)
8308964	F-78-059299	4208331624		102-4		FREEMAN -D- #1 (14740)
8308962	F-78-059297	4208332052		102-4		FREEMAN -D- #3 (16227)
8308963	F-78-059298	4208331625		102-4		FREEMAN D #2 (14779)
8308968	F-78-059303	4208331479		102-4		R M FREEMAN #2 (14560)
-MARK IV ENERGY				RECEIVED:	11/10/82	JA: TX
8308822	F-01-57135	4233311250		102-4		D P REED #1 ID# NOT ASSIGNED
-MAY PETROLEUM INC				RECEIVED:	11/10/82	JA: TX
8308806	F-7C-55252	4238332204		103		ROCKER "B"
-MCBAY OIL & GAS INC				RECEIVED:	11/10/82	JA: TX
8308966	F-7C-059301	4245130818		103		O WEISMUHN #1 09199
8308967	F-7C-059302	4245130878		103		TRIMBLE #1 09390
-MEWBOURNE OIL COMPANY				RECEIVED:	11/10/82	JA: TX
8308810	F-10-55772	4229531135		102-4	103	ECCLES "117" #3 RRC #05165
8308815	F-10-56272	4229530748		103		PEERY #6 RRC #04432
-MIDSTATES OIL CO				RECEIVED:	11/10/82	JA: TX
8308895	F-7C-058619	4239900000		102-4		GIESECKE #1
8308894	F-7C-058615	4239900000		102-4		J M CLAYTON #2
-MILLS BENNETT ESTATE				RECEIVED:	11/10/82	JA: TX
8308910	F-02-059038	4202531850		103		MILLS BENNETT EST D E ROBINSON #4
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/10/82	JA: TX
8308867	F-09-058380	4223734455		103		C T SOUTHERLAND "A" #1
8308762	F-7C-49691	4243532579		103	107-TF	W B MCMILLAN #10-5
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	11/10/82	JA: TX
8308892	F-04-058577	4224931371		103		LAGLORIA GAS UNIT #98
8308974	F-8A-059312	4221933547		103		NORTH CENTRAL LEVELLAND UNIT #363
8308976	F-08-059314	4232930153		108		WALTON JUDKINS #"
-MORAN EXPLORATION INC				RECEIVED:	11/10/82	JA: TX
8308884	F-7C-058469	4238300000		108		UNIVERSITY "17" #1
8308885	F-7C-058470	4238300000		108		UNIVERSITY "19A" #2
8308883	F-7C-058468	4238300000		108		UNIVERSITY "7" #2
-MORROW RESOURCES INC				RECEIVED:	11/10/82	JA: TX
8308896	F-7C-058629	4245131010		102-2	103	MATHEWS "A" #3
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	11/10/82	JA: TX
8308975	F-10-059313	4217900000		108		FRASHIER #1
-PALO PETROLEUM INC				RECEIVED:	11/10/82	JA: TX
8308769	F-7C-051951	4238332102		103		UNIVERSITY 24-BLOCK 1 #2
-PANHANDLE ENERGY CORP				RECEIVED:	11/10/82	JA: TX
8308936	F-10-059245	4206531186		103		WHITE #1 (ID #05160)
-PAUL E CAMERON JR INC				RECEIVED:	11/10/82	JA: TX
8308818	F-02-56955	4202531900		102-4		BALL #1

FIELD NAME	PROD	PURCHASER
FORT WOLTERS (CONGL)	238.0	SOUTHWESTERN GAS
DALE (CADDO)	3.0	SIOUX PIPELINE CO
DALE (CADDO)	3.0	SIOUX PIPELINE CO
SPRABERRY TREND AREA	25.0	ADOBE OIL & GAS C
PAT KAHAN (MISS)	56.0	LONE STAR GAS CO
NORTH MARKHAM-NORTH B	31.7	TRANSCONTINENTAL
C J C (JENNINGS)	72.0	ODESSA NATURAL CO
CJC (GARDNER)	7.0	ODESSA NATURAL CO
CJC (GARDNER)	53.0	ODESSA NATURAL CO
CJC (GRAY)	64.0	ODESSA NATURAL CO
CJC (JENNINGS)	31.0	ODESSA NATURAL CO
C J C (GARDNER)	42.0	ODESSA NATURAL CO
CINDY ANN (AUSTIN CHA	365.0	J L DAVIS
SPRABERRY (TREND AREA	18.3	INTERNORTH INC
SUSAN PEAK NORTH (CAN	17.6	ARCO OIL & GAS CO
SUSAN PEAK NORTH (CAN	28.9	ARCO OIL & GAS CO
HARMON (MARMATON)	25.0	INTERNORTH INC
PEERY (CLEVELAND)	0.0	TRANSWESTERN PIPE
GIESECKE (CADDO)	68.0	LONE STAR GAS CO
MIDSTATES (WINCHELL)	65.0	LONE STAR GAS CO
HOCKLEY (3535)	110.0	UNITED GAS PIPE L
MARYETTA (ATOKA 5360)	337.0	NATURAL GAS PIPEL
SAWYER (CANYON)	825.0	VALERO TRANSMISSI
LAGLORIA (ERNEST LOWE	547.5	TRANSCONTINENTAL
LEVELLAND	9.5	AMOCO PRODUCTION
AZELIA (DEVONIAN)	20.2	EL PASO NATURAL G
BENEDUM SPRABERRY	4.1	EL PASO NATURAL G
BENEDUM SPRABERRY	3.4	EL PASO NATURAL G
BENEDUM SPRABERRY	4.4	EL PASO NATURAL G
KWB (STRAWN)	0.0	LONE STAR GAS CO
PANHANDLE WEST	18.8	INTER NORTH INC
SPRABERRY (TREND AREA	0.0	DORCHESTER GAS PR
PANHANDLE CARSON	85.0	GETTY OIL CO
BERCLAIR S W (3300)	90.0	HOUSTON PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PHILCON DEVELOPMENT CO				RECEIVED:	11/10/82	JA: TX			
8308935	F-10-059243	4229500000		108		COY	GHEEN (UPPER MORROW)	6.5	INTER NORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/10/82	JA: TX			
8308939	F-08-059250	4213532707		108		(24302) COWDEN U #3	DONNELLY (SAN ANDRES)	5.0	EL PASO NATURAL G
8308902	F-08-058724	4213502436		108		ALMA #3 (07001)	TXL (SILURIAN)	1.0	SHELL OIL CO
8308903	F-08-058725	4213502438		108		ALMA #5 (16869)	TXL NORTH (WADDELL)	2.0	SHELL OIL CO
8308952	F-08-059283	4213533169		108		CLYDE COWDEN #166	GOLDSMITH (5600)	3.0	EL PASO NATURAL G
8308940	F-08-059251	4213532695		108		COWDEN U #4	DONNELLY (SAN ANDRES)	2.0	EL PASO NATURAL G
8308938	F-08-059249	4213502704		108		EMBAR #4	GOLDSMITH NORTH (SAN	18.0	EL PASO NATURAL G
8308937	F-08-059246	4213530312		108		WITCHER D #1	COWDEN SOUTH (CANYON)	1.0	ODESSA NATURAL CO
-PIONEER PRODUCTION CORPORATION				RECEIVED:	11/10/82	JA: TX			
8308891	F-10-058572	4229500000		108		SCHULTZ "E" #1	MAMMOTH CREEK NORTH (	0.0	TRANSWESTERN PIPE
-PROBE INC				RECEIVED:	11/10/82	JA: TX			
8308855	F-7C-058285	4238331780		103		F A BIRD ESTATE "E" #1	CALVIN (DEAN)	23.2	EL PASO NATURAL G
8308920	F-7C-059172	4238332147		103		F A BIRD ESTATE "F" #1	SPRABERRY (TREND AREA	0.0	
-QUINTIN LITTLE CO				RECEIVED:	11/10/82	JA: TX			
8308904	F-03-058902	4214931276		102-2		ODESSA #1	GIDDINGS (AUSTIN CHAL	58.0	PHILLIPS PETROLEU
-R A MENDENHALL ASSOCIATES LTD				RECEIVED:	11/10/82	JA: TX			
8308913	F-7B-059106	4215131430		102-4		GOSWICK #1 (18180)	SHAR-LYN (STRAWN)	23.0	LONE STAR GAS CO
-R A W ENERGY CORP				RECEIVED:	11/10/82	JA: TX			
8308809	F-7B-55680	4236700000		102-4		HODGES #1	POOLVILLE SW (CADDO)	0.0	SOUTHWESTERN GAS
-R E KIBBE				RECEIVED:	11/10/82	JA: TX			
8308912	F-04-059053	4224900000		108		ISHAM #7	PREMONT (SINGER 3100)	15.5	TRUNKLINE GAS CO
-RIFE OIL PROPERTIES INC				RECEIVED:	11/10/82	JA: TX			
8308802	F-7B-54560	4236332859		102-4		J B TAYLOR ET AL #4	MINERAL WELLS S (WHIT	0.0	SOUTHWESTERN GAS
-RK PETROLEUM CORP				RECEIVED:	11/10/82	JA: TX			
8308817	F-08-56881	4238931231		107-TF		DIXIELAND "10" #1	DIXIELAND (ATOKA)	0.0	TEXAS CITY REFINI
8308852	F-08-058196	4231732557		103		THELMA #1	SPRABERRY/TREND AREA	0.0	INTERNORTH INC
-ROBINSON BROS DRILLING CO INC				RECEIVED:	11/10/82	JA: TX			
8308909	F-06-058981	4231530587		102-2	103	GIRTCH HAWKINS GAS UNIT #1 100707	WOODLAWN (COTTON VALL	228.0	
8308909	F-06-058981	4231530587		107-TF		GIRTCH HAWKINS GAS UNIT #1 100707	WOODLAWN (COTTON VALL	228.0	
-ROME EXPLORATION CO INC				RECEIVED:	11/10/82	JA: TX			
8308784	F-10-52596	4228300000		102-4		MARGARET A ZIMMERMAN #1	LOS ANGELES (4700)	126.0	VALERO TRANSMISSI
-SAXON OIL COMPANY				RECEIVED:	11/10/82	JA: TX			
8308755	F-08-47704	4231700000		103		THOMPSON #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
8308781	F-7C-52353	4238332170		103		UNIVERSITY "27-9" #2	SPRABERRY (TREND AREA	5.1	PHILLIPS PETROLEU
-SCANDRILL CO				RECEIVED:	11/10/82	JA: TX			
8308747	F-09-34080	4250334172		103		KISINGER #6	NAPECO (MISS)	233.2	SOUTHWESTERN GAS
-SCANDRILL INC				RECEIVED:	11/10/82	JA: TX			
8308776	F-09-52116	4223734318		103		BIRDWELL #1	BRYSON EAST	36.5	TEXAS UTILITIES F
8308771	F-09-52057	4223734317		103		BIRDWELL #2	JACK COUNTY REGULAR	73.0	TEXAS UTILITIES F
8308853	F-09-058203	4223734172		102-4	103	DUERSON #3	CHAWN (STRAWN)	36.5	LONE STAR GAS CO
8308830	F-09-057640	4223734281		102-4	103	DUERSON #5	CHAWN (STRAWN)	36.5	LONE STAR GAS CO
8308770	F-09-52056	4250335528		103		GILMORE-HAWKINS #7	YOUNG COUNTY REGULAR	7.3	SUN GAS TRANSMISS
8308774	F-09-52112	4250335617		103		GILMORE-HAWKINS #8	YOUNG COUNTY REGULAR	72.6	SOUTHWESTERN GAS
8308775	F-09-52114	4223734121		103		HENDERSON-BRIDWELL #B-9	BRYSON EAST	36.5	TEXAS UTILITIES F
8308773	F-09-52061	4223734201		103		HENDERSON-BRIDWELL #17	BRYSON EAST	27.4	SUN GAS TRANSMISS
8308772	F-09-52058	4223734076		103		MCCONNELL #2	JACK COUNTY REGULAR	36.5	LONE STAR GAS CO
8308779	F-09-52187	4250335189		103		MORRIS STEPHENS "B" #7	KNOX (MISS LIME)	40.2	SUN GAS TRANSMISS
8308780	F-7B-52188	4244732936		103		PUTNAM "C" #20	THROCKMORTON COUNTY R	99.3	THROCKMORTON GAS
8308778	F-09-52185	4223734340		103		SANDERS #1	JACK COUNTY REGULAR	54.8	LONE STAR GAS CO
8308823	F-09-57251	4223734625		102-4	103	W L RICHARDS #5	HAZEL (STRAWN)	0.0	LONE STAR GAS CO
-SEARCH DRILLING CO				RECEIVED:	11/10/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308807	F-10-5538	4229531105		103		DANIELS #5-554	BRADFORD (TONKAWA)	91.0	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	11/10/82	JA: TX			
8309012	F-08-59354	4210300000		108		BARNSLEY M L #3	SAND HILLS (JUDKINS)	7.7	WARREN PETROLEUM
8308889	F-01-058530	4231131729		102-4		BRACKEN #1	A W P (OLMOS)	50.0	
8309013	F-10-59355	4229500000		108		BRADFORD R C #2722	BRADFORD (TONKAWA)	15.2	TRANSWESTERN PIPE
8309008	F-08-59349	4213500000		108		E HARPER UNIT #338	HARPER	0.3	PHILLIPS PETROLEU
8309006	F-08-59347	4213500000		108		E HARPER UNIT #361	HARPER	0.5	PHILLIPS PETROLEU
8309007	F-08-59348	4213500000		108		E HARPER UNIT 405	HARPER	0.9	PHILLIPS PETROLEU
8309003	F-8A-59344	4216500000		108		GAINES WASSON CLEARFORK UNIT #7703G	WASSON 72	4.4	SHELL OIL CO
8309014	F-8A-59356	4250100000		108		HAMNER #5	OWNBY (CLEAR FORK LOW	4.2	AMOCO PRODUCTION
8309018	F-10-59360	4221100000		108		HOBART RANCH 2-69	HEMPHILL (GRANITE WAS	16.2	CITIES SERVICE CO
8309004	F-08-59345	4213500000		108		JORDAN UNIVERSITY #514	JORDAN	0.4	PHILLIPS PETROLEU
8309009	F-08-59350	4200300000		108		KING E F #20	FUHRMAN-MASCHO (YATES	9.6	PHILLIPS PETROLEU
8309028	F-8A-59375	4250131926		103		OWNBY (SAN ANDRES) UNIT #69	OWNBY (SAN ANDRES)	21.9	AMOCO PRODUCTION
8309015	F-7C-59357	4238300000		108		RICKER -35- #2	CALVIN (DEAN)	15.7	EL PASO NATURAL G
8309023	F-8A-59365	4216500000		108		S WASSON CLEARFORK UNIT #6406S	WASSON 72	5.4	SHELL OIL CO
8309002	F-8A-59343	4216500000		108		S WASSON CLEARFORK UNIT #7507S	WASSON 72	6.1	SHELL OIL CO
8309016	F-08-59358	4247500000		108		SEALY SMITH FDN #142	MONAHANS (CLEAR FORK)	8.5	EL PASO NATURAL G
8309017	F-08-59359	4247500000		108		SEALY SMITH FDN #50	MONAHANS (CLEAR FORK)	2.8	EL PASO NATURAL G
8309010	F-08-59351	4249500000		108		SEALY-SMITH 47 #1	MONAHANS NE (PENN DET	21.1	EL PASO NATURAL G
8309022	F-08-59364	4210300000		108		SLATOR -E- #5	TXL (SAN ANDRES)	6.2	SHELL OIL
8309000	F-8A-059341	4216500000		108		SOUTH WASSON CLEARFORK UNIT #7508S	WASSON 72	5.9	SHELL OIL CO
8309001	F-8A-059342	4216500000		108		SOUTH WASSON CLEARFORK UNIT #6504S	WASSON 72	13.4	SHELL OIL CO
8309021	F-08-59363	4210300000		108		THOMAS -A- #9	TXL (SAN ANDRES)	6.9	SHELL OIL
8309011	F-08-59353	4213500000		108		TXL -L- A/C 1 #10	TXL (DEVONIAN)	13.1	SHELL OIL ET AL
8309005	F-08-59346	4213500000		108		TXL NORTH UNIT #337-L	TXL (TUBB)	3.8	SHELL OIL ET AL
8309020	F-08-59362	4210300000		108		UNIVERSITY 30-C #1	DUNE	1.7	PHILLIPS PETROLEU
8309019	F-08-59361	4210300000		108		UNIVERSITY 30-C #3	DUNE	1.8	PHILLIPS PETROLEU
				RECEIVED:	11/10/82	JA: TX			
-SPRUIELL DRILLING CO INC							DEER CREEK *ISRAEL 50	4.9	FAGADAU ENERGY CO
8308933	F-09-059237	4207732680		102-4		DAVIS ID #22545			
				RECEIVED:	11/10/82	JA: TX			
-SUN EXPLORATION & PRODUCTION CO							BLOODWORTH NE (5650)	6.0	EL PASO NATURAL G
8308788	F-7C-52659	4235300000		108		BLOODWORTH N E CANYON UNIT 22-C	PEARSALL (AUSTIN CHAL	5.0	HOUSTON PIPE LINE
8308915	F-01-059156	4250731577		103		JOHN B BAGGETT #12	HALLEY (DEVONIAN)	183.0	TRANSWESTERN PIPE
8308825	F-08-57398	4249531237		103		M J HILL -22- #6A	HOSTETTER N (WILCOX 9	193.0	HOUSTON PIPELINE
8308803	F-01-54918	4231131660		103		OWENS GAS UNIT #1	COWDEN NORTH	1.0	AMOCO PRODUCTION
8308917	F-08-059166	4200300000		108		ROBERT B HOLT #6	PERRYTON WEST	8.0	PHILLIPS PETROLEU
8308846	F-10-058080	4235700000		108		THERESA WRIGHT #3	TEXON WEST SPRAYBERRY	0.0	EL PASO NATURAL G
8308916	F-7C-059165	4238300000		108		UNIVERSITY 114 #114			
-SUNDOWN ENERGY CO INC				RECEIVED:	11/10/82	JA: TX			
8308829	F-01-057585	4250731713		102-4		R-MATHEWS 4-13 T	SUNDOWN LUCAS P	100.0	HOUSTON PIPE LINE
				RECEIVED:	11/10/82	JA: TX			
-TEMPLETON ENERGY INC							ASOG (LITTLE ROCK SAN	127.0	VALERO TRANSMISSI
8308812	F-04-55940	4224931535		102-4		FITZSIMMONS #2			
				RECEIVED:	11/10/82	JA: TX			
-TENNECO OIL COMPANY							MCALLEN RANCH	450.0	CHANNEL INDUSTRIE
8308813	F-04-56179	4221531219		103	107-TF	A A MCALLEN #11	GUADALUPE	750.0	TENNESSEE GAS PIP
8308748	F-04-38964	4221531095		102-4		WOODS CHRISTIAN #5			
				RECEIVED:	11/10/82	JA: TX			
-TEXACO INC							WASSON	0.0	SHELL OIL CO
8308819	F-8A-56965	4250132061		103		ROBERTS UNIT #4445	PANHANDLE HUTCHINSON	5.3	PHILLIPS PETROLEU
8308914	F-10-059120	4223300000		108		S B BURNETT NCT-5 #13	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8308890	F-10-058538	4206500000		108		T J BONEY NCT-3 #16	PANHANDLE CARSON COUN	0.7	GETTY OIL CO
8308897	F-10-058664	4206500000		108		T J BONEY NCT-3 #21	PANHANDLE CARSON COUN	0.8	GETTY OIL CO
8308898	F-10-058665	4206500000		108		T J BONEY NCT-3 #22	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8308899	F-10-058666	4206500000		108		T J BONEY NCT-3 #23	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8308900	F-10-058667	4206500000		108		T J BONEY NCT-3 #24			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8308901	F-10-058668	4206500000		108		T J BONEY NCT-3 #25	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8308931	F-10-059234	4206500000		108		T J BONEY NCT-4 #31	PANHANDLE CARSON COUN	1.5	GETTY OIL CO
-THE DOW CHEMICAL COMPANY				RECEIVED:	11/10/82	JA: TX			
8308839	F-02-057853	4217531061		103		B B GAYLE #7	CLIP (FRIO LOWER)	110.0	
-THE MAURICE L BROWN COMPANY				RECEIVED:	11/10/82	JA: TX			
8308907	F-06-058965	4220300000		108		TIMMINS GAS UNIT #C-1	BETHANY	19.0	TENNECO INC
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	11/10/82	JA: TX			
8308814	F-7C-56257	4210532519		103	107-TF	MAYER #8	SAWYER (CANYON)	140.0	INTERNORTH INC
8308798	F-7C-54171	4210500000		103	107-TF	UNIVERSITY 33-16 #1	OZONA (CANYON SAND)	110.0	PHILLIPS PETROLEU
-TOM BROWN INC				RECEIVED:	11/10/82	JA: TX			
8308947	F-08-059269	4231732524		103		WOODY #5-3	SPRABERRY (TREND AREA	13.9	ADOBE OIL & GAS C
8308948	F-08-059270	4231732526		103		WOODY #6-3	SPRABERRY (TREND AREA	15.3	ADOBE OIL & GAS C
8308949	F-08-059272	4231732525		103		WOODY #7-3	SPRABERRY (TREND AREA	16.8	ADOBE OIL & GAS C
-TOMMY LITTLEPAGE				RECEIVED:	11/10/82	JA: TX			
8308927	F-09-059188	4250334207		103		ATWOOD JACK #22515	YOUNG COUNTY REGULAR	38.0	SUN GAS TRANSMISS
-TRIPLE L OIL CO INC				RECEIVED:	11/10/82	JA: TX			
8308893	F-02-058611	4202531808		103		S SMITH #1 N/A	SINGLETON (1900')	255.0	SOUTHERN GAS PIPE
-TXO PRODUCTION CORP				RECEIVED:	11/10/82	JA: TX			
8308768	F-06-51853	4220300000		103	107-TF	DINKLE #1	BLOCKER (COTTON VALLE	0.0	
8308750	F-02-043774	4229732670		102-4		HILL G U H-1	CORNELIA (2780)	0.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	11/10/82	JA: TX			
8308821	F-03-57111	4228731240		102-2		CHARLOTTE #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION TEXAS PETROLEUM				RECEIVED:	11/10/82	JA: TX			
8308971	F-7C-059306	4223500000		108		FARMAR "32" #1	FLINT HILL (CANYON)	4.4	FARMLAND INDUSTRI
8308983	F-7C-059321	4223531443		102-2		FARMAR "43-10" #1	ROCK PEN (CANYON)	158.4	FARMLAND INDUSTRI
8308981	F-7C-059319	4223531519		102-2		FARMAR "43-10" #2	ROCK PEN (CANYON)	194.4	FARMLAND INDUSTRI
8308999	F-7C-059338	4223531339		102-2		FARMAR "44-10" #1	ROCK PEN (CANYON)	43.2	FARMLAND INDUSTRI
8308982	F-7C-059320	4223500000		102-2		FARMAR "44" #1	ROCK PEN (CANYON)	100.8	FARMLAND INDUSTRI
8308978	F-7C-059316	4223500000		102-2		FARMAR "44" #2	ROCK PEN (CANYON)	79.2	FARMLAND INDUSTRI
8308979	F-7C-059317	4223500000		102-2		FARMAR "44" #3	ROCK PEN (CANYON)	84.6	FARMLAND INDUSTRI
8308993	F-7C-059332	4223531295		102-2		FARMAR "44" #4	ROCK PEN (CANYON)	115.2	FARMLAND INDUSTRI
8308994	F-7C-059333	4223531442		102-2		FARMAR "45-10" #1	ROCK PEN (CANYON)	83.5	FARMLAND INDUSTRI
8308995	F-7C-059334	4223531520		102-2		FARMAR "45-10" #2	ROCK PEN (CANYON)	118.8	FARMLAND INDUSTRI
8308970	F-7C-059305	4223500000		102-2		FARMAR "55" #1	ROCK PEN (CANYON)	36.0	FARMLAND INDUSTRI
8308996	F-7C-059335	4223500000		102-2		FARMAR "56" #3	ROCK PEN (CANYON)	68.4	FARMLAND INDUSTRI
8308986	F-7C-059325	4223500000		102-3		FARMAR "56" #4	ROCK PEN (CANYON)	82.8	FARMLAND INDUSTRI
8308997	F-7C-059336	4223531286		102-2		FARMAR "56" #5	ROCK PEN (CANYON)	46.8	FARMLAND INDUSTRI
8308992	F-7C-059331	4223500000		102-3		FARMAR "57" #1	ROCK PEN (CANYON)	250.0	FARMLAND INDUSTRI
8308987	F-7C-059326	4223500000		102-3		FARMAR "57" #2	ROCK PEN (CANYON)	187.2	FARMLAND INDUSTRI
8308988	F-7C-059327	4223500000		102-3		FARMAR "57" #3	ROCK PEN (CANYON)	84.0	FARMLAND INDUSTRI
8308989	F-7C-059328	4223500000		102-3		FARMAR "57" #4	ROCK PEN (CANYON)	84.6	FARMLAND INDUSTRI
8308990	F-7C-059329	4223500000		102-3		FARMAR "57" #5	ROCK PEN (CANYON)	85.0	FARMLAND INDUSTRI
8308980	F-7C-059318	4223500000		102-2		FARMAR "57" #8	ROCK PEN (CANYON)	90.0	FARMLAND INDUSTRI
8308973	F-7C-059310	4223500000		108		FARMAR 55 #1	ROCK PEN (CANYON)	18.2	FARMLAND INDUSTRI
8308972	F-7C-059307	4223500000		108		MCALESTER-SUGG 70 #1	FLINT HILL (CANYON)	16.4	FARMLAND INDUSTRI
8308985	F-7C-059323	4223531373		102-2		SKELLY SUGG 45 #2	ROCK PEN (CANYON)	41.4	FARMLAND INDUSTRI
8308998	F-7C-059337	4223531737		102-2		SUGG "12" #1	ANDREW A (CANYON)	100.0	FARMLAND INDUSTRI
8308991	F-7C-059330	4223531736		102-2		SUGG "21" #1	ANDREW A (CANYON)	108.7	FARMLAND INDUSTRI
8308984	F-7C-059322	4223500000		108		SUGG 3072	LUCKY CANYON (CANYON)	23.7	FARMLAND INDUSTRI
-VANDERBURG EXPLORATION CO INC				RECEIVED:	11/10/82	JA: TX			
8308919	F-10-059169	4217931121		103		SANDY #1 (ID #05077)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-VANDERBURG PRODUCTION INC				RECEIVED:	11/10/82	JA: TX			
8308918	F-10-059168	4217931083		103		VANDERBURG #2 (ID #05041)	PANHANDLE GRAY	50.0	CABOT PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VENUS OIL COMPANY				RECEIVED:	11/10/82	JA: TX			
8308760	F-03-49601	4248100000		102-4		GOERIG #1	LOUISE NORTH	0.0	DELHI GAS PIPELIN
-VERMILLION RESOURCES INC				RECEIVED:	11/10/82	JA: TX			
8308792	F-78-53190	4236332846		103		HOUSTON RANCH #1	LONE CAMP (BEND CONGL	467.0	SOUTHWESTERN GAS
-VINSON EXPLORATION				RECEIVED:	11/10/82	JA: TX			
8308836	F-7C-057765	4210500000		102-4		UNIVERSITY "14-30" #1	INGHAM (QUEEN)	27.0	SOUTHWESTERN GAS
8308835	F-7C-057763	4210500000		102-4		UNIVERSITY "33" #1	INGHAM (QUEEN)	27.0	SOUTHWESTERN GAS
-W R HUGHEY OPERATING CO				RECEIVED:	11/10/82	JA: TX			
8308801	F-06-54350	4220330955		103	107-TF	FURRH GAS UNIT 1-A PERMIT NO 155226	BLOCKER	150.0	EAST TEXAS INDUST
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	11/10/82	JA: TX			
8308870	F-08-058441	4210330402		108		W N WADDELL #1005	SAND HILLS (MCKNIGHT)	1.8	EL PASO NATURAL G
8308869	F-08-058440	4210330437		108		W N WADDELL #1035	SAND HILLS (MCKNIGHT)	3.2	EL PASO NATURAL G
8308877	F-08-058450	4210330475		108		W N WADDELL #1041	SAND HILLS (MCKNIGHT)	1.9	EL PASO NATURAL G
8308878	F-08-058451	4210330488		108		W N WADDELL #1050	SAND HILLS (MCKNIGHT)	2.1	EL PASO NATURAL G
8308879	F-08-058452	4210330537		108		W N WADDELL #1055	SAND HILLS (SAN ANGEL	3.9	EL PASO NATURAL G
8308875	F-08-058446	4210330570		108		W N WADDELL #1061	SAND HILLS (MCKNIGHT)	8.4	EL PASO NATURAL G
8308882	F-08-058463	4210330586		108		W N WADDELL #1066	SAND HILLS (SAN ANGEL	6.0	EL PASO NATURAL G
8308876	F-08-058447	4210330585		108		W N WADDELL #1067	SAND HILLS (SAN ANGEL	2.4	EL PASO NATURAL G
8308865	F-08-058339	4210302432		108		W N WADDELL #202	SAND HILLS (MCKNIGHT)	2.5	EL PASO NATURAL G
8308860	F-08-058321	4210301742		108		W N WADDELL #273	SAND HILLS (MCKNIGHT)	1.6	EL PASO NATURAL G
8308859	F-08-058316	4210302075		108		W N WADDELL #626	RUNNING W (WICHTA ALB	7.7	EL PASO NATURAL G
8308857	F-08-058308	4210302088		108		W N WADDELL #639	SAND HILLS (MCKNIGHT)	2.8	EL PASO NATURAL G
8308858	F-08-058309	4210302104		108		W N WADDELL #655	SAND HILLS (MCKNIGHT)	5.8	EL PASO NATURAL G
8308874	F-08-058445	4210302281		108		W N WADDELL #841	SAND HILLS (MCKNIGHT)	2.7	EL PASO NATURAL G
8308873	F-08-058444	4210310577		108		W N WADDELL #902	SAND HILLS (MCKNIGHT)	3.2	EL PASO NATURAL G
8308872	F-08-058443	4210310860		108		W N WADDELL #917	SAND HILLS (MCKNIGHT)	3.1	EL PASO NATURAL G
8308871	F-08-058442	4210310877		108		W N WADDELL #918	SAND HILLS (MCKNIGHT)	5.6	EL PASO NATURAL G
8308881	F-08-058462	4210310969		108		W N WADDELL #944	SAND HILLS SOUTH (MOL	15.4	EL PASO NATURAL G
8308886	F-08-058482	4210311291		108		W N WADDELL #978	SAND HILLS (ORDOVICIA	4.5	EL PASO NATURAL G
-WCS PETROLEUM INC				RECEIVED:	11/10/82	JA: TX			
8308790	F-03-53017	4214931328		102-2		JOHN OWENS #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WES-TEX DRILLING COMPANY				RECEIVED:	11/10/82	JA: TX			
8308943	F-78-059258	4235331231		102-2		JORDAN RANCH #1	SUGGS (ELLENBURGER)	0.0	LONE STAR GAS CO
-WESLEY SENKEL INC				RECEIVED:	11/10/82	JA: TX			
8308950	F-09-059274	4250336075		102-4		O B HEARNE #7	SENKEL (CADDO 4600)	52.0	SOUTHWESTERN GAS
-WILLIFORD ENERGY CO				RECEIVED:	11/10/82	JA: TX			
8308826	F-10-057480	4229500000		103		BECHTHOLD #2	HARMON (MARMATON)	96.4	PHILLIPS PETROLEU
-WINCHESTER OIL CO				RECEIVED:	11/10/82	JA: TX			
8308761	F-06-49665	4220330909		103	107-TF	KNIGHTON #1	WASKOM (COTTON VALLEY	0.0	TEXAS EASTERN TRA
-WINN EXPLORATION/DULCE CO				RECEIVED:	11/10/82	JA: TX			
8308796	F-01-53733	4250731233		102-4		PRYOR RANCH 34	WINN-DULCE (ELAINE)	0.0	PERMIAN CORP
8308795	F-10-53491	4250731632		102-4		PRYOR RANCH 54	WINN-DULCE	0.0	INTERNORTH INC
-WY-VEL CORP				RECEIVED:	11/10/82	JA: TX			
8308926	F-10-059187	4206531221		103		BURNETT (04270) 10	PANHANDLE-CARSON COUN	35.7	GETTY OIL CO
8308942	F-10-059257	4206531153		103		COFFEE (05175) #1	PANHANDLE	96.0	GETTY OIL CO
8308924	F-10-059185	4206531192		103		NICHOLSON (02532) #10	PANHANDLE	18.2	GETTY OIL CO
8308923	F-10-059184	4223331454		103		SOUTHLAND (04341) #10	PANHANDLE	18.0	PHILLIPS PETROLEU
8308925	F-10-059186	4223331453		103		SOUTHLAND (04341) #12	PANHANDLE	22.0	PHILLIPS PETROLEU

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formulation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB; Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33899 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 8, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-DERNICK RESOURCES INC				RECEIVED:	11/12/82	JA: KS			
8309230	K-82-0908	1507520325		103		HOWELL #2	BRADSHAW	14.0	NATURAL GAS SALES
LOUISIANA OFFICE OF CONSERVATION									
-ABCO PETROLEUM CORP				RECEIVED:	11/12/82	JA: LA			
8309204	82-1079	1711121784		108		EXXON FEE #5 #164225	MONROE GAS	77.8	IMC PIPELINE CO I
8309203	82-1081	1711121786		108		EXXON FEE #7		42.0	IMC PIPELINE CO I
-AMERADA HESS CORPORATION				RECEIVED:	11/12/82	JA: LA			
8309205	82-1070	1705721912		102-4		C E GHEENS #101 11,300 RA SUD	BAYOU DES ALLEMANDS	255.0	TRANSCONTINENTAL
8309226	82-1278	1708120420		102-4		INTERNATIONAL PAPER CO #1	ALPHA	390.0	UNITED GAS PIPE L
-AMINOIL OF LOUISIANA INC				RECEIVED:	11/12/82	JA: LA			
8309075	82-0409	1707522807		103		E COCKRELL JR "A" #137	LAKE WASHINGTON	35.0	SOUTHERN NATURAL
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/12/82	JA: LA			
8309145	82-2479	1711300261		108		PICARD #1 MARES SUB	NORTH LEROY	20.0	UNITED GAS PIPELI
-BETHLAN PRODUCTION CORP				RECEIVED:	11/12/82	JA: LA			
8309195	82-2446	1707321764		103		BRADLEY #1	MONROE GAS FIELD	18.3	MID LOUISIANA GAS
8309100	82-2531	1708320686		102-4		CAMPBELL A #1	BIG CREEK	89.4	MICHIGAN WISCONSI
8309116	82-2529	1708320591		102-4		GRAY #1	BIG CREEK	146.0	MICHIGAN WISCONSI
8309194	82-2445	1707321777		103		HEARD #1	MONROE GAS FIELD	17.5	IMC PIPELINE CO I
8309117	82-2530	1708320607		102-4		MCDONALD HUNTER #1	BIG CREEK	173.4	MICHIGAN WISCONSI
8309115	82-2528	1708320608		102-4		MCDONALD HUNTER #2	BIG CREEK	178.9	MICHIGAN WISCONSI
-C E WHITE				RECEIVED:	11/12/82	JA: LA			
8309127	82-2602	1707321802		103		FEE #1	MONROE GAS	12.0	MID LOUISIANA GAS
-CHEVRON U S A INC				RECEIVED:	11/12/82	JA: LA			
8309101	82-2541	1707720228		107-DP		A R ALBRITTON ET AL #1L TUSC RA SUE	JUDGE DIGBY	2190.0	SUGAR BOWL GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	11/12/82	JA: LA			
8309221	82-2099	1702721022		102-4		OWENS A #1 HA RB SUA	COLQUITT	150.0	
-COTTON PETROLEUM CORPORATION				RECEIVED:	11/12/82	JA: LA			
8309124	82-1261	1701723970		103		QUERBES #1	GREENWOOD WASKOM	125.0	UNITED GAS PIPE L
-CRYSTAL OIL COMPANY				RECEIVED:	11/12/82	JA: LA			
8309082	81-2764	1701724117		103		CLEMENTS #2	NORTH MISSIONARY LAKE	1350.0	ARKANSAS LOUISIAN
8309119	82-2617	1701724117		107-TF		CLEMENTS #2	NORTH MISSIONARY LAKE	2007.5	ARKANSAS LOUISIAN
8309222	82-2322	1701521730		102-4		DOLES-WALKER #2 ALTER HAY RA SUE	ARKANA	182.5	ARKANSAS LOUISIAN
8309206	82-0716	1706920180		102-4		DOOLITTLE #2 HOSS RA SUE	ROBELINE	723.6	UNITED GAS PIPELI
8309212	82-1250	1701521716		102-4		HAMITER "F" #1 ALT HAY RA SUM	ARKANA	803.0	ARKANSAS LOUISIAN
8309200	82-0718	1701521624		102-4		R E HAMITER "B" #1	ARKANA	109.5	ARKANSAS LOUISIAN
8309215	82-1251	1701521710		102-4		THOMPSON #1 - ALT HAY RA SU D	ARKANA	1627.9	ARKANSAS LOUISIAN
-DEVON ENERGY CORP				RECEIVED:	11/12/82	JA: LA			
8309090	82-2557	1711123795		103		J M EDWARDS #5	MONROE	500.0	TEXAS GAS TRANSMI
8309091	82-2556	1711123796		103		J M EDWARDS #6	MONROE	500.0	TEXAS GAS TRANSMI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EXXON CORPORATION				RECEIVED:	11/12/82	JA: LA			
8309074	82-0129	1705721863		103		EXXON FEE B #25	BULLY CAMP	400.0	TENNESSEE GAS PIP
8309220	82-0844	1709920904		103		GOODRICH C #17-D DL OPERC 6 RA SU	DUCK LAKE	200.0	UNITED GAS PIPE L
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	11/12/82	JA: LA			
8309227	82-1417	1707522788		102-4		LL&E #1	DRAKES BAY	60.0	LOUISIANA STATE G
-FRANKS PETROLEUM INC ETAL				RECEIVED:	11/12/82	JA: LA			
8309225	82-1374	1701320528		103		MERRITT #B-1 HOSS B RA SU MM	ADA	240.0	ARKANSAS LOUISIAN
-GLENN PETROLEUM CORP				RECEIVED:	11/12/82	JA: LA			
8309219	82-2373	1703121379		102-4		E J RAMSEY #1 #179849 LGR RA SUB	LOGANSPORT	0.0	ARKANSAS LOUISIAN
-GOLDKING PRODUCTION COMPANY				RECEIVED:	11/12/82	JA: LA			
8309118	82-2853	1703320136		102-2		R L KLEINPETER #5-D	SIEGEN	650.0	UNITED GAS PIPE L
-GULF OIL CORPORATION				RECEIVED:	11/12/82	JA: LA			
8309123	82-0203	1707522762		103		J G TIMOLAT "B" 145 WB 6B (RG) SU	WEST BAY	15.0	TEXAS EASTERN TRA
-H J BONNER				RECEIVED:	11/12/82	JA: LA			
8309188	82-2439	1706720438		108		PICKETT C #1-SERIAL #141013	MONROE GAS ROCK	2.3	MID LOUISIANA GAS
-HADDOX PETROLEUM CORP				RECEIVED:	11/12/82	JA: LA			
8309146	82-2478	1711123557		108		W B GLADNEY #1	MONROE	8.7	IMC PIPELINE CO I
-IMC EXPLORATION COMPANY				RECEIVED:	11/12/82	JA: LA			
8309190	82-2444	1706120162		108		LORAINE HOWARD ESTATE #1	TERRYVILLE	20.0	LOUISIANA GAS INT
8309109	82-2435	1711123172		108		RABUN #34	MONROE	17.0	PETRO-LEWIS FUNDS
-INEXCO OIL COMPANY				RECEIVED:	11/12/82	JA: LA			
8309218	82-1004	1711321045		102-4		BROUSSARD LAND CO #4	FORKED ISLAND	1678.0	LOUISIANA INTRAST
8309211	82-0988	1711320981		102-4		MASSIE-MILLER-SUMMERS #3	FORKED ISLAND	550.0	LOUISIANA INTRAST
-KABCO PRODUCTION CO				RECEIVED:	11/12/82	JA: LA			
8309192	82-2442	1710700519		108		BOYLE #C-1 MASS SU 281	BUCKHORN	13.0	MID LOUISIANA GAS
8309150	82-2436	1710720368		108		LFO LT SU FISHER LBR CO #1	LAKE FORMOSA	5.0	LOCUST RIDGE GAS
-LANKFORD & NANCE				RECEIVED:	11/12/82	JA: LA			
8309191	82-2443	1711123158		108		J M EDWARDS #1	MONROE	0.0	TEXAS GAS TRANSMI
-LEA EXPLORATION INC				RECEIVED:	11/12/82	JA: LA			
8309106	82-2465	1705520228		107-DP		EDMAY B RACCA #1	NORTH MAURICE	750.0	TENNESSEE GAS PIP
-MAJESTIC ENERGY CORP				RECEIVED:	11/12/82	JA: LA			
8309148	82-2434	1701521728		103		ELM GROVE PLANTATION #1 CV RA SU 22	ELM GROVE	109.0	UNITED GAS PIPELI
-MARSHALL EXPLORATION INC				RECEIVED:	11/12/82	JA: LA			
8309081	82-0729	1703120464		102-4		ARDIS #1 HOSS T RA SUJ	BETHANY-LONGSTREET	65.0	ARKANSAS LOUISIAN
8309196	82-3227	1703121646		108		HOOPER #1 - ALT HOSS SU Z	LOGANSPORT	12.0	SOUTHERN NATURAL
8309216	82-1164	1703121132		108		MATTHEWS LBR CO #1 FBG RA SU 117	LOGANSPORT	17.0	TENNESSEE GAS PIP
-MCMORAN EXPLORATION CO				RECEIVED:	11/12/82	JA: LA			
8309105	82-2463	1705721916		107-DP		LAFOURCHE REALTY CO #6	LAKE ENFERMER	1825.0	
-MERIT PRODUCTIONS INC				RECEIVED:	11/12/82	JA: LA			
8309099	82-2552	1707321851		103		EARL CASE#1	MONROE	0.0	IMC PIPELINE CO I
-MID LOUISIANA GAS COMPANY				RECEIVED:	11/12/82	JA: LA			
8309131	82-2450	1707321733		108		MLG-GTS #16	MONROE GAS FIELD	16.7	MID LOUISIANA GAS
8309184	82-2497	1711123649		103		MLGC FEE GAS #1118	MONROE GAS FIELD	26.6	MID LOUISIANA GAS
8309182	82-2498	1711123650		103		MLGC FEE GAS #1119	MONROE GAS FIELD	30.3	MID LOUISIANA GAS
8309186	82-2499	1711123651		103		MLGC FEE GAS #1120	MONROE GAS	27.7	MID LOUISIANA GAS
8309096	82-2548	1711123695		103		MLGC FEE GAS #1130	MONROE GAS	23.7	MID LOUISIANA GAS
8309163	82-2500	1711123666		103		MLGC FEE GAS #1133	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8309129	82-2563	1711123697		103		MLGC FEE GAS #1142	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8309165	82-2501	1711123727		103		MLGC FEE GAS #1143	MONROE GAS FIELD	27.7	MID LOUISIANA GAS
8309095	82-2547	1711123729		103		MLGC FEE GAS #1145	MONROE GAS	26.3	MID LOUISIANA GAS
8309152	82-2490	1711123730		103		MLGC FEE GAS #1146	MONROE GAS FIELD	30.3	MID LOUISIANA GAS
8309151	82-2491	1711123732		103		MLGC FEE GAS #1149	MONROE GAS FIELD	26.6	MID LOUISIANA GAS
8309132	82-2451	1711102141		108		MLGC FEE GAS #115	MONROE GAS FIELD	4.2	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309126	82-2562	1711123698		103		MLGC FEE GAS #1152	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8309102	82-2546	1711123699		103		MLGC FEE GAS #1153	MONROE GAS FIELD	26.3	MID LOUISIANA GAS
8309128	82-2561	1711123700		103		MLGC FEE GAS #1154	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8309094	82-2560	1711123701		103		MLGC FEE GAS #1155	MONROE GAS	21.9	MID LOUISIANA GAS
8309103	82-2545	1711123790		103		MLGC FEE GAS #1156	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8309104	82-2544	1711123745		103		MLGC FEE GAS #1163	MONROE GAS	24.8	MID LOUISIANA GAS
8309153	82-2494	1711123747		103		MLGC FEE GAS #1164	MONROE GAS FIELD	28.5	MID LOUISIANA GAS
8309185	82-2495	1711123746		103		MLGC FEE GAS #1165	MONROE GAS FIELD	23.4	MID LOUISIANA GAS
8309183	82-2496	1711123782		103		MLGC FEE GAS #1169	MONROE GAS FIELD	29.9	MID LOUISIANA GAS
8309114	82-2527	1711123783		103		MLGC FEE GAS #1170	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8309113	82-2526	1711123784		103		MLGC FEE GAS #1171	MONROE GAS FIELD	29.2	MID LOUISIANA GAS
8309164	82-2502	1711123744		103		MLGC FEE GAS #1172	MONROE GAS	29.2	MID LOUISIANA GAS
8309167	82-2503	1711123748		103		MLGC FEE GAS #1173	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8309166	82-2504	1711123739		103		MLGC FEE GAS #1174	MONROE GAS FIELD	28.5	MID LOUISIANA GAS
8309168	82-2505	1711123740		103		MLGC FEE GAS #1175	MONROE GAS FIELD	26.7	MID LOUISIANA GAS
8309169	82-2506	1711123741		103		MLGC FEE GAS #1176	MONROE GAS FIELD	30.3	MID LOUISIANA GAS
8309134	82-2452	1711102147		108		MLGC FEE GAS #200	MONROE GAS	2.9	MID LOUISIANA GAS
8309133	82-2453	1711102102		108		MLGC FEE GAS #206	MONROE GAS FIELD	3.9	MID LOUISIANA GAS
8309137	82-2454	1711101481		108		MLGC FEE GAS #224	MONROE GAS	3.5	MID LOUISIANA GAS
8309135	82-2455	1711102535		108		MLGC FEE GAS #319	MONROE GAS	2.4	MID LOUISIANA GAS
8309136	82-2456	1711101691		108		MLGC FEE GAS #380	MONROE GAS FIELD	2.5	MID LOUISIANA GAS
8309155	82-2457	1711101865		108		MLGC FEE GAS #432	MONROE GAS FIELD	10.5	MID LOUISIANA GAS
8309138	82-2458	1711101566		108		MLGC FEE GAS #472	MONROE GAS FIELD	4.9	MID LOUISIANA GAS
8309154	82-2460	1711120009		108		MLGC FEE GAS #600	MONROE GAS FIELD	3.3	MID LOUISIANA GAS
8309111	82-2461	1711120233		108		MLGC FEE GAS #642	MONROE GAS FIELD	9.9	MID LOUISIANA GAS
8309112	82-2562	1711120098		108		MLGC FEE GAS #652	MONROE GAS	2.1	MID LOUISIANA GAS
8309110	82-2459	1711101732		108		MLGC FEE GAS NO 545	MONROE GAS FIELD	35.9	MID LOUISIANA GAS
-MIDROC OPERATING CO				RECEIVED:		11/12/82 JA: LA			
8309210	82-2012	1711123363		102-2		BRASHER #1 CV DAVIS RA SU RR	WILDCAT	180.0	LOUISIANA GAS INT
8309213	82-2025	1711122948		102-2		C V DAVIS DILLARD RA SU SS	STOWE CREEK	180.0	LOUISIANA GAS INT
8309224	82-2011	1711123219		102-2		CV DAVIS RA SU TT WADE #1	WILDCAT	180.0	LOUISIANA GAS INT
-MITCHELL ENERGY CORPORATION				RECEIVED:		11/12/82 JA: LA			
8309084	82-0866	1704920163		103		BUCKNER #1	KELLEYS (COTTON VALLE	27.0	LOUISIANA GAS PUR
8309080	82-0832	1704900000		103		STELL #1	CARTWRIGHT	0.0	UNITED GAS PIPELI
-NICKLOS OIL & GAS CO C/O BRADCO OIL				RECEIVED:		11/12/82 JA: LA			
8309181	82-2492	1705721698		102-4		DAVE ROBICHAUX #1 SER 168073	ROUSSEAU	1095.0	TRANSCONTINENTAL
-NOE & WOODS				RECEIVED:		11/12/82 JA: LA			
8309147	82-2433	1711123485		103		JORDAN #3	MONROE GAS	16.4	DEVON CORP
-PACIFIC-ATLANTIC OIL CO				RECEIVED:		11/12/82 JA: LA			
8309187	82-2440	1706720469		108		H E PARKER #1 - 141622	MONROE	170.0	IMC PIPELINE CO I
8309193	82-2441	1706720470		108		TAKEWELL #1 - 143145	MONROE	160.0	IMC PIPELINE CO I
-PAR EXPLORATION CO				RECEIVED:		11/12/82 JA: LA			
8309180	82-2447	1706721642		108		MARY MCENERY #11	MONROE (6824)	0.0	MID LOUISIANA GAS
-PLACID OIL COMPANY				RECEIVED:		11/12/82 JA: LA			
8309214	82-1137	1705922127		102-2		/IPB LLS #24	WILDCAT	109.0	
8309223	82-1501	1705922262		102-4		IPB LLS JA 14 #10 B4 RA SUP	JENA AIRPORT	3.6	MICHIGAN WISCONSI
8309228	82-1295	1705922208		102-4		IPB LLS JA 14 #6 B4 RA SUA	JENA AIRPORT	94.0	MICHIGAN WISCONSI
8309076	82-0710	1705921739		102-4		IPB LLS 14 #1 B4 RA SUK	JENA AIRPORT	67.5	
8309208	82-0711	1705921819		102-4		IPB LLS 14 #2 B4 RA SUJ	JENA AIRPORT	78.8	
8309207	82-0712	1705921940		102-4		IPB LLS 14 #3 B4 RA SUG	JENA AIRPORT	155.0	
8309209	82-0713	1705921964		102-4		IPB LLS 14 #4 B4 RA SUF	JENA AIRPORT	69.3	
-PRIMOS PRODUCTION CO				RECEIVED:		11/12/82 JA: LA			
8309098	82-2549	1711123786		103		MO PAC RR CO #27	MONROE	12.3	PRIMOS PRODUCTION

JD NO	JA DKT	API No	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309088	82-2555	1711123750		103		MO PAC RR CO #6	MONROE	11.3	PRIMOS PRODUCTION
8309087	82-2551	1711123751		103		MO PAC RR CO #7	MONROE	14.4	PRIMOS PRODUCTION
8309097	82-2550	1711123752		103		MO PAC RR CO #8	MONROE	11.3	PRIMOS PRODUCTION
8309149	82-2438	1707321875		108		PARSONS #1	MONROE	12.8	MID LOUISIANA GAS
8309089	82-2554	1711300000		103		PARSONS #3	MONROE	4.1	MID LOUISIANA GAS
8309120	82-2608	1711123504		103		PETRO LEWIS GUY HOLLOWAY #1	MONROE	12.3	PETRO LEWIS FUNDS
8309140	82-2472	1711122432		108		PETRO-LEWIS E NICHOLS #3	MONROE GAS FIELD	4.8	PETRO-LEWIS FUNDS
8309144	82-2477	1711122904		108		PETRO-LEWIS FROST LUMBER #12	MONROE GAS FIELD	16.6	PETRO-LEWIS FUNDS
8309107	82-2466	1711122828		108		PETRO-LEWIS FROST LUMBER #21	MONROE GAS	12.8	PETRO-LEWIS FUNDS
8309108	82-2467	1711122891		108		PETRO-LEWIS FROST LUMBER #22	MONROE GAS FIELD	13.3	PETRO-LEWIS FUNDS
8309176	82-2468	1711122974		108		PETRO-LEWIS FROST LUMBER #42	MONROE GAS FIELD	11.3	PETRO-LEWIS FUNDS
8309178	82-2469	1711122975		108		PETRO-LEWIS FROST LUMBER #43	MONROE GAS FIELD	17.0	PETRO-LEWIS FUNDS
8309156	82-2470	1711122998		108		PETRO-LEWIS FROST LUMBER #51	MONROE GAS FIELD	20.7	PETRO-LEWIS FUNDS
8309177	82-2471	1711123426		108		PETRO-LEWIS FROST LUMBER #52	MONROE GAS FIELD	20.7	PETRO-LEWIS FUNDS
8309143	82-2476	1711123178		108		PETRO-LEWIS G A MCCORMICK #1	MONROE GAS FIELD	20.4	PETRO-LEWIS FUNDS
8309139	82-2473	1711122830		108		PETRO-LEWIS MARY D WHEELER #1	MONROE GAS FIELD	4.3	PETRO-LEWIS FUNDS
8309141	82-2474	1711122831		108		PETRO-LEWIS MARY D WHEELER #2	MONROE GAS FIELD	4.3	PETRO-LEWIS FUNDS
8309086	82-2553	1711123675		103		PETRO-LEWIS PEEK #2	MONROE	11.3	PETRO-LEWIS FUNDS
8309142	82-2475	1711122914		108		PETRO-LEWIS W B MCKINNIE #7	MONROE GAS FIELD	6.4	PETRO-LEWIS FUNDS
-ROBERSON WELL SERVICE				RECEIVED:	11/12/82	JA: LA			
8309189	82-2437	1711100000		108		G E THURSTON #1	MONROE	5.4	IMC PIPELINE CO I
-SAYE PETROLEUM INC				RECEIVED:	11/12/82	JA: LA			
8309201	82-0724	1702120771		102-4		PIONEER NATURAL GAS #1 WX RA SU E	SPAULDING FIELD	72.0	LOUISIANA INTRAST
8309202	82-0725	1702120785		102-4		PIONEER NATURAL GAS #2 WX RA SU I	SPAULDING FIELD	54.0	LOUISIANA INTRAST
8309078	82-0726	1702120817		102-4		PIONEER NATURAL GAS #3 WX RA SU A	SPAULDING	81.0	LOUISIANA INTRAST
8309077	82-0727	1702120797		102-4		PIONEER NATURAL GAS #4 WX RA SU F	SPAULDING	63.0	LOUISIANA INTRAST
8309079	82-0728	1702120798		102-4		PIONEER NATURAL GAS #5 WX RA SU H	SPAULDING	63.0	LOUISIANA INTRAST
8309197	82-2997	1702120838		102-4		PIONEER NATURAL GAS #9	SPAULDING	60.0	LOUISIANA INTRAST
8309198	82-2996	1702120836		102-4		ROY O MARTIN #1 WX RA SU B	SPAULDING	60.0	LOUISIANA INTRAST
-SHELL OIL CO				RECEIVED:	11/12/82	JA: LA			
8309199	82-0707	1770920224		102-4		SL 1667 #47 EI 18 S3C RA SU	EUGENE ISLAND BLOCK 1	1200.0	TENNESSEE GAS PIP
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/12/82	JA: LA			
8309125	82-2600	1711500000		108		LEE ENGLISH #1 MID CV RA SUG	ROCKY MOUNT	22.0	ARKANSAS LOUISIAN
-TEXACO INC				RECEIVED:	11/12/82	JA: LA			
8309083	82-0808	1704520539		102-4		SL 334 VERMILION BAY B-71	VERMILION BAY	90.0	COLUMBIA GAS TRAN
-TWIN CITIES GAS CO				RECEIVED:	11/12/82	JA: LA			
8309179	82-2432	1707321796		103		CASE #1	MONROE	0.0	IMC PIPELINE CO I
-TXO PRODUCTION CORP				RECEIVED:	11/12/82	JA: LA			
8309217	82-1262	1701724035		102-4		SCHOBER #1 CV BOD RA SUA	GREENWOOD-WASKOM	146.0	UNITED GAS PIPE L
-UNION TEXAS PETROLEUM				RECEIVED:	11/12/82	JA: LA			
8309085	81-2814	1706120274		107-TF		HENDRICKS 28 #1 GRAY RA SUD	TERRYVILLE	2920.0	SUGAR BOWL GAS CO
-VERNON E FAULCONER INC				RECEIVED:	11/12/82	JA: LA			
8309130	82-2449	1703100059		108		W O EDDINGTON #001 CRANE SU 33 SER*	BETHANY LONGSTREET	18.0	TEXAS EASTERN TRA
-VIKING RESOURCES (LA)				RECEIVED:	11/12/82	JA: LA			
8309092	82-2559	1711123787		103		OLIN #9	MONROE	15.0	PETRO-LEWIS FUNDS
8309093	82-2558	1711123754		103		UNION PRODUCING B #4	MONROE	15.0	PETRO-LEWIS FUNDS
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	11/12/82	JA: LA			
8309159	82-2523	1711123773		103		BETTY HOLLOWAY ESTATE #1	MONROE	25.0	I M C PIPELINE CO
8309162	82-2525	1707321910		103		ESSEX #2	MONROE	25.0	I M C PIPELINE CO
8309161	82-2524	1707321911		103		ESSEX #3	MONROE	25.0	I M C PIPELINE CO
8309122	82-2514	1707321894		103		ESSEX INVESTMENT CORP #1	MONROE	25.0	I M C PIPELINE CO
8309173	82-2516	1711123622		103		HEARN #1	MONROE	25.0	I M C PIPELINE CO
8309174	82-2518	1711123771		103		I M C GATES #1	MONROE	25.0	I M C PIPE LINE C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309160	82-2522	1711123803		103		J H REPPOND #2	MONROE	25.0	LOUISIANA POWER &
8309158	82-2521	1711123804		103		J H REPPOND #3	MONROE	25.0	LOUISIANA POWER &
8309171	82-2515	1707321901		103		L SHIVERS #1	MONROE	25.0	I M C PIPELINE CO
8309175	82-2520	1707321929		103		PENNZOIL "B" #1 SR #181692	MONROE	30.0	UNITED GAS PIPELI
8309157	82-2519	1707321930		103		PENNZOIL "B" #12 SR #181695	MONROE	30.0	UNITED GAS PIPELI
8309170	82-2513	1711123613		103		RAYMOND GATES #2	MONROE	40.0	I M C PIPELINE CO
8309172	82-2517	1711123646		103		ROBERT GATES #1	MONROE	0.0	I M C PIPELINE CO
8309121	82-3335	1707321645		108		W H THOMPSON #1	MONROE GAS	25.0	I M C PIPELINE CO
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
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-AMERICAN RESOURCES MANAGEMENT CORPO				RECEIVED:	11/15/82	JA: CO 1			
8309049	CD 0123-82	0510308304		107-TF		T C 1-2A	622' FNL 1259' FEL SE	63.0	NORTHWEST PIPELIN
-BEARTOOTH OIL & GAS CO				RECEIVED:	11/15/82	JA: CO 1			
8309067	CD-0453-82	0510308829		103	107-TF	FEDERAL #33-14	CATHEDRAL	80.0	MOUNTAIN FUEL SUP
-COORS ENERGY CO				RECEIVED:	11/15/82	JA: CO 1			
8309044	CD-0357-82	0507708302		102-2		USA 1-15 I G	LANE GULCH FEDERAL UN	901.6	NORTHWEST PIPELIN
-E L FUNDINGSLAND				RECEIVED:	11/15/82	JA: CO 1			
8309047	CD 0458-82	0506706586		103	107-TF	VENTURE #7	IGANCIO BLANCO DAKOTA	365.0	NORTHWEST PIPELIN
-EL PASO EXPLORATION CO				RECEIVED:	11/15/82	JA: CO 1			
8309046	CD 0468-82	0506706368		107-TF		UTE 34-10 #1	IGNACIA BLANCO MESAVE	40.0	NORTHWEST PIPELIN
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	11/15/82	JA: CO 1			
8309056	CD 0421-82	0510308798		102-2		D-22-3-101-S	CATHEDRAL	21.8	MOUNTAIN FUEL SUP
8309052	CD 0432-82	0510308533		102-2	107-TF	E-21-3-101-S	CATHEDRAL	22.5	MOUNTAIN FUEL SUP
8309055	CD 0443-82	0504506367		103		FED 29-13	SOUTH CANYON	21.0	WESTERN SLOPE GAS
8309051	CD 0469-82	0510308863		103	107-TF	FED 31-12	CATHEDRAL	20.9	WESTERN SLOPE GAS
8309057	CD 0461-82	0510308802		103	107-TF	C-25-2-101-S	CATHEDRAL	11.8	WESTERN SLOPE GAS
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	11/15/82	JA: CO 1			
8309066	CD 0472-82	0504506255		107-TF		FEDERAL RULISON #118	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8309065	CD 0473-82	0504506243		107-TF		FEDERAL RULISON #121	RULISON WASATCH	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	11/15/82	JA: CO 1			
8309045	CD-0272-82	0510308074		108		FEDERAL #1-32	CATHEDRAL	6.0	NORTHWEST PIPELIN
-TWIN ARROW INC				RECEIVED:	11/15/82	JA: CO 1			
8309043	CD 0196-81	0510308625		103		C & K 2-24	CATHEDRAL	0.0	NORTHWEST PIPELIN
8309054	CD 0455-82	0510308625		107-TF		C & K 2-24	CATHEDRAL	0.0	NORTHWEST PIPELIN
8309041	CD 0471-82	0510308233		107-TF		CONTINENTAL 2-9	CATHEDRAL	0.0	NORTHWEST PIPELIN
8309053	CD 0106-82	0510308567		107-TF		COORS 2-15X	CATHEDRAL	0.0	NORTHWEST PIPELIN
8309042	CD 0311-82	0510308718		103	107-TF	SHENANDOAH 6-18	PHILADELPHIA CREEK	0.0	NORTHWEST PIPELIN
-VENTURES IN PETROLEUM INC				RECEIVED:	11/15/82	JA: CO 1			
8309069	CD 0456-82	0506706583		103	107-TF	VENTURE #4	IGNACIO BLANCO DAKOTA	200.0	NORTHWEST PIPELIN
8309068	CD 0457-82	0506706584		103	107-TF	VENTURE #5	IGNACIO BLANCO DAKOTA	275.0	NORTHWEST PIPELIN
8309070	CD 0459-82	0506706585		103	107-TF	VENTURE #6	IGNACIO BLANCO DAKOTA	100.0	NORTHWEST PIPELIN
-BEARTOOTH OIL & GAS CO				RECEIVED:	11/15/82	JA: UT 1			
8309073	UD 0452-82	4304731134		102-2		ENI FEDERAL #7-1	COLUMBINE SPRINGS	105.0	NORTHWEST PIPELIN
-BURTON/HAWKS INC				RECEIVED:	11/15/82	JA: UT 1			
8309050	UD 0222-82	4301930557		102-4		EAST CISCO FEDERAL 1-3	WILDCAT	85.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	11/15/82	JA: UT 1			
8309064	UD 0415-82	4304731082		103		RWU #270	RED WASH	26.1	NORTHWEST PIPELIN
8309062	UD 0417-82	4304731054		103		RWU #272	RED WASH	4.0	NORTHWEST PIPELIN
8309063	UD 0416-82	4304731051		103		RWU #273	RED WASH	8.9	NORTHWEST PIPELIN
-COASTAL OIL & GAS CORP				RECEIVED:	11/15/82	JA: UT 1			
8309061	UD 0463-82	4304731099		103	107-TF	NBU #65N3 (14-9-21)	NATURAL BUTTES	91.0	COLORADO INTERSTA
8309060	UD 0441-82	4304730404		108		NBU 34-17	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309059	UD 0442-82	4304730469		108		NBU 42-35	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8309058	UD 0419-82	4304731235		103	107-TF	NBU 83J (27-9-21)	NATURAL BUTTES	164.0	COLORADO INTERSTA
-COTTON PETROLEUM CORPORATION		RECEIVED: 11/15/82		JA: UT 1					
8309048	UD 0176-82	4304700000		102-2	107-TF	LAFKUS FEDERAL #1-3	WILDCAT	0.0	NATURAL GAS CORP
-NATURAL GAS CORPORATION OF CALIF		RECEIVED: 11/15/82		JA: UT 1					
8309071	UD-0403-82	4304731072		107-TF		MAIN CANYON 6-3	MAIN CANYON	432.0	PACIFIC GAS & ELE
8309072	UD 0440-82	4304731044		107-TF		MAIN CANYON 8-8	MAIN CANYON	112.0	PACIFIC GAS & ELE
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
**********									
-UNION OIL COMPANY OF CALIF		RECEIVED: 11/12/82		JA: CA 2					
8309229		0431120506		102-5		SANTA CLARA UNIT S-6	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
**********									
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED: 11/12/82		JA: NM 4					
8309231	NM-0622-82	3004500000		108		NYE FEDERAL TRACT 1 #2	BASIN DAKOTA	24.0	EL PASO NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

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102–3: New well (1000 ft rule)
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102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108.: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33900 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 8, 1982.

ISSUED DECEMBER 8, 1982

JD NO	JA JKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-AMERADA HESS CORPORATION			RECEIVED:	11/12/82	JA: NM			
8309232		3[illegible]	108		STATE WE "A" #1	EUMONT	2.8	EL PASO NATURAL G
-C & E OPERATORS INC			RECEIVED:	11/12/82	JA: NM			
8309245		3[illegible]4525334	103		FEE #12-A	BLANCO-MESAVERDE	130.0	EL PASO NATURAL G
8309243		3[illegible]4525388	103		FEE #7-A	BLANCO-MESAVERDE	200.0	EL PASO NATURAL G
-COQUINA OIL CORPORATION			RECEIVED:	11/12/82	JA: NM			
8309234		3001524129	103		CRAFT #1	UNDES	0.0	
-DOYLE HARTMAN OIL OPERATOR			RECEIVED:	11/12/82	JA: NM			
8309235		3002527786	103		TOBY #3	JALMAT GAS	70.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP			RECEIVED:	11/12/82	JA: NM			
8309236		3004525149	103		HOLLY #1	BISTI LOWER GALLUP	9.0	EL PASO NATURAL G
-GETTY OIL COMPANY			RECEIVED:	11/12/82	JA: NM			
8309244		3002527602	102-3		GETTY "1" STATE COM #2	EAST GRAMA RIDGE-MORR	363.5	CABOT PIPELINE CO
-GULF OIL CORPORATION			RECEIVED:	11/12/82	JA: NM			
8309241		3001522611	102-2		EDDY "GR" STATE #1	UNDES S CULEBRA BLUFF	0.0	EL PASO NATURAL G
8309240		3001522889	102-2		EDDY "GR" STATE #2	NORTH LOVING MORROW	300.0	EL PASO NATURAL G
-HNG OIL COMPANY			RECEIVED:	11/12/82	JA: NM			
8309239		3[illegible]1500000	103		FAULK "32" COM #1	UNDESIGNATED DUBLIN R	100.0	UNITED GAS PIPE L
-MISSION EXPLORATION INC			RECEIVED:	11/12/82	JA: NM			
8309246		3002500000	103		MISSION 14 STATE #1	INBE PERMO PENN	54.0	WARREN PETROLEUM
-READ & STEVENS INC			RECEIVED:	11/12/82	JA: NM			
8309242		3001523825	102-2		KIMBLEY #1	UND NORTH LOVING MORR	1069.0	
-SOUTHLAND ROYALTY CO			RECEIVED:	11/12/82	JA: NM			
8309233		3002503954	108		STATE VE #1	VACUUM GRAYBURG	2.7	PHILLIPS PETROLEU
-STEVENS OPERATING CORP			RECEIVED:	11/12/82	JA: NM			
8309237		3000561655	103		O'BRIEN "DB" #2	TWIN LAKES-SAN ANDRES	2.0	MAPCO PRODUCTION
8309238		3000560007	103		O'BRIEN "L" #10	TWIN LAKES-SAN ANDRES	6.0	MAPCO PRODUCTION
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	11/12/82	JA: NM			
8309247		3002527530	103		H T MATTERN (NCT-C) #16	BLINEBRY	0.0	EL PASO NATURAL G
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION								
-CUMBERLAND OIL CORP			RECEIVED:	11/10/82	JA: NY			
8309249	3998	3101317177	107-TF		HEBNER #1	LAKESHORE	20.0	TENNESSEE GAS PIP
8309251	3997	3101317177	103		HEBNER #1	LAKESHORE	20.0	TENNESSEE GAS PIP
8309250	4000	3101317178	107-TF		SAGE #1	LAKESHORE	20.0	TENNESSEE GAS PIP
8309252	3999	3101317178	103		SAGE #1	LAKESHORE	20.0	TENNESSEE GAS PIP
-ECLIPSE ENERGY CORP			RECEIVED:	11/10/82	JA: NY			
8309254	4001	3101317649	103		COTTON #1	LAKE SHORE	0.0	NATIONAL FUEL GAS
8309255	3996	3101317656	103		MARTIN #2	LAKE SHORE	0.0	NATIONAL FUEL GAS
-GYPSUM ENERGY MANAGEMENT CO			RECEIVED:	11/10/82	JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309267	4158	3112116887		103		BARNES #1	WILDCAT	9.3	U S GYPSUM CO
8309264	4152	3103716178		103		BARTHOLF #1	HURON CREEK	32.5	U S GYPSUM CO
8309279	4058	3103713846		103		C MARTIN #1	HURON CREEK	5.2	U S GYPSUM CO
8309272	4016	3103712892		103		C MILLER #2	HURON CREEK	4.5	U S GYPSUM CO
8309281	4053	3103713902		103		CAPWELL #1	HURON CREEK	0.4	U S GYPSUM CO
8309282	4051	3103712848		103		CZAPECZKA #1	HURON CREEK	8.1	U S GYPSUM CO
8309283	4050	3103713849		103		CZAPECZKA #2	HURON CREEK	9.4	U S GYPSUM CO
8309284	4048	3103713852		103		DANCER #1	HURON CREEK	6.3	U S GYPSUM CO
8309263	4150	3103716179		103		DICKENS #1	INDIAN FALLS	2.0	U S GYPSUM CO
8309285	4046	3103713855		103		FOSS #1	HURON CREEK	0.4	U S GYPSUM CO
8309286	4044	3103713882		103		FOSS #2	HURON CREEK	0.1	U S GYPSUM CO
8309268	4004	3103712894		103		FRANZ #1	HURON CREEK	11.5	U S GYPSUM CO
8309262	4148	3103716159		103		GEORGE #1	HURON CREEK	0.4	U S GYPSUM CO
8309248	4042	3103713853		103		GOLDING #1	HURON CREEK	16.5	U S GYPSUM CO
8309275	4006	3103712893		103		HERRINGTON #1	HURON CREEK	1.1	U S GYPSUM CO
8309261	4145	3103716158		103		HINZE #1	HURON CREEK	1.0	U S GYPSUM CO
8309276	4063	3103713851		103		JAVA #1	HURON CREEK	0.6	U S GYPSUM CO
8309260	4144	3103716181		103		JAVA #2	HURON CREEK	1.0	U S GYPSUM CO
8309270	4029	3103713248		103		JOHNCOX #1	HURON CREEK	0.9	U S GYPSUM CO
8309271	4026	3103713249		103		JOHNCOX #2	HURON CREEK	8.5	U S GYPSUM CO
8309277	4062	3103713847		103		KERN #1	HURON CREEK	9.8	U S GYPSUM CO
8309278	4060	3103713856		103		LAMB #1	HURON CREEK	4.0	U S GYPSUM CO
8309259	4142	3103716182		103		LAMB #3	HURON CREEK	24.0	U S GYPSUM CO
8309274	4010	3103712895		103		LAWRENCE #3	HURON CREEK	7.1	U S GYPSUM CO
8309273	4012	3103712391		103		LAWRENCE #4	HURON CREEK	7.3	U S GYPSUM CO
8309258	4139	3103716177		103		MEISER #1	INDIAN FALLS	0.8	U S GYPSUM CO
8309257	4138	3103716166		103		MINGLE #1	HURON CREEK	0.5	U S GYPSUM CO
8309256	4136	3103715897		103		MURRAY #1	HURON CREEK	9.5	U S GYPSUM CO
8309280	4056	3103713884		103		R MILLER #2	HURON CREEK	12.0	U S GYPSUM CO
8309266	4156	3112116016		103		SCZEPANSKI #1	WILDCAT	14.5	U S GYPSUM CO
8309269	4036	3103713271		103		STALKER #1	HURON CREEK	15.5	U S GYPSUM CO
8309265	4154	3112116017		103		TOZIER #1	TOZIER CORNERS FIELD	1.0	U S GYPSUM CO
-JOYCE MANAGEMENT CORP				RECEIVED:	11/10/82	JA: NY			
8309253	3993	3100317109		103		TULLAR - FANTON #1 LOT 105	FULMER VALLEY	4.0	NATIONAL FUEL GAS

****

OKLAHOMA CORPORATION COMMISSION

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-AMOCO PRODUCTION CO				RECEIVED:	11/12/82	JA: OK			
8309296		3503920748		107-DP		BAUER UNIT #1	WILDCAT - (SPRINGER)	450.0	SOUTHERN NATURAL
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/12/82	JA: OK			
8309322	18533	3512920740		102-2		DEAN #1	N STRONG CITY	182.0	
8309295	18531	3510321612		102-4		M D ATKINSON #2	N W STILLWATER AIRPOR	36.5	
8309323	18509	3504321479		102-4		PRESLEY UNIT #3	PUTNAM	36.5	MOBIL OIL CORP
-ARKLA EXPLORATION COMPANY				RECEIVED:	11/12/82	JA: OK			
8309304	17651	3505121031		103		SELZER #1	BRADLEY NW	55.0	TRANSOK PIPELINE
-BECK PRODUCTION CO				RECEIVED:	11/12/82	JA: OK			
8309332	17519	3504921781		103		BECKY #1	WHITEBEAD	0.0	WARREN PETROLEUM
-BOGERT OIL CO				RECEIVED:	11/12/82	JA: OK			
8309326	17702	3501121532		103		ARLO 1-8	SOONER TREND	900.0	ARKANSAS LOUISIAN
8309294	17525	3507323457		103		GRACE #1-17	SOONER TREND	270.0	PHILLIPS PETROLEU
-CIMARRON PETROLEUM CORPORATION				RECEIVED:	11/12/82	JA: OK			
8309288	17463	3511721061		103		CPC #189 LAUERNER		21.6	MID-AMERICA GAS L
-DEMINEX US OIL COMPANY				RECEIVED:	11/12/82	JA: OK			

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309331	17567	3509322474		103		UNWIN 2-28	S W TRIVOLI	66.0	MICHIGAN WISCONSI
-DONLARR EXPLORATION INC				RECEIVED:		11/12/82 JA: OK			
8309330	17587	3507323520		103		FISHER "30" #1	SOONER TREND	84.0	CONOCO INC
-DYNE EXPLORATION CO				RECEIVED:		11/12/82 JA: OK			
8309320	16959	3511100000		103		KILE #2	COALTON FIELD	36.0	PHILLIPS PETROLEU
-EAGLE MINERALS INC.				RECEIVED:		11/12/82 JA: OK			
8309317	17695	3508121693		103		SHAW #1		0.0	COLORADO GAS COMP
-EAGLE PETROLEUM CORP				RECEIVED:		11/12/82 JA: OK			
8309311	01353	3506320807		103		DODSON 1-A	W DUSTIN	100.0	O G & E CO
8309313	17601	3507323364		103		GRABOW #1-34		0.0	CITIES SERVICE GA
8309334	01354	3506320697		103		PARKS KENNEDY #2	W DUSTIN	25.0	OG & E CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:		11/12/82 JA: OK			
8309310	18501	3514920792		102-2	103	BAILEY #2	STRONG CITY W CHEROKE	300.0	EL PASO NATURAL G
8309293	17523	3512920695		103		THURMOND #5	BERLIN NW CHEROKEE	130.0	EL PASO NATURAL G
-F C D OIL CORP				RECEIVED:		11/12/82 JA: OK			
8309315	17654	3505320882		103		HERRON 1-28	EAST LAMONT	91.3	CRA INC
8309305	17653	3505374282		103		SODERSTROM 1-22	N E LAMONT	36.5	C R A INC
-GENIE OIL & GAS CORP				RECEIVED:		11/12/82 JA: OK			
8309328	17600	3508321069		103		COMBS #1-5	E HULL	4.8	EASON OIL CO
-GUNDY OIL CO				RECEIVED:		11/12/82 JA: OK			
8309314	17644	3508321641		103		POTEET #1 OTC #083-73069	EAST GUTHRIE LAKE	50.0	WESTERN STATES GA
-HAMILTON BROTHERS OIL CO				RECEIVED:		11/12/82 JA: OK			
8309324	18066	3514920217		102-2		ISSAC NO 1-27	WILDCAT	0.0	EL PASO NATURAL G
-HARPER OIL COMPANY				RECEIVED:		11/12/82 JA: OK			
8309301	17532	3500320983		103		JUDSON #2	SOUTH JET	0.0	PIONEER GAS PRODU
8309318	17698	3504721563		103		TOM HAYES #3	SOONER TREND	55.0	ARKANSAS LOUISIAN
-HELMERICH & PAYNE INC				RECEIVED:		11/12/82 JA: OK			
8309309	18465	3509322522		102-2		STAMBAUGH #7-33	EAST SEILING	150.0	MICHIGAN WISCONSI
-HONEYMON DRILLING CO LTD				RECEIVED:		11/12/82 JA: OK			
8309335	03454	3501721065		103		CYPERT #1	YUKON NE	98.0	PHILLIPS PETROLEU
-JET OIL COMPANY				RECEIVED:		11/12/82 JA: OK			
8309327	17699	3508322011		103		PATTERSON #1	ORLANDO	4.0	EASON OIL CO
-LUBELL OIL CO				RECEIVED:		11/12/82 JA: OK			
8309291	17511	3506321587		103		WILLIAMS #1-24	YEAGER	100.0	OKLAHOMA NATURAL
-MAHAN-ROWSEY INC.				RECEIVED:		11/12/82 JA: OK			
8309299	17572	3503723222		103		MANES #1		410.0	KERR-MC GEE CORP
8309300	17573	3503723615		103		MANES #3		273.0	KERR MC GEE CORP
-MAY ENERGY CO				RECEIVED:		11/12/82 JA: OK			
8309312	17563	3508100080		102-4		MAYS 1-A		73.0	SWAB CORP
-MOBIL OIL CORP				RECEIVED:		11/12/82 JA: OK			
8309306	17811	3504900000		108		C P ALLISON #1	GOLDEN TREND	7.7	WARREN PETROLEUM
8309308	17813	3513700000		108		SW V SPRINGER UT#9A-8 DOAK ZITER #8	SHO VEL TUM	2.1	GETTY OIL CO
8309307	17812	3513700000		108		SW V SPRINGER UT 9-6 DOAK ZIGLE #6	SHO VEL TUM	1.0	GETTY OIL CO
-MORAN EXPLORATION INC				RECEIVED:		11/12/82 JA: OK			
8309298	15185	3501722031		103		VAUGHT #1	EAST YUKON	0.0	PHILLIPS PETROLEU
-P-T LTD 81				RECEIVED:		11/12/82 JA: OK			
8309290	17482	3504722824		103		DALKE 20-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:		11/12/82 JA: OK			
8309329	17594	3501700000		103		KING #1	WEST PIEDMONT	36.5	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:		11/12/82 JA: OK			
8309292	17522	3515121160		103		SIMS UNIT #1	E BRACE	209.9	DELHI GAS PIPELIN
-SEARCH DRILLING CO				RECEIVED:		11/12/82 JA: OK			
8309333	17426	3500722250		103		HENNIGH "B" #1-28	S LOGAN	337.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SENECA OIL COMPANY				RECEIVED:	11/12/82	JA: OK			
8309319	17693	3501722072		103		BENNETT #1-20	PIEDMONT	109.5	
-SILVER LAKE EXPLORATION				RECEIVED:	11/12/82	JA: OK			
8309303	17647	3508121458		103		DORSEY #1	WILDCAT	0.0	SUN GAS CO
8309302	17646	3507172235		103		EVA WOODERSON #1	NORTH BLACKWELL	45.6	TOTAL PETROLEUM I
-ST JOE PETROLEUM (US) CORP				RECEIVED:	11/12/82	JA: OK			
8309316	17658	3510320632		103		LOEFFELHOLZ #1	UNDESIGNATED	127.0	ARCO OIL & GAS CO
-TEXACO INC				RECEIVED:	11/12/82	JA: OK			
8309321	15987	3501921594		103		ZELLARS #4	EAST HEWITT	15.5	CITIES SERVICE GA
-UNION TEXAS PETROLEUM				RECEIVED:	11/12/82	JA: OK			
8309289	17465	3509322524		103		G T MAYPOLE #2	HODGE	109.5	PANHANDLE EASTERN
8309297	16804	3500320960		103		J D O'NEIL #2	HODGE AREA	146.0	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	11/12/82	JA: OK			
8309325	17721	3504521037		103		CHAPMAN #1	S E ARNETT	570.0	PANHANDLE EASTERN
8309336	17474	3505121038		103		RIECK #1	N E CEMENT	5.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/12/82	JA: OK			
8309287	17234	3500320837		103		FRANTZ #1-9	WEST ALINE	18.3	AMINOIL USA INC

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BILLING CODE 6717-01-C

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107–PE: Production enhancement
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108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33913 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–24–000]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 8,1982.

Take notice that on November 30, 1982, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets:

Substitute Thirty-Eight Revised Sheet No. 3–A
Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 6
Fifth Revised Sheet No. 11
Fourth Revised Sheet No. 13–B
Fifth Revised Sheet No. 14
First Revised Sheet No. 36–M
Original Sheet No. 36–N
Original Sheet No. 36–O

The increase in jurisdictional revenues to be provided by the revised rates would be $1,895,484 based upon the 12-months ended August 31, 1982, as adjusted for known and measurable changes through May 31, 1983. Alabama-Tennessee proposes that the above designated tariff sheets become effective on December 31, 1982. It is stated in the filing that the increased rates are required to provide additional revenues sufficient to enable Alabama-Tennessee to recover its jurisdictional cost of service based on the 12 months ended August 31, 1982, as adjusted for known and measurable changes through May 31, 1983. Such adjustments inlcude the additional costs in rendering the storage service for which Alabama-Tennessee has applied for certificate authorization in Docket No. CP82–552–000, currently pending before this Commission, and further adjustments such as for wages and medical costs.

The filing also includes new provisions proposed to be included in the tariff to provide for the tracking of changes in the cost of transportation and compression by others and the proposed new storage service.

Alabama-Tennessee states that copies of this filing have been served upon its customers and the State Commissions of Alabama, Mississippi, and Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33849 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–161–000]

Arizona Public Service Co.; Filing

December 8, 1982.

The filing Company submits the following: Take notice that Arizona Public Service Company (Arizona) on November 29, 1982, tendered for filing Supplement No. 3 to the Power Coordination Agreement between the Tucson Electric Power Company (TEP) and Arizona executed October 28, 1982.

Arizona requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a notion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33863 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–162–000]

Arizona Public Service Co.; Filing

December 8, 1982.

The filing Company submits the following: Take notice that on November 29, 1982, Arizona Public Service Company (Arizona) tendered for filing Amendment No. 3 executed October 21, 1982 to the Interruptible Transmission Service Agreement between Department of Water and Power of the City of Los Angeles and Arizona.

Arizona requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or Protests should be filed on or before December 22, 1982. Protests will be considered by

the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33864 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-165-000]

Black Hills Power and Light Co.; Filing

December 8, 1982.

The filing Company submits the following: Take notice that Black Hills Power and Light Company (Black Hills) on November 30, 1982, tendered for filing Electric Power and Energy Supply Agreement dated October 25, 1982 ("New Agreement") between Black Hills and the City of Gillette, Wyoming ("Gillette").

Black Hills states that the New Agreement supersedes the existing Electric Service Agreement dated May 22, 1969 ("Existing Agreement") between Black Hills and Gillette.

Black Hills further states that the major changes in the New Agreement from the Existing Agreement generally are that the New Agreement provides for a certain Term ending June 30, 2000; provides that while Black Hills continues to have the obligation to furnish Gillette all of its electric power and energy requirements, that Gillette has the option to furnish certain portions of its requirements; obligates Gillette to continue to furnish certain portions of its requirements once Gillette has served certain incremental portions of its requirements; grants Gillette an option under conditions to acquire a transmission path to the 230 KV transmission system east of Gillette; and sets forth various changes to rate schedules which do not yield additional revenues but do allocate a greater portion of the rates to the demand component and less to the energy component and provides for a penalty charge in the event Black Hills serves that portion of Gillette's load which Gillette is obligated to serve.

Black Hills indicates that the reasons for the change is to allow Gillette flexibility to take advantage of preference rights for government power of other opportunities to cover Gillette's present power needs and future requirements because of unusual expected growth and to allow Black Hills to serve Gillette better by allowing a longer lead time for planning new power and energy resources.

Copies of the filing were served upon Gillette, the Wyoming Public Service Commission and the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33850 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1417-000]

Central Nebraska Public Power and Irrigation District; Expiration of License

December 9, 1982.

Take notice that the license for the Kingsley Project No. 1417 will expire on July 29, 1987. The project is located on the North and South Platte River in Lincoln County, Nebraska.

The principal project works currently licensed for Project No. 1417 are four reservoirs, one diversion dam, and three powerhouses with an installed capacity of 54 mW. The project is currently being redeveloped to add a new powerhouse with an installed capacity of 50 mW.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-Federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a-825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33851 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-43-003]

Cities Service Gas Co.; Compliance Filing

December 8, 1982.

Take notice that Cities Service Gas Company (Cities Service) on November 29, 1982, tendered for filing Substitute First Revised Twelfth Revised Sheet No. 6 in compliance with the Commission's Order Accepting for Filing Subject to Conditions, and Suspending Rate Filing, Granting Special Surcharge, and Initiating Hearing issued October 22, 1982, in which the Commission directed Cities Service to file a new tariff sheet to be effective October 23, 1982, reflecting reduced rates filed by its pipeline suppliers.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions, intervenors and all parties to the proceedings in Docket No. RP82-114.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protest should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33865 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-79-000]

Columbia Gas Transmission Corp.; Application

December 9, 1982.

Take notice that on November 10, 1982, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-79-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 22,000 dekatherm (dt) equivalent of natural gas per day for UGI Corporation (UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 22,000 dt of natural gas per day for UGI on a best-efforts basis from November 1, 1982, through March 31, 1983. Columbia states that it would receive the gas from Transcontinental Gas Pipe Line Corporation (Transco) at existing delivery points located in Downingtown, Pennsylvania, and Rockville, Maryland. Columbia further states it would redeliver said gas for the account of UGI at existing delivery points from Columbia to UGI, an existing wholesale customer of Columbia.

Columbia states that the gas which Transco would deliver to Columbia is available to UGI pursuant to a storage arrangement between Penn-York Energy Corporation (Penn-York) and UGI. Further, Columbia states that Penn-York would make UGI's storage volumes available to National Fuel Gas Supply Corporation (National Fuel) which would then deliver equivalent quantities for the account of UGI to Transco at existing interconnections between Penn-York and Transco.

Columbia states that it would charge UGI 29.71 cents per dt until January 1, 1983; effective January 1, 1983, Columbia would charge UGI 43.16 cents for the proposed transportation. Columbia states it would retain 2.85 percent of the total quantity of gas received from Transco for the account of UGI for company use and unaccounted for gas.

Columbia states that it has been advised that UGI requires the subject gas for system supply should colder than normal weather occur during the winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33852 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-157-000]

Consolidated Edison Company of New York, Inc.; Filing

December 8, 1982.

The filing Company submits the following: Take notice that on November 29, 1982, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing as an amendment (the "Amendment") to its Rate Schedule FERC No. 56 an agreement to provide transmission service to Public Service Electric and Gas Company ("PSE&G"). The Amendment increases the transmission charge from 2.0 mills to 2.3 mills per kilowatt hour and would increase annual revenues from jurisdictional service during Period I by $4,828.00.

Con Edison requests an effective date of November 5, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon PSE&G.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33866 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3334-001]

Continental Hydro Corp.; Surrender of Preliminary Permit

December 9, 1982.

Take notice that Continental Hydro Corporation, Permittee for the proposed Clearwater Dam Project No. 3334, requested by letter dated October 26, 1982, that its preliminary permit be surrendered. The preliminary permit was issued on February 27, 1981, and would have expired on February 1, 1983. The project would have been located on the Black River in Reynolds and Wayne Counties, Missouri. Continental Hydro Corporation has determined that hydroelectric development will not be economically feasible at this time.

The surrender of the preliminary permit for Project No. 3334 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33853 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-83-156-000]

Detroit Edison Co.; Filing

December 8, 1982.

The filing Company submits the following: Take notice that on November 26, 1982, the Detroit Edison

Company (Detroit) tendered for filing a letter agreement dated October 5, 1982, between Detroit and General Public Utilities which constitutes a determination of the fixed charge rate applicable to transactions under Amendment No. 6 Among Consumers Power Company, Detroit, and the Toledo Edison Company, dated June 1, 1982, for the sale of Specific Capacity Power to General Public Utilities. This Amendment has been denoted as The Detroit Edison Company Rate Schedule FERC No. 11. Detroit states that the determination of the fixed charge rate was made pursuant to the terms of Amendment No. 6.

Detroit further states that the letter agreement establishes the fixed charge rate at 16.045 percent for service provided on and after September 7, 1982, and is subject to redetermination during the term of Amendment No. 6 in accordance with Section 7.12. Detroit indicates that the determination reflects the currently authorized return on equity contained in the Michigan Public Service Commission Order No. U-6488, dated July 21, 1981. Since service under Amendment No. 6 was not commenced until September 7, 1982, this determination does not mean an increase in rates but establishes the basis for the initial charge in accordance with Sections 7.11 and 7.12(b) of Service Schedule G.

Detroit requests an effective date of September 7, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33867 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-2-000 (PGA83-1, GRI83-1, IPR83-1)]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 8, 1982.

Take notice that on November 30, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Fourth Revised Sheet No. 4 and Fourth Revised Sheet Nos. 5 and 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1983.

East Tennessee states that the purpose of these tariff sheets is to reflect various rate adjustments pursuant to the General Terms and Conditions of its tariff as follows: (1) A PGA Rate Adjustment pursuant to Section 22; (2) A GRI Rate Adjustment pursuant to Section 25; and (3) Estimated Incremental Pricing Surcharges pursuant to Section 26.

East Tennessee states that copies of this filing have been mailed to all affected customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33868 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2922-001]

Electric Plant Board, City of Glasgow; Application for License (Over 5 MW)

December 9, 1982.

Take notice that The Electric Plant Board of the City of Glasgow (Applicant) filed on March 1, 1982, an application for license (pursuant to the Federal Power Act 16 U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as Nolin Reservoir Dam Project, FERC No. 2922. The project would be located at the U.S. Army Corps of Engineer's Nolin Reservoir Dam on the Nolin River in Edmonson County, Kentucky. Correspondence with the Applicant should be directed to: Mr. William M. Lewis, Jr., W. M. Lewis & Associates, Inc., P.O. Box 1383, Portsmouth, Ohio 45662. The Applicant presently has a permit for the Nolin Reservoir Dam Project.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineer's Nolin River Reservoir Dam. Project No. 2922 would consist of: (1) A proposed intake structure, including trash rack sections, valve house and crane stand; (2) a proposed tunnel and penstock, approximately 900 feet long; (3) a proposed turbine house located to the right and downstream of the existing dam, with 3 generating units for a total capacity of 10.0 MW; (4) d discharge channel leading from the turbine house to the Nolin River; (5) a proposed 3-mile long transmission line; and (6) appurtenant facilities.

Purpose of Project—The Applicant intends to utilize all available generation from the proposed project to help serve its existing load.

Competing Applications—Anyone desiring to file a competing application must file to the Commission, on or before February 14, 1983, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before February 14, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS,"

"NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33854 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2923-002]

Electric Plant Board, City of Glasgow; Application for License (Over 5 MW)

December 9, 1982.

Take notice that The Electric Plant Board of the City of Glasgow (Applicant) filed on August 27, 1982, an application for license (pursuant to the Federal Power Act 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as Green River Reservoir Dam Project, FERC No. 2923. The project would be located at the U.S. Army Corps of Engineer's Green River Reservoir Dam on the Green River in Taylor County, Kentucky. Correspondence with the Applicant should be directed to: Mr. William M. Lewis, Jr., W. M. Lewis & Associates, Inc., P.O. Box 1383, Portsmouth, Ohio 45662. the Applicant presently has a permit for the Green River Reservoir Dam Project.

Project Description—The proposed project would utilize the U.S. Arny Corps of Engineer's Green River Reservoir Dam. Project No. 2923 would consist of: (1) A proposed intake structure; (2) a proposed tunnel and penstock, approximately 1300 feet long; (3) a proposed turbine house located to the left and downstream of the existing dam, with 4 generating units for a total capacity of 11.0 MW; (4) a discharge channel leading from the turbine house to the Green River; (5) a proposed 6-mile long transmssion line; and (6) appurtenant facilities.

Purpose of Project—The Applicant intends to utilize all available generation from the proposed project to help serve its existing load.

Competing Applications—Anyone desiring to file a competing application must file to the Commission, on or before February 14, 1983, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In deterrmining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before February 14, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33855 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-10-000]

Flex Steel Industries; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 9, 1982.

On October 14, 1982, Flex Steel Industries, of P.O. Box 1059, Harrison, Arkansas, 72601, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. The application was completed on December 1, 1982.

The topping-cycle cogeneration facility will be located in Harrison, Arkansas. The primary energy source to the facility will be biomass in the form of wood waste. The electric power production capacity will be 375 kW. Steam produced from burning of wood waste will drive a single stage back pressure turbine. Exhaust steam will be used to furnish heat for drying kilns and space heating. Installation will begin May 1, 1983. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street, NE., Washington D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33901 Filed 12-13-82 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-13-000 (PGA83-1)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

December 8, 1982.

Take notice that Gas Gathering Corporation (GGC), on November 30, 1982, tendered for filing proposed

changes in its FERC Gas Tariff providing for decreased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would decrease the rate charged Transco by 10.70961 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective January 1, 1983. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecover/recovered Purchased Gas Cost as of September 30, 1982, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33869 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-4-000 (PGA83-1, IPR83-1]

Granite State Gas Transmission Inc.; Proposed Changes in Rates Pursuant To Purchased Gas Cost Adjustment Provisions

December 8, 1982.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, on November 30, 1982, tendered for filing Second Revised Sheet Nos. 7 and 9 in its FERC Gas Tariff, First Revised Volume No. 1 containing proposed changes in rates for effectiveness on January 1, 1983.

According to Granite State, the instant rate adjustments reflect and increase in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which Tennessee proposes to make effective January 1, 1983, and the amortization of Unrecovered Purchased Gas Costs. It is stated that Granite State's filing is made pursuant to the purchase gas cost adjustment provision in Section XIX of the General Terms and Conditions of its tariff.

Granite State further states that its rate adjustments are applicable to its wholesale sales to two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of proposed rates in its filing is an increase of approximately $10,343,632 annually, based on purchases and sales for the twelve months ended September 30, 1982.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33902 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-164-000]

Iowa Public Service Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that on November 30, 1982, Iowa Public Service Company (IPS) tendered for filing a wholesale electric rate increase in acordance with § 35.1 of the Commission's rules and regulations.

IPS further states that concurrently therewith, the Company is filing a Motion requesting the Commission to suspend the effective date of the proposed electric rate increases from January 30, 1983 to January 31, 1983 and that the Application be considered on an expedited basis in as much as the Company is experiencing a revenue deficiency.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions are protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33870 Filed 12-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-158-000]

Iowa Southern Utilities Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that Iowa Southern Utilities Company, (Iowa Southern) on November 29, 1982, tendered for filing a Notice of Cancellation for F.P.C. Rate Schedule No. 14 for wholesale electrical energy to the City of Eldon, Iowa (City).

A joint petition filed by Iowa Southern and the City in Docket No. SPU-82-13 before the Iowa State Commerce Commission was approved on October 28, 1982. The Petition established the authority of Iowa Southern to purchase the city's Electrical distribution facilities and revised Iowa Southern's service territory to include that area which was formerly served by the City with an effective date of October 1, 1982. As a result of the aforementioned transaction wholesale electrical energy is no longer required by the City.

Iowa Southern requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33871 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-13-000]

Laketon Asphalt Refining, Inc.; Filing of Petition for Review

December 8, 1982.

Take notice that Laketon Asphalt Refining, Inc. on February 2, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before December 22, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before December 22, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20835.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33903 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-60-000]

Locust Ridge Gas Co.; Change in Rates

December 8, 1982.

Take notice that on November 30, 1982, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 and the following tariff sheets to be effective January 1, 1983:

Eleventh Revised Sheet No. 1A

Fourth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, an out-of-period revision in Locust Ridge's rate to recover known changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of January 1, 1983 through February 28, 1983. The overall effect of the filed for adjustment to Locust Ridge's sales rate is an increase necessary to maintain the company's financial viability.

Locust Ridge requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on January 1, 1983.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33872 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1651-003]

Lower Valley Power & Light, Inc.; Recommendation for Amendment of License

December 9, 1982.

Take notice that by letter of April 6, 1982, the U.S. Forest Service recommended, pursuant to Article 26 of the license, that the license issued to Lower Valley Power & Light, Inc. for the Upper and Lower Swift Creek Project No. 1651 be modified. This project is located on the Swift Creek, in the Bridger-Teton National Forest, Loncoln County, Wyoming.

The license was amended on September 4, 1981, to allow for rehabilitation and reconstruction of the project. This amendment included an article which requires the licensee to "discharge a continuous minimum flow of 2 cfs, or the inflow to the reservoir, whichever is less, from the upper and lower dams of the Swift Creek Project, from May 1, to September 30, for the purpose of protecting and enhancing aquatic resources in Swift Creek." The U.S. Forest Service, by letter of April 6, 1982, requested that the license be modified to provide for minimum and flushing flows as follows:

May 1 through October 31	8 cfs.
November 1 through April 30	2 cfs.
A period of 2 days in June	470 cfs.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before January 24, 1983, and should be filed with the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33856 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-5-000 (PGA83-1, GRI83-1, IPR83-1)]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 8, 1982.

Take notice that on November 30, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1 to be effective January 1, 1983:

Fifth Revised Sheet No. 5

Sixth Revised Sheet No. 6

Fourth Revised Sheet Nos. 7 and 8

Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions of the General Terms and Conditions of its tariff as follows:

(1) PGA Rate Adjustments for the Southern System pursuant to Sections 2 and 3 of Article XVII;

(2) A PGA Rate Adjustment for the Northern System pursuant to Section 3 of Article XVIII;

(3) A GRI Rate Adjustment pursuant to Section 2 of Article XXI;

(4) Estimated Incremental Pricing Surcharges for the Southern System pursuant to Section 2 of Article XXII; and

(5) Estimated Incremental Pricing Surcharges for the Northern System pursuant to Section 2 of Article XXIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33904 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-117-002]

Midwestern Gas Transmission Co.; Revised Rate Filing

December 8, 1982.

Take notice that on November 30, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Fourth Revised Sheet No. 5 to Original Volume No. 1, and Substitute Third Revised Sheet No. 62K and Substitute Second Revised Sheet No. 62L to Original Volume No. 2 of its FERC Gas Tariff, to be effective January 1, 1983.

Midwestern states that the sole purpose of the revised tariff sheets is to reflect a revision in its Southern System Base Tariff Rates to reflect the reduction in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. which became June 1, 1982.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33873 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1835-000]

Nebraska Public Power District; Expiration of License

December 9, 1982.

Take notice that the license for the Kingsley Project No. 1835 will expire on June 30, 1987. The project is located on the North and South Platte River in Lincoln County, Nebraska.

The principal project works currently licensed for Project No. 1835 are three reservoirs, two diversion dams, one powerhouse with a total installed capacity of 26.1 mW and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33857 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-170-000]

New England Power Co.; Increased Rate Filing

December 8, 1982.

The filing Company submits the following:

Take notice that New England Power Company (NEO) on December 1, 1982, tendered for filing proposed amendments to a Power Contract dated as of May 1, 1977 between NEP and the Town of Hudson, Massachusetts.

NEP states that the proposed amendments will increase the demand charge for System Power Unreserved service from a less than full cost 1981 basis of $60.40 per kw-year to $93.56 per kw-year on an estimated 1983 cost basis. The proposed increase will amount to $541,626 for 1983 and is proposed to become effective on February 1, 1983.

NEP further states that the second component of the proposed amendment will increase the transmission charge for delivery of power to Hudson from a rate of $6.00 per kw-year to $8.02 per kw-year. This proposed increase will amount to an additional $32,993 for 1983 and is also proposed to become effective on February 1, 1983.

To the extent that costs calculated for SPU service are based on NEP's W–5 case for 1983, NEP requests waiver of certain Commission Regulation's to incorporate the W–5 submittal in this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33905 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 5961–000, 5962–000, and 5963–000]

New York State Office of Parks, Recreation and Historic Preservation; Notice Granting Interventions

December 9, 1982.

The Sierra Club has filed motions to intervene in the proceedings involving the New York State Office of Parks, Recreation and Historic Preservation's ("Applicant") applications for preliminary permit for Project Nos. 5961–000, 5962–000, and 5963–000. The motions were filed 5, 3, and 6 days late, respectively.[1]

The Sierra Club states that its interest in the proceedings is based on its members' use of the parks in which these projects would be located. The Sierra Club alleges that it is actively involved in preserving the environmental integrity of the parks under consideration, and opposes the Applicant's projects. The Sierra Club also asserts that the Applicant's applications were deficient, and that the Applicant does not have the authority to engage in the electric power business. The Sierra Club explains that it filed its motions late because it had incorrectly assumed that the filing deadlines in these proceeding were the same as the slightly later filing deadline for Project No. 5959–000.

The Applicant responded to the Sierra Club's motions 13 days late. Unlike the Sierra Club, however, the Applicant has not explained why it filed its pleadings late. In the absence of such an explanation, it cannot be concluded that extraordinary circumstances exist for the Applicant's late filings. Accordingly, its responses are rejected. *See* 18 CFR 385.2008(b).

The Sierra Club has shown good cause for its late filings that its intervention would not disrupt the proceedings, that its intervention would not prejudice or unfairly burden the Applicant, and that its motions, except for their lateness, conform with the Commission's rules. It is in the public interest to allow the Sierra Club to intervene in these proceedings.

Pursuant to § 375.302 of the Commission regulations, 18 CFR 375.302 (1982), the Sierra Club is permitted to intervene in these proceedings subject to the Commission's rules and regulations under the Federal Power Act, 16 U.S.C. 791(a)–825r (1976). The Sierra Club's participation shall be limited to matters affecting asserted rights and interests specifically set forth in its motions to intervene. The admission of the intervenor shall not be construed as a recognition by the Commission that it might be aggrieved by any order entered in these proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–33858 Filed 12–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–163–000]

Northern States Power Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that Northern States Power Company (NSP) on November 29, 1982, tendered for filing Supplement No. 8 dated November 15, 1982 to the Twin Cities-Iowa-St. Louis 345 kV Interconnection Coordinating Agreement dated January 7, 1965 between Interstate Power Company, Iowa Electric Light and Power Company Iowa-Illinois Gas and Electric Company, Iowa Public Service Company, Iowa Southern Utilities Company, Northern States Power Company, and Union Electric Company.

NSP states that Supplement No. 8 provides for an increase in the capacity charge for Short-Term Power and System Participation Power.

Copies of this filing have been mailed to the appropriate state public utility commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82–33874; Filed 12–13–82 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–154–000]

Pacific Gas and Electric Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PG&E) on November 26, 1982, tendered for filing proposed changes in its FPC Electric Service Tariffs, Original Volume Nos. 1 and 2, Rate Schedules R–1, R–2, FPC No. 8 and FPC No. 53. The proposed changes would increase revenues from jurisdictional sales and service by 2.647 million dollars based on the 12 month period ending December 31, 1983.

PG&E states that the proposed rate changes are prescribed by settlement agreements reached between PG&E and each of the affected customers in FERC Docket Nos. ER81–679 and ER82–271.

PG&E requests an effective date of December 31, 1982 for the proposed increase in rates, and a one day suspension of the proposed rates.

Copies of the filing were served upon the public utility's jurisdictional customers, the California Public Utilities Commission, and the Public Service Commission of the State of Nevada.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

[1] The Sierra Club also filed a timely motion to intervene in the proceeding involving Project No. 5959–000. Since no one filed a timely opposition to the motion, it was granted on November 5, 1982 pursuant to 18 CFR 385.214(c)(1).

should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33875 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-64-000]

Tennessee Gas Pipeline Co.; Application

December 9, 1982.

Take notice that on November 5, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-64-000 an application pursuant to Section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a best-efforts basis for Columbia certain volumes of natural gas produced from the New Ulm Field, Austin County, Texas, pursuant to the terms of a gas transportation agreement between Applicant and Columbia dated January 19, 1981, as amended July 17, 1981, and October 21, 1981. Applicant is currently transporting the subject gas for Columbia pursuant to the provisions of Section 284.221 of the Commission's Regulations.

Applicant states that the volumes to be purchased by Columbia and transported by Applicant would be made available to Applicant at points of receipt on Applicant's system located in the New Ulm Field, Austin County, Texas, and at the tailgate of the Amerada-Hess Gas Processing Plant, Austin County, Texas. Applicant asserts it would deliver equivalent volumes, less transportation and fuel use volumes, to Columbia at "Egan B," and existing point of interconnection with Columbia located in Acadia Parish, Louisiana.

Applicant states that it contemplates transporting for Columbia up to a total of 10,000 Mcf per day.

The transportation service proposed herein would be performed only to the extent Applicant's operating conditions and available capacity permit through the utilization of existing facilities; thus, the service would be without detriment or disadvantage to any of Applicant's existing customers, it is asserted.

Applicant proposes to charge Columbia a rate of 22.92 cents multiplied by the total volume received by Applicant during the month, less fuel. Applicant states that it would retain an amount of gas equal to 4.78 percent of the quantities transported to Columbia to compensate Applicant for its fuel and use requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33859 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-9-000 (PGA83-1, IPR83-1, DCA83-1 and R&D83-1)]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

December 8, 1982.

Take notice that on November 30, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Fourth Revised Sheet Nos. 23 through 30, Substitute Sixth Revised Sheet No. 21, and Substitute Seventh Revised Sheet Nos. 20 and 22 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1983.

Tennessee states that the purpose of the revised tariff sheets is to adjust Tennessee's rates pursuant to Articles XXIII, XXVII and XXIX of the General Terms and Conditions of its FERC Gas Tariff, consisting of a PGA rate adjustment, a GRI rate adjustment, and Estimated Incremental Pricing Surcharges.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33906 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-25-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 8, 1982.

Take notice that Transwestern Pipeline Company (Transwestern) on December 1, 1982, tendered for filing proposed changes in its FERC Gas

Tariff, Second Revised Volume No. I. Transwestern has filed six alternative sets of revised tariff sheets underlying its major rate increase. The primary revised tariff sheets reflect utilization of the United method of cost classification for allocation and rate design purposes, but does not reflect the utilization of the South Georgia method of amortizing Transwestern's future unfunded income tax liability. In the event of a Commission decision permitting Transwestern to utilize the Seaboard method of cost classification for allocation and rate design purposes or the fixed variable method and/or in the event that the Internal Revenue Service (IRS) issues a ruling satisfactory to Transwestern, permitting Transwestern to utilize the South Georgia method without jeopardizing its ability to take accelerated depreciation, Transwestern will file to place into effect the revised tariff sheets included in Alternates I, II, III, IV, or V as appropriate.

The proposed increased rates reflected in the primary revised tariff sheets and the revised tariff sheets included in Alternates II and IV will increase the level of Transwestern's jurisdictional rates to provide an annual increase in revenues from jurisdictional sales and services of approximately $74 million based on the test period sales and services for the 12 months ended August 31, 1982, as adjusted. The increased rates reflected in the revised tariff sheets included in Alternates I, III, and V are based on a cost of service using the South Georgia method to amortize Transwestern's future unfunded income tax liability and, therefore, provide an annual increase in revenues from jurisdictional sales and services of approximately $76 million. Approximately $1 million of the proposed increase can be attributed to purchased gas cost increases reflected in the proposed rate level but not accounted for in the present rate level which Transwestern will track under the applicable provisions of its FERC Gas Tariff. The remainder of the increase is related to other than purchased gas cost increases.

Transwestern states that the principal reasons for the proposed rate increase are increased costs of labor, expenses, plant facilities cost, working capital requirements, and income taxes.

As part of its proposed major rate increase, Transwestern has filed revised tariff sheets to reflect changes in and additions to its FERC Gas Tariff and related rate schedules as follows:

(1) New Section 23 providing for the tracking of the costs of transportation and compression services performed by others for Transwestern other than those performed pursuant to Section 311(a) of the Natural Gas Policy Act of 1978;

(2) A new Section 24 providing for the tracking of costs of transmission and compression services performed by others for Transwestern pursuant to Section 311(a) of the Natural Gas Policy Act of 1978;

(3) A new tariff provision which will specifically permit tracking of prepayments to gas suppliers;

(4) Changes in the PGA provisions of Transwestern's tariff to utilize total sales, to exclude exchange gas and gas capitalized and to expressly include the right to track certain take-or-pay for payments;

(5) A change in the tariff to provide for payment by electronic transfer.

Transwestern has requested waiver of any rules and regulations of the Commission to the extent required to put the foregoing major rate increase and accompanying tariff revisions and rate schedule revisions into effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33860 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-11-000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

December 8, 1982.

Take notice that on November 30, 1982, United Gas Pipe Line Company (United) tendered for filing Sixty-First Revised Sheet No. 4, Alternate Sixty-First Revised Sheet No. 4, Sixth Revised Sheet Nos. 4-A and 4-B, and Ninth Revised Sheet No. 4-C to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 19, 21, 23, and 24 of United's Tariff.

United states that the Current Adjustment reflects rates payable to United's supplier for the six (6) months commencing January 1, 1983.

Sixth Revised Sheet Nos. 4-A and 4-B are being filed to reflect the estimated incremental pricing surcharges as required by Commission Order No. 49 issued September 28, 1979.

Ninth Revised Sheet No. 4-C is being filed in compliance with the letter order issued by the Office of Pipeline and Producer Regulation dated January 27, 1982, and reflects the FERC approved changes to the transportation rate schedules.

United has requested permission to waive placement of the Current Alaskan Natural Gas Transportation System (ANGTS) Costs Rate Adjustment into effect for the six months beginning January 1, 1983. The ANGTS Surcharge Adjustment mechanism would remain operative during the period. In the event permission is not granted, United has filed Alternate Sixty-First Revised Sheet No. 4 to reflect both a Current ANGTS Costs Rate Adjustment and an ANGTS Costs Surcharge Adjustment.

Copies of the proposed tariff sheets and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protest should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33876 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-92-000]

Valley Gas Transmission, Inc.; Application

December 9, 1982.

Take notice that on November 16, 1982, Valley Gas Transmission, Inc.

(Applicant), 3200 Entex Building, Houston, Texas 77002, filed in Docket No. CP83–92–000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdictional conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33877 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-93-000]

Valley Gas Transmission, Inc.; Application

December 9, 1982.

Take notice that on November 16, 1982, Valley Gas Transmission, Inc. (Applicant), 3200 Entex Building, Houston, Texas 77002, filed in Docket No. CP83–93–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain transmission pipeline and related and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 3.10 miles of 6-inch loop line and related and appurtenant facilities on its Live Oak transmission system located in Live Oak and Jim Wells Counties, Texas.

Applicant asserts that the proposed facilities would allow it to take additional volumes from its producer-suppliers in Live Oak County, Texas. These volumes, it is said, would be transported and resold pursuant to Rate Schedule No. 10 of Original Volume No. 1 to Applicant's FERC Gas Tariff.

It is asserted that the cost of the proposed facilities would be $190,549 which would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or his designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33862 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2816-001]

Vermont Electric Cooperative, Inc. et al.; Application for Transfer of License

December 9, 1982.

Public notice is hereby given that an application was filed on November 24, 1982, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by Vermont Electric Cooperative, Inc., (Licensee) and the Vermont Electric Generation and Transmission Cooperative, Inc. (Transferee) for transfer of the major license for the North Hartland Project No. 2816. The project is located on the Ottauquechee River in Windsor County, Vermont at the existing U.S. Army Corps of Engineers North Hartland Dam.

The licensed project would consist of a new powerhouse, penstock and tailrace channel. No changes to the operation of the project would occur. The transfer is requested in order to gain more favorable financing of the project.

Transferee has proposed to operate the project in accordance with the license.

Anyone desiring to be heard or to make any protests about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be filed by conforming to the procedures specified in § 1.10 for protests. In determining the

appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene, must be received on or before January 24, 1983. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33861 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-166-000]

West Penn Power Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that West Penn Power Company (West Penn) on November 30, 1982, tendered for filing Third Revised Sheet No. 11 of FERC Electric Tariff Original Volume No. I and Second Revised Sheet No. 10, and Third Revised Sheet Nos. 9 and 12 of FERC Electric Tariff Original Volume No. II. The changes proposed would produce an estimated overall increase in revenues from jurisdictional sales and service of approximately $2,711,591 based on the twelve-month period ending December 31, 1983. The filing also includes the addition of two service points with Allegheny Electric Cooperative, Inc.

West Penn states that the rate changes proposed are for the purpose of recovering increased costs incurred by the Company; the addition of service points is for the purpose of better accommodating the needs of the cooperative and its customers.

Copies of the filing were served upon the jurisdictional customers and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33907 Filed 12-13-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of November 5 Through November 12, 1982

During the week of November 5 through November 12, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by DOE action sougth in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 6, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 5 through November 12, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 5, 1982	Consumers Power Company, Jackson, Michigan	HEG-0024	Petition for Special Redress. If granted: The Office of Hearings and Appeals would determine the date on which Consumers Power Company's Marysville, Michigan synthetic natural gas plant became eligible to participate as a "refiner" in the Entitlements Program, 10 C.F.R. § 211.67.
Nov. 5, 1982	Economic Regulatory Administration, Crown Central Petroleum Corporation, State of Maryland, Baltimore, Maryland.	HRJ-0026	Request for Protective Order. If granted: The Economic Regulatory Administration would enter into a Protective Order to permit the release of proprietary information to the State of Maryland in connection with a Proposed Remedial Order (Case No. HRO-0072) issued to Crown Central Petroleum Corporation.
Nov. 8, 1982	Gas Company of New Mexico, Carlsbad, New Mexico	HEE-0047	Exception to EIA Reporting Requirements. If granted: Gas Company of New Mexico would not be required to file form EIA-782A "Monthly #2 Distillate Sales Report."
Nov. 8, 1982	Earl E. Wall, New Orleans, Louisiana	HRR-0043	Request for Modification or Rescission. If granted: The October 21, 1982, Supplemental Order issued by the Office of Hearings and Appeals would be rescinded and the September 9, 1982, Remedial Order would be reinstated with the amount of overcharges reduced.
Nov. 8, 1982	J. S. Beebe, Trustee, El Dorado, Arkansas	HRH-0014	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the appeal of the Remedial Order (Case No. HCX-0033) issued to J. S. Beebe, Trustee.
Nov. 9, 1982	Taylor & Stauffer, McLean, Virginia	HFA-0094	Appeal of an Information Request Denial. If granted: Taylor & Stauffer would receive access to all DOE documents which explain the standards used to apply the "separate inventory rule."
Nov. 8, 1982	Taylor & Stauffer, McLean, Virginia	HFA-0095	Appeal of an Information Request Denial. If granted: Taylor & Stauffer would receive access to documents related to directives, interpretations or discussions of the "new market" rule, the "new item" rule and/or the "acquisition rule."
Nov. 8, 1982	Taylor & Stauffer, McLean, Virginia	HFA-0096	Appeal of an Information Request Denial. If granted: Taylor & Stauffer would receive access to documents which discuss or explain the standards used to apply the "separate inventory rule."
Nov. 10, 1982	Springbrook Ice & Fuel Company, Waterville, Maine	HEE-0048	Exception to EIA Reporting Requirements. If granted: Springbrook Ice & Fuel Company would not be required to file form EIA-782B "Monthly No. 2 Distillate Sales Report".

REFUND APPLICATIONS RECEIVED

[Week of November 5, 1982 to November 12, 1982]

Date	Name of refund proceeding/name of refund applicant	Case No.
Nov. 2, 1982	Pennzoil/Paul Smith Oil, Inc	RD10-58

[FR Doc. 82-33894 Filed 12-13-82; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 8 Through November 12, 1982

During the week of November 8 through November 12, 1982 the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Orders

Carwash Service, Walt Freeman, Bob's Chevron, St. Francis Texaco, 11/12/82, HRO-0050, HRO-0051, HRO-0053, HRO-0056.

Carwash Service and three other retail service stations objected to Proposed Remedial Orders that were issued to the firms by the Western District of Enforcement on April 15, 1982. In the Proposed Remedial Orders, the Western District of Enforcement found that the firms had charged prices higher than those permitted by 10 CFR 212.93(a)(2) in sales of motor gasoline. After considering the firms' objections, the OHA determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The important issues discussed in the Decision include: (1) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93 (a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Leese Oil Company, 11/12/82, BRO-1339

Leese Oil Company filed a Statement of Objections to a Proposed Remedial Order which the Region X Office of Enforcement issued to the firm on September 22, 1980. In the Proposed Remedial Order, Region X determined that during the period August 1, 1979 through September 30, 1979, Leese sold motor gasoline at prices which exceeded its maximum lawful selling prices computed in accordance with 10 CFR 212.93. The Proposed Remedial Order directed that Leese refund the overcharges and conduct a self-audit for periods both preceeding and following the audit period. After considering Leese's objections, the OHA decided to eliminate the requirement in the Proposed Remedial Order that Leese conduct a self-audit for a period of time before the audit period. As modified, the Proposed Remedial Order was issued as a final Remedial Order.

Interlocutory Orders

Economic Regulatory Administration/Office of Special Counsel, 11/8/82, HRZ-0096-0099

The Economic Regulatory Administration's Office of Special Counsel (ERA) filed motions for an order adopting certain proposed findings of fact (PFFs), set forth in two Proposed Remedial Orders issued to Marathon Oil Company. Marathon objected to the ERA motion, stating that the PFFs should not be adopted because the ERA had failed to establish a *prima facie* case in support of each PFF. The DOE pointed out that once the ERA had met its burden of proof by issuing a PRO that established a *prima facie* case, the burden is on the recipient of a PRO to establish that specific findings of fact or conclusions of law set forth in the PRO are erroneous. The DOE adopted the PFFs which were admitted by Marathon, or which had not been specifically challenged by the firm in its Statements of Objections. The DOE also considered an ERA "Motion to Strike or Not Consider new legal defenses raised in Marathon's Statements of Objections which were not asserted in response to the NOPVs." In denying the Motion, the DOE found that Marathon did not actually raise new arguments in its Statements of Objections, but rather offered additional support for previously-raised arguments.

Office of Special Counsel for Compliance, 11/12/82, HRZ-0079

The Office of Special Counsel for Compliance (OSC) filed a motion to compel the Atlantic Richfield Company (Arco) to release documents identified in response to the discovery order in *Office of Special Counsel (Arco)*, 9 DOE ¶ 84,003 (1982), for which the firm had asserted privilege claims. OSC had been granted discovery from Arco to enable it to responsed to the firm's objections to a Proposed Remedial Order OSC issued to the firm on May 1, 1979.

In considering the OSC motion, the DOE stated that under established judicial precedent, a party that raises affirmative defenses that place its corporate state of mind at issue should be deemed to have waived its right to assert the attorney-client privilege and the attorney work product doctrine for documents that reflect its state of mind. The DOE found that Arco had clearly indicated that it would raise affirmative defenses which would place its state of mind at issue. The DOE thus determined that it would be entirely justified in concluding that Arco had waived its right to claim that documents reflecting its corporate state of mind are privileged. The DOE noted, however, that Arco had not asserted these defenses formally and would not do so until the firm filed a Statement of Legal Objections. Because it was reluctant to make a finding of waiver in the absence of a formal invocation of the affirmative defenses that trigger waiver, the DOE concluded that Arco should be required to elect one of two courses of action. First, Arco could elect to release those documents reflecting its corporate state of mind for which it had asserted privilege claims, in which case it would be permitted to raise affirmative defenses concerning reliance and estoppel. Alternatively, Arco could choose not to release the documents, in which case it would be precluded from raising affirmative defenses to which the documents it had withheld would be relevant.

Office of Special Counsel for Compliance 11/12/82, HRZ-0103

The Office of Special Counsel for Compliance (OSC) filed a motion to compel the Gulf Oil Corporation to release documents identified in response to the discovery orders in *Office of Special Counsel (Gulf)*, 9 DOE ¶ 84,010 (1982) *Office of Special Counsel (Gulf)*, 9 DOE ¶ 82,543 (1982) for which the firm had asserted privilege claims. OSC had been granted discovery from Gulf to enable it to respond to the firm's objections to the Proposed Remedial Order OSC issued to the firm on May 1, 1979.

In considering the OSC motion, the DOE stated that under established judicial precedent, a party that raises affirmative defenses that place its corporate state of mind at issue should be deemed to have waived its right to assert the attorney work product doctrine for documents that reflect its state of mind. The DOE found that Gulf had clearly indicated that it would raise affirmative defenses which would place its state of mind at issue. The DOE thus determined that it would be entirely justified in concluding that Gulf had waived its right to claim that documents reflecting its corporate state of mind are privileged. The DOE noted, however, that Gulf had not asserted these defenses formally and would not do so until the firm filed a Statement of Legal Objections. Because it was reluctant to make a finding of waiver in the absence of a formal invocation of the affirmative defenses that trigger waiver, the DOE concluded that Gulf should be required to elect one of two courses of action. First, Gulf could elect to release those documents reflecting its corporate state of mind for which it had asserted privilege claims, in which case it would be permitted to raise affirmative defenses concerning reliance and estoppel. Alternatively, Gulf could choose not to release the documents, in which case it would be precluded from raising affirmative defenses to which the documents it had withheld would be relevant.

Refund Applications

Vickers Energy Corporation/City of Ardmore, Oklahoma, 11/12/82 RF1-245

On July 17, 1981 the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order instituting special refund procedures for distributing funds obtained by the DOE through a consent order with Vickers Energy Corporation. *Office of Enforcement,* 8 DOE ¶82,597 (1981). The City of Ardmore, Oklahoma filed an application for refund from the Vickers escrow account based on purchases of gasoline from the Vickers refinery in Ardmore. In considering the application, the DOE determined that the gasoline which was purchased by Ardmore was, in fact marketed by Gulf Oil Corporation and was made available from the Vickers refinery as a result of exchange agreements between Vickers and Gulf. Since the prices for the gasoline were set by Gulf, not by Vickers, the DOE concluded that the City of Ardmore's application should be denied.

Vickers Energy Corporation/Howard's Service et al. 11/12/82 RF1–372 et al.

On July 17, 1981 the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order implementing special refund procedures for distributing a $2,850,000 fund obtained by the DOE through a consent order with Vickers Energy Corporation. *See Office of Enforcement; In the Matter of Vickers Energy Corp.,* 8 DOE ¶82,597 (1981). The July 17 Decision stated that the DOE would accept applications for refund filed by purchasers of Vickers gasoline from other than company-operated retail outlets. The present Decision and Order decided eleven Applications were submitted by smaller firms, claiming refunds based on purchases of 50,000 gallons of Vickers motor gasoline or less per month during the consent order period. Eight applications were filed by larger firms, claiming refunds based on purchases of more than 50,000 gallons of Vickers motor gasoline per month. In considering these applications the DOE determined that the three smaller firms had met the standards set forth in the July 17 Decision and in the DOE regulations applicable to special refund proceedings, 10 CFR Part 205, Subpart V. Accordingly, those applications were granted in full. In addition, the DOE determined that the eight larger firms had demonstrated that they were injured to some extent as a result of Vickers pricing practices. Accordingly, those applications were granted in part.

Dismissals

The following submissions were dismissed:

Name and case No

Burton-Hawks, Inc.; HRO–0082
Jordan Gas Company; DRO–0299
State of Alaska; HEE–0036

Copies of the full text of these decisions and orders are available in the Public Docket Room of the office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

December 6, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82–33893 Filed 12–13–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of October 25 Through October 29, 1982

During the week of October 25 through October 29, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Appeal

American Satellite Company, 10/27/82, HFA–0090

American Satellite Company (ASC) filed an Appeal following the release by DOE of agency documents which the firm contended resulted in harm to its competitive position. The documents had been released by DOE in response to a freedom of Information Act request filed by one of ASC's competitors. In considering ASC's request that it be permitted to review other DOE documents prior to their release by DOE, the DOE determined that neither the FIOA nor the DOE provides submitters of information with an administrative appeal and that the proper remedy was an appeal to federal district court. The DOE also noted that the release of the subject documents appeared to be entirely proper. Accordingly, the firm's appeal was dismissed.

Requests for Modification and/or Rescission

Ashland Oil, Inc., Chevron U.S.A. Inc., Shell Oil Company, Atlantic Richfield Company, Gulf Oil Corporation 10/28/82, HER–0037, HER–0033, HER–0034, HER–0036, HER–0038

In a Decision and Order issued on July 19, 1982, the DOE ordered Ashland Oil, Inc. (Ashland) to pay monetary restitution in the amount of $5,784,131.95 to seven of the nine suppliers assigned by the DOE to supply Ashland with crude oil during February 1980. Subsequently, Ashland and four of the assigned suppliers filed Motions for Modification of the July 19 Decision. The present Decision granted those motions to the following extent. Where Ashland and the assigned suppliers agreed to an exchange at the same time they agreed to the underlying sale, restitution was computed on the basis of the crude oil Ashland actually obtained, *viz.* the crude oil named in the exchange agreement. It was also determined that the July 19 Decision contained certain errors with respect to the calculations of the amount of restitution due Shell Oil Company and Atlantic Richfield Company. In addition, Exxon Company, U.S.A. was found to have overcharged Ashland for its March 23, 1980 delivery of crude oil, and accordingly Ashland's payment to Exxon was reduced by that amount. Finally, it was determined that Atlantic Richfield Company, Chevron U.S.A. Inc., Exxon Company, U.S.A., and Texaco Inc. supplied Ashland with less crude oil than was ordered in the Proposed Decision and therefore the restitution due them was reduced accordingly. As a result of these modifications, Ashland was ordered to pay restitution to the suppliers in the amount of $6,537,272.00

Economic Regulatory Administration, 10/26/82, HRR–0031

On July 28, 1982 the Economic Regulatory Administration (ERA) filed a motion to modify a Remedial Order issued to Meeker and Company (Meeker) on July 12, 1982. *Meeker & Co.,* 9 DOE ¶ 83,042 (1982). ERA did not seek to alter the result reached in the Remedial Order, but only to change certain language so as to eliminate any implication that ERA had failed to serve Meeker with an earlier motion in the course of the PRO proceeding. In considering ERA's request, DOE found that ERA was incorrect in its assertion that service of the motion by regular first class mail was complete upon mailing. DOE found that service by registered or certified mail would have been complete upon mailing, but that service by first-class mail is complete only upon receipt. Since the record contained evidence that Meeker never received the motion, the language in the July 28 Decision to the effect that Meeker was not served was correct and should not be changed. The DOE also noted that any implication that ERA did not adequately perform its duty to serve the pleading upon Meeker was not intended and would not be correct. Accordingly, DOE denied ERA's Motion.

Request for Exception

Norton, Inc., 10/27/82, BEE–1682

Norton, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67(a)(5)(i)(H) in which the firm sought exception relief to receive entitlements benefits under the Petroleum Substitute Entitlements Program. In considering the request, the DOE found that the firm failed to establish that its exclusion from the Petroleum Substitute Entitlements Program resulted in a serious hardship or gross inequity. Accordingly, exception relief was denied. The important issues discussed in the Decision and Order are (i) reliance on oral advice from DOE personnel as official agency approval and (ii) the inclusion of officer's salaries in operating expenses in a calculation of pre-tax profit.

Refund Applications

Tenneco Oil Company/Save-X, U.S.A., Inc., 10/25/82, RF–7–63

The Office of Hearings and Appeals considered an Application for Refund filed by Save-X, U.S.A., Inc. The firm is a reseller-retailer of motor gasoline with stations in the Roanoke, Virginia area and in North Carolina. The firm requested a refund for its purchases of over 65,000,000 gallons of product from Tenneco during the Consent Order period. The *Tenneco* Decision

established a requirement that firms seeking sizeable refunds demonstrate that they had been injured by alleged overcharges because they were forced to absorb increased costs. The firm submitted market data to show that it had been competitively injured by Tenneco's pricing practices, but there was insufficient information by which to assess the extent of the firm's injury because the firm failed to provide comparative prices in several relevant months. Accordingly, a partial refund was granted for the firm's purchases of kerosene and diesel fuel, and for threshold purchases of 600,000 gallons per year of motor gasoline.

Tenneco Oil Company/Eastern of New Jersey, Inc., 10/29/82, RF7-2

Eastern of New Jersey, Inc. (Eastern) filed a Motion for Modification requesting the DOE to reconsider its Decision in *Tenneco Oil Company/Imperia Oil Company*, 10 DOE ¶ 85,002 (1982) in which Eastern's Application for Refund was denied on the basis that Eastern was a spot purchaser of refined petroleum product from the Tenneco Oil Company. In considering its Motion the DOE found that Eastern did not meet the requirements for a Motion for Modification. However, the DOE also found that Eastern's Motion should nevertheless be granted because of the equitable nature of the refund process and the administrative simplicity in reevaluating its case. Finally, DOE found that Eastern had not submitted banks of unrecovered increased product costs, and that therefore the firm's refund should be based upon the threshold volume of 50,000 gallons per month. Eastern's Application for Refund was therefore granted in part.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

December 6, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82-33895 Filed 12-13-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Boulder City Area Projects; Extension of Comment Period

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension of comment period for the proposed general consolidated power marketing criteria or regulations for Boulder City area projects (criteria).

SUMMARY: The Western Area Power Administration's Boulder City Area Office by this notice extends the comment period for the Criteria set forth at page 41420 in the **Federal Register** of September 20, 1982, (47 FR 41420). Western will receive written comments from interested parties through January 14, 1983.

DATE: Written comments on the Criteria must be postmarked on or before January 14, 1983, in order to be considered in the preparation of the final Criteria.

ADDRESS: Written comments concerning the Criteria should be mailed to the following address: Mr. Robert A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Carter (702) 293-8808.

Issued in Washington, D.C., December 8, 1982.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 82-33891 Filed 12-13-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 79-191; RM-3380; PR Docket No. 79-334; RM-3691; PR Docket No. 79-107; PR Docket No. 81-703]

Amendment of the Commission's Rules To Release 250 Private Channels in the 800 MHz Band and to Govern the Operation of 800 MHz Private Systems; Order Extending Time for Filing Replies to Oppositions to Petitions for Reconsideration/Clarification

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration/clarification; extension of time for filing replies to oppositions.

SUMMARY: Federal Communications Commission is extending the time to file replies to oppositions to petitions for reconsideration in this proceeding in order to afford interested parties sufficient time to prepare them. See 47 CFR 49743, November 2, 1982.

DATE: Replies are now due by December 10, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stephanie M. Spernak, Private Radio Bureau (202) 634-2443.

SUPPLEMENTARY INFORMATION:

Adopted: December 6, 1982.

Released: December 8, 1982.

In the matter of amendment of Part 90 of the Commission's Rules to release spectrum in the 806-821/851-866 MHz bands and to adopt rules and regulations which govern their use, PR Docket No. 79-191, RM-3380;

Amendment of Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communcations system, PR Docket No. 79-334, RM-3691;

An Inquiry concerning the multiple licensing of 800 MHz radio systems ("community repeaters") PR Docket No. 79-107; and Amendment of Section 90.385(c) of the Commission's Rules to allow transmission of non-voice signals at 800 MHz, PR Docket No. 81-703, 11-2-82; 47 FR 49743).

1. The E. F. Johnson Company (E. F. Johnson), by its attorney, has filed a motion seeking an extention of time to file its reply to the opposition to petitions for reconsideration/clarification submitted by Motorola, Inc. in the captioned proceeding.

2. E. F. Johnson contends that an extension of the reply filing period is necessary "in order to perform additional research and allow for proper coordination between E. F. Johnson's counsel and its principals." E. F. Johnson also states that a grant of its motion for an extension of time ultimately will aid the Commission in its disposition of the issues raised upon reconsideration in this proceeding.

3. Although the Commission does not grant routinely motions for extensions of time, 47 CFR 1.46(a) (1981), the Bureau believes that E. F. Johnson has sufficiently supported its request. Accordingly, it is ordered that the deadline for the filing of replies to oppositions to petitions for reconsideration/clarification in the captioned proceeding is extended through December 10, 1982.

4. This action is taken pursuant to delegated authority. 47 CFR 0.331 (1981).

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-33885 Filed 12-13-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for 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 each of the agreements and the justifications offered therfore at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements 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 each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within *20* 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 be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3943–2.

Filing Party: David Ainsworth, Esq., Assistant General Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Summary: Agreement No. T–3943–2, between American President Lines, Ltd. (APL) and Foss Alaska Lines, Inc. (FOSS), amends the basic agreement whereby APL furnishes FOSS stevedoring and terminal services at Unalaska, Alaska. The purpose of the amendment is to amend Article 2 of the agreement by providing that APL will perform the cargo services identified in Schedule X of the agreement. Article 5 is also amended by providing that APL shall be compensated for its performance of Schedule X services at rates and charges as set forth in Schedule 1 of the agreement. The amendment shall become effective upon approval by the Commission

Agreement No. T–4076–1.

Filing party: Frank Wagner, Deputy City Attorney, City of Los Angeles, P.O. Box 15, San Pedro, California 90733.

Summary: Agreement No. T–4076–1 between the City of Los Angeles (City) and Marine Terminals Corporation (MTC) amends the basic agreement which provides for the nonexclusive preferential use of certain premises at Berth 231 in the Port of Los Angeles. The amendment provides (1) for the addition of Parcel No. 2 to the premises; (2) MTC will guarantee that 550,000 Revenue Tons shall cross the wharf each annual period. If MTC during any annual period shall handle less than the minimum, MTC may, after notice to City, elect to defer payment until the minimum is exceeded in any subsequent compensation period at which time any overage shall be credited to prior deficiencies. Within 30 days following the effective date of termination of Permit No. 472, MTC shall pay City all deficiencies for which payment has been deferred and for which no overage has been credited. The agreement shall become effective on the first day of the calendar month after Commission approval.

Agreement No. T–4078.

Filing party: Mr. C. Prosuch, Director of Finance, Jacksonville Port Authority, P.O. Box 3005, 2831 Talleyrand Avenue, Jacksonville, Flordia 32206.

Summary: Agreement No. T–4078, between the Jacksonville Port Authority (JPA) and Port Carriers, Inc. (PCI), provides for the operation by PCI of marine terminal facilities owned by JPA. As compensation, PCI will pay JPA 31 percent of all storage, wharf demurrage, terminal parking, handling, wharfage and receiving and delivery charges. The term of the agreement is for three and ½ years, with two five-year renewal options.

By order of the Federal Maritime Commission.

Dated: December 9, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–33793 Filed 12–13–82; 8:45 am]

BILLING CODE 6730–01–M

Agreements Filed

Agreement No. T–2756–2.

Filing Party: Beverly J. Strike, Administrative Assistant, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

Summary: Notice of the filing of Agreement No. T–2756–2, between the Port of Milwaukee and the Jacobus Company, which appeared in the **Federal Register** on November 9, 1982 (47 FR 50756), is hereby rescinded. By Order of the Federal Maritime Commissioner.

Dated: December 9, 1982.

Francis C. Hurney,

Secretary.

[FR. Doc. 82–33792 Filed 12–13–82; 8:45 am]

BILLING CODE 6730–01–M

[Sailing Agreement No. 9931]

Agreements Filed; Cancellation

Agreement No. 9931, approved May 5, 1971 is a sailing agreement whose membership is composed of Farrell Lines, Incorporated, (Farrell), Moore McCormack Lines Incorporated (Moore McCormack), South African Marine Corp. Ltd., Springbok Lines, Ltd. and Springbok Shipping Co. Ltd. Farrell and Moore McCormak are also parties to another sailing agreement No. 9080. Article 9 of Agreement No. 9931 provides that it shall terminate in the event any constituent undersigned company of Agreement No. 9080 ceases to be a party to Agreement No. 9080.

By letter dated July 28, 1982 Farrell Lines withdrew its membership in both Agreements Nos. 9080 and 9931. Accordingly, notice is hereby given that Agreement No. 9931 has been cancelled effective August 3, 1982, the date Farrell Lines' letter was received by the Commission.

By Order of the Federal Maritime Commission.

Dated: December 9, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–33794 Filed 12–13–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and §225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related by banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest,

or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC*, London, England, and Barclays Bank International Limited, London, England (insurance and consumer lending activities; Louisiana): To engage through their subsidiaries Barclays American/Financial, Inc., Charlotte, North Carolina, in consumer lending and credit related insurance agency activities from a *de novo* office located in Metairie, Louisiana, serving Metairie, Louisiana, and all areas with a 25 mile radius of Metairie, Louisiana. Comments on this application must be received not later than January 7, 1983.

2. *Horizon Bancorp*, Morrisontown, New Jersey (extensions of credit and leasing activities; Georgia): To engage, through its subsidiary, Horizon Creditcorp, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made, for example, by a mortgage, finance, credit card or factoring company, and leasing personal property or acting as broker or advisor in leasing such property. Such activities will be conducted from an office of the subsidiary in Atlanta, Georgia, serving the State of Georgia. Comments on this application must be received not later than December 28, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia (data processing activities; Georgia, Alabama, North Carolina, South Carolina and Florida): To engage through its subsidiary, First Financial Management Corporation, in providing data processing services and related services such as data processing and supporting equipment sales, consulting relative to the use and applicability of data processing equipment and services, and electronic funds transfer systems. These services to be provided from offices in Atlanta, Georgia, servicing Georgia, Alabama, North Carolina, and South Carolina, and Miami, Florida, servicing Florida, through remote input/output data collection centers in Atlanta, Augusta, and Moultrie, Georgia; Dothan, Alabama; Cordele, Gainsville, and Rome, Georgia; Montgomery, Alabama; and Charlotte, North Carolina; and through input/output equipment located in the customer's offices. Comments on this application must be received not later than December 28, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (negotiating the purchase and sale of mortgages; United States): To engage through its subsidiary, Security Pacific Mortgage Services, Inc. in acting as agent negotiating the purchase and sale of residential mortgages on behalf of Security Pacific Mortgage Corporation. Such activities would be conducted from offices of Security Pacific Mortgage Services, Inc., in Denver, Colorada; Atlanta, Georgia; and Seattle, Washington, serving the United States. Comments on this application must be received not later than January 5, 1983.

2. *Wells Fargo & Company*, San Francisco, California (underwriting credit life and disability insurance; Arizona): To engage, through its subsidairy, Central Western Insurance Company, in the activity of underwriting, as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit by Applicant's credit extending affiliates in Maryland. This activity would be conducted from offices of Applicant's subsidiary in Phoenix, Arizona, serving Maryland. Comments on this application must be received not later than January 7, 1983.

Board of Governors of the Federal Reserve System, December 7, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33817 Filed 12-13-82; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust New York Corp.; Proposed Commodity Futures Activities

Bankers Trust New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage, through three additional offices of its subsidiary, BT Capital Markets, Corp., New York, New York, in the activities of executing and clearing on certain commodity exchanges, futures contracts in bullion, U.S. Government securities, foreign exchange, and negotiable money market instruments. These activities would be performed from offices of Applicant's subsidiary in Dallas, Texas, Atlanta, Georgia, and Los Angeles, California, and the geographic area to be served is the United States. Such activities have not been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies. In approving Applicant's application to establish its subsidiary, however, the Board determined that the proposed activities are closely related to banking. *Bankers Trust New York Corporation* (*BT Capital Markets Corp.*), 68 Federal Reserve Bulletin 651 (1982). *See also J. P. Morgan & Co. Incorporated*, 68 Federal Reserve Bulletin 514 (1982).

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 and questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any 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 that January 6, 1983.

Board of Governors of the Federal Reserve System, December 8, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33819 Filed 12-13-82; 8:45 am]

BILLING CODE 6210-01-M

Union Planters Corp.; Acquisition of Bank

Union Planters Corporation, Memphis, Tennessee, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Tennessee Commerce Corporation, Jackson, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 6, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33820 Filed 12-13-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees.

The following advisory committee meetings are announced:

Obstetrics—Gynecology Devices Panel

Date, time, and place. January 10, 9 a.m, Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, January 10, 9 a.m., to 10 a.m.; open committee discussion, 10 a.m., to 4 p.m.; Dr. Lillian Yin, National Center for Devices and Radiological Health (HFK-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-472-7555.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before December 30, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss and make a recommendation on a premarket approval application for a synthetic osmotic cervical dilator. The committee will discuss the presentation of Dr. Istvan Nyirjesy on the present state-of-the-art of medical thermography.

Microbiology Device Section of the Immunology and Microbiology Devices Panel

Date, time, and place. January 20 and 21, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, January 20, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; open public hearing, January 21, 9 a.m., to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Thomas M. Tsakeris, National Center for Devices and Radiological Health, (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver spring, MD 20910, 301-427-7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and make recommendations for their regulation.

Agenda—Open hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before January 7, 1983, and submit a brief statement of the general nature of the evidence of arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for an in vitro diagnostic product for the determination of the minimal inhibitory concentration of antimicrobic agents.

General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. January 26 and 27, 9 a.m., Rm 703A-727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, January 26, 9 a.m., to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; open public hearing, January 27, 9 a.m., to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Dr. Mark Parrish, National Center for Devices and Radiological Health (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before January 19, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss (1) a reclassification petition for an iontophoretic sweat inhibition device, and (2) the safety and effectiveness of both inflatable and silicone gel-filled breast prostheses, which were published in the **Federal Register** of January 19, 1982 (47 FR 2810). The General and Plastic Surgery Device Section will specifically evaluate data received from manufacturers and professional users. Others possessing data regarding the evaluation of these devices during the

past 10 to 20 years should contact the panel section leader. Written submissions and oral presentations may be made to the section.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minumum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: December 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-33691 Filed 12-13-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0346]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydro-cinnamate)] methane as an antioxident in olefin polymers intended for use in contact with food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3676) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)methane as an antioxidant in olefin polymers complying with items 3.4 and 3.5 in §177.1520(c) (21 CFR 177.1520(c)) intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated November 29, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-33795 Filed 12-13-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Duck Valley Reservation, Nevada and Idaho; Ordinance Providing for the Introduction, Possession and Sale of Intoxicating Beverages

November 24, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 82-SPO-09 which relates to the application of the Federal Indian Liquor Laws on the Duck Valley Reservation, Nevada and Idaho, was duly adopted on June 22, 1982 by the Shoshone Paiute Business Council which has jurisdiction over the area of Indian country included in the ordinance. Ordinance 82-SPO-09 reads as follows:

Kenneth Smith,

Assistant Secretary, Indian Affairs.

Ordinance of the Governing Body of the Duck Valley Shoshone Paiute Tribes

[Ordinance No. 82-SPO-09]

Be it enacted by the governing body of the Shoshone Paiute Tribes of the Duck Valley Indian Reservation, That: Whereas, the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161, makes the Federal Indian Liquor Laws inapplicable to: Any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior and published in the **Federal Register.**

Now, therefore be it enacted and ordained, that the introduction, possession, transportation and sale of intoxicating beverages shall be lawful within Indian country under the jurisdiction of the tribes, provided;

Section 1—Conformity With Laws of Idaho and Nevada Within Their Respective Geographic Boundaries

That such introduction, possession, transportation and sale are in conformity with both the laws of the State of Idaho and with this ordinance within that State's geographical boundaries, and that such introduction, possession, transportation and sale are in conformity both with the State of Nevada and with this ordnance.

Section 2—Corporate and Tribal Entity

The Shoshone Paiute Business Council may form a corporation or a subordinate tribal entity, or a tribal enterprise, to operate off-sale or packaged sale of intoxicating

beverages, under such license or licenses as may be required by law.

Section 3—Tribal License Required

No person shall engage in the sale of intoxicating beverages within Indian country under the jurisdiction of the Tribes, unless licensed by the Tribes, provided that the Tribes, in the discretion of the Shoshone Paiute Business Council, may require individual Indians to obtain licenses from the State in which such enterprise shall be located.

Section 4—Application for Tribal Liquor License—Requirements

No Tribal License shall be issued under this ordinance except upon a sworn application filed with the Shoshone Paiute Business Council containing a full and complete document, which shows the following:

(A). If the Shoshone Paiute Business Council determines that a State License should be obtained, satisfactory proof that the applicant is or will be licensed by the State, or that such license has been withheld or denied for reasons in excess of the powers vested in the State Licensing authorities, or for arbitrary or capricious reasons.

(B). Satisfactory proof that the applicant is of good moral character and reputation among the people of the Duck Valley Reservation, with particular reference to the Indian people and that he is financially responsible.

(C). The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the terms of the license, and a complete detailed itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold.

(D). Agreement by the applicant to accept and abide by the conditions of the Tribal License.

(E). Payment of a fee shall be established by the Shoshone Paiute Business Council.

(F). Satisfactory proof that the applicant is not an officer or member of the Shoshone Paiute Business Council, is not an employee of the Tribe and has never been convicted of a felony.

Section 5—Conditions of the Tribal License

Any Tribal License issued under this ordinance shall be subjected to the following conditions:

(A). The license shall be for a term of one (1) year, and shall expire as of the date of any license issued under the Laws of Idaho or Nevada as the location of the enterprise may dictate.

(B) The Licensee shall, at all times, maintain an orderly, clean and neat establishment, both inside and outside the licensed premises.

(C). The licensed premises shall be open to inspection by any member of the Shoshone Paiute Business Council, or the duly authorized representative of the Council at all times during the regular business hours.

(D). (1). Within the geographic area of the Duck Valley Reservation encompassed by the State of Nevada, there shall be no restrictions in the hours of which intoxicating beverages are to be sold, served, disposed of, or consumed on the licensed premises of a given establishment.

(2) Within the geographic area of the Duck Valley Reservation encompassed by the State of Idaho, no intoxicating beverages shall be sold, served, disposed of, delivered or given to any person or consumed on the licensed premises between the hours of 1:00 a.m. and 10:00 a.m., Monday through Saturday and none on Sunday.

(E). The licensed premises shall be subject to patrol by the Duck Valley Reservation Police Force, for the purposes of enforcing tribal laws, and by State and County officers for the purpose of enforcing state laws against non-Indians and the licensee shall cooperate with such Police and Law Officers.

(F). The premises covered by the Tribal Liquor License will be closed on Tribal Election days or special days of observance as designated by the Shoshone Paiute Business Council.

(G). All acts and transactions under authority of the Tribal Liquor License shall be in conformity with the laws of the State of Nevada and Idaho as the location of the enterprise may dictate and shall be in accordance with this ordinance.

(H). No person under the age of 21 years shall be admitted into the licensed establishment.

(I). There shall be no discrimination in the operations under the Tribal License by reasons of race, color or creed.

Section 6—Cancellation and Suspension

Any license issued hereunder may be suspended or cancelled by the Shoshone Paiute Business Council for the breach of any of the provisions of this ordinance, or of the conditions of the Tribal License, upon hearing before the Shoshone Paiute Business Council after ten (10) days notice to the licensee.

Section 7. All prior Tribal ordinances relating to liquor, including Ordinance No. 82–SOP–04, dated January 27, 1982, by the Shoshone Paiute Business Council are hereby repealed.

Certification

It is hereby certified that the Shoshone Paiute Business Council is composed of a Chairman and six members of whom 6 constituting an quorum, were present at a meeting held on the 22nd day of June, 1982, and that the foregoing ordinance was adopted by the affirmative vote of 4 FOR and 2 AGAINST with 0 ABSTENTIONS: pursuant to the authority contained in Article VI, Section 1 (a) (f) and (1) of the Constitution and By-Laws of the Shoshone Paiute Tribes, approved April 20, 1936.

James A. Paiva,

Tribal Chairman.

Sandra A. Sope,

Tribal Secretary.

Ordinance No. 82–SOP–09

Approved

Albert J. Racine,

Acting Superintendent, Eastern Nevada Agency.

June 24, 1982.

[FR Doc. 82–33801 Filed 12–13–82; 8:45 am]

BILLING CODE 4310–02–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Karl R. Kranz, National Zoological Park, Washington, D.C. (PRT 2–9843)

The applicant requests a permit to import salvaged parts of Jentink's duiker (*Cephalophus jentinki)* for study of distribution, status, ecology and behavior of this species and subsequent reexport of material to other institutions and scientists for scientific research.

Applicant: New York Zoological Society, Bronx, New York. (PRT 2–9847)

The applicant requests a permit to import one male captive-born white-handed gibbon (*Hylobates lar lar*) from Societe Zoologique de Granby, Quebec, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: December 9, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–33923 Filed 12–13–82; 8:45 am]

BILLING CODE 4310–55–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the

proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Service clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at 202–395–7340.

Title: Product Use Evaluation
Bureau Form Number: N/A
Frequency: One time
Description of Respondents: Federal, State and local governments, businesses, educational institutions, conservationists, researchers, and planners
Annual Responses: 200
Annual Burden Hours: 50
Service Clearance Officer: Arthur J. Ferguson, 202–563–8770.

Dated: December 3, 1982.

Rolf L. Wallenstrom,

Acting Associate Director—Environment.

[FR Doc. 82-33807 Filed 12-13-82; 8:45 am]
BILLING CODE 4310-55-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Back Bay Vehicle Permit Application, to determine applicant's eligibility for vehicular access across Back Bay National Wildlife Refuge
Bureau Form Number: N/A
Frequency: One time
Description of Respondents: Individuals or households
Annual Responses: 50
Annual Burden Hours: 100
Service Clearance Officer: Arthur J. Ferguson, 202–653–8770.

Dated: December 3, 1982.

Robert E. Gilmore,

Associate Director—Wildlife Resources.

[FR Doc. 82-33808 Filed 12-13-82; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Mobil Oil Exploration & Producing Southeast Inc.; 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: This Notice announces that Mobil Oil Exploration & Producing Southeast Inc., Unit Operator of the Ship Shoal Block 72 Federal Unit Agreement No. 14–08–001–2945, submitted on December 1, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Ship Shoal Block 72 Federal Unit.

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 offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. 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 on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 3, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-33805 Filed 12-13-82; 8:45 am]
BILLING CODE 3410-31-M

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held January 18–20, 1983, in Biloxi, Mississippi. The agenda of the meeting is as follows:

January 18
8:00 a.m.–5:00 p.m.: Ternary Studies Briefing
January 19
8:30–12:00 a.m.: Continuation & Ternary Studies Studies
1:30–3:30 p.m.: Business Session
A. Scoping-OCS Sales No. 81/84
B. Update on OCS Sales
C. Status of FY 83 and FY 84 Regional Studies Plans
D. Discussion of State Input into OCS Decision Making
E. Briefing on OCS Advisory Board
F. Election of State Co-Chairman
G. Open Business
3:30–5:00 p.m.: Regional Studies Plan Formulation
January 20
8:30–5:00 p.m.: Continuation of Regional Studies Plan Formulation

The meeting will be held in Biloxi, Mississippi, in the Marine Education Center of the Gulf Coast Research Laboratory, located at the foot of the Highway 90 Biloxi-Ocean Springs bridge. All sessions are open to the public and interested persons may make oral or written presentations upon request. Such requests should be made not later than January 14, 1983, to Sydney H. Verinder, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., P.O. Box 7944, Metairie, LA 70010, telephone number (504) 837–0170.

A taped transcript of all sessions and complete summary minutes of the meeting will be available for public inspection in Room 537 of the above address not later than 60 days after the meeting.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service.

[FR Doc. 82-33806 Filed 12-13-82; 8:45 am]
BILLING CODE 4310-MR-M

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 December 3, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written commends concerning the significant 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 29, 1982.

Carol D.Shull,

Chief of Registration, National Register.

CALIFORNIA

Humboldt County

Ferndale, *Berding, A., House*, 455 Ocean Ave.

Los Angeles County

Whittier, *National Bank of Whittier Building*, 13002 E. Philadelphia St.

CONNECTICUT

New Haven County

New Haven, *Nicoll, Caroline, House*, 27 Elm St.

INDIANA

Delaware County

Muncie, *Valentine, John, House*, 1101 Riverside Ave.

Wayne County

Richmond vicinity, *Smith, Samuel G., Farm*, W. of Richmond at 3431 Crowe Rd

IOWA

Dubuque County

Dubuque, *Old Main Historic District*, main St. between 1st and 4th Sts.

Story County

Armes, *Engineering Hall*, Union Dr., Iowa State University Campus

Winneshiek County

Decorah, *Steyer Bridge*, Oneata Rd. off U.S. 52

KENTUCKY

Bell County

Middlesboro, *Middlesboro Downtown Commercial District*, Roughly bounded by Cumberland Ave., 19th, 20th Sts., and Edgewood Rd.

Jefferson County

Louisville, *Speed Building*, 319 Guthrie Green

LOUISIANA

Orleans Parish

New Orleans, *Saux, Jean Marie, Building*, 900 City Park Ave.

Webster Parish

Cotton Valley vicinity, *Hodges House*, W of Cotton Valley off LA 7 and 160

MAINE

Androscoggin County

Lewiston, *Martel, Dr. Louis J., Hosue*, 122–124 Bartlett St.

Penobscot County

Bangor, *Pierce Building*, 23–37 Franklin St.

Somerset County

Pittsfield, *Pittsfield Public Library*, Main St.

Waldo County

Searsport, *Nichols, Capt. John P., House*, U.S. 1

Washington County

Cherryfield, *Nash, William M., House*, River Rd.

East Machias, *Talbot, James R., House*, *U.S. 1*

MARYLAND

Baltimore (Independent City), *Barre Circle Historic District*, Roughly bounded by Scott, Ramsey, and Boyd, and Harber City Blvd. and S. Fremont Sts.

Kent County

Georgetown, *Valley Cottage*, Princess Stop St.

NEW MEXICO

Santa Fe County

Pojoaque, *Bouquet, Jean, Historic/ Archeological District*, Bouquet Lane

OKLAHOMA

Canadian County

El Reno, *Rock Island Depot*, 400 W. Wade St.

Cleveland County

Stella vicinity, *Mardock Mission*, SE of Stella off OK 9

Oklahoma County

Oklahoma City, *Goodholm House*, 3101 W. Gen. Pershing Blvd.

Oklahoma City, *Luster, Melvin F. House*, 300 N.E. 3rd St.

Woodward County

Woodward, *Convention Hall*, 1219 8th St.

OREGON

Linn County

Albany, *Albany Downtown Commercial Historic District*, Roughly bounded by the alley north of 1st and 3rd Aves., Lyon and Washington Sts.

TENNESSEE

Davidson County

Nashville, *Longview (Norvell-Caldwell House)*, 811 Caldwell Lane

Lincoln County

Kelso vicinity, *Kelso Bowstring Arch Truss Bridge*, N of Kelso on Stephens Creek Rd.

Smith County

Carthage, *Cullum Mansion*, 609 Cullum St.

Carthage, *Davis-Hull House*, 1004 N. Main St.

Sumner County

Hendersonville, *Donelson, Daniel Smith, House*, 178 Berrywood Dr.

TEXAS

Collin County

McKinney, *McKinney Commercial Historic District*, Roughly bounded by Herndon, Wood, Cloyd, Davis, Louisiana, MacDonald, and Virginia Sts.

Travis County

Austin vicinity, *Barr, William Braxton, House*, NE of Austin at 10463 Sprinkle Rd.

UTAH

Salt Lake County

Salt Lake City, *Tampico Restaurant (Salt Lake City Business District MRA)*, 169 S. Regent St.

WISCONSIN

Rock County

Beloit, *Beloit Water Tower (Beloit MRA)*, 1005 Pleasant St.

Beloit, *Bluff Street Historic District (Beloit MRA)*, Roughly both sides of Bluff St. from Shirland Ave. to Merrill St.

Beloit, *Brasstown Cottage (Beloit MRA)*, 1701 Colley R.

Beloit, *Church of St. Thomas the Apostle (Beloit MRA)*, 822 E. Grand Ave.

Beloit, *Crist, J. W., House (Beloit MRA)*, 2601 Afton Rd.

Beloit, *Dow House and Carpenter-Douglas Barn (Beloit MRA)*, 910 Broad St.

Beloit, *Fairbanks Flats (Beloit MRA)*, 205, 215 Birch Ave. and 206, 216 Carpenter Ave.

Beloit, *Moran's Saloon (Beloit MRA)*, 312 State St.

Beloit, *Near East Side Historic District (Beloit MRA)*, Roughly bounded by Pleasant, Clary Sts., Wisconsin and E. Grand Aves.

Beloit, *Neese, Elbert, House (Beloit MRA)*, 1302 Bushnell St.

Beloit, *Nye, Clark, House (Beloit MRA)*, 2501 Spring Creek Rd.

Beloit, *Rau, Charles, House (Beloit MRA)*, 757 Euclid Ave.

Beloit, *Rindfleisch Building (Beloit MRA)*, 512 E. Grand Ave.

Beloit, *Slaymaker, Stephen, House (Beloit MRA)*, 348 Euclid Ave.

Beloit, *Strong Building (Beloit MRA)*, 400–408 E. Grand Ave.

Beloit, *Yates, Florence, House (Beloit MRA)*, 1614 Emerson St.

[FR Doc. 82-33910 Filed 12-13-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Program—Ohio

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM).

ACTION: Notice of availability of findings of no significant impact (FONSI) addressing environmental assessments (EA's) for the development of three (3) abandoned mine land projects under the State of Ohio Reclamation Plan.

SUMMARY: The Eastern Technical Center, OSM, has prepared three (3) FONSI's based on EA's prepared by the Ohio Department of Natural Resources for three (3) reclamation projects indicated below and included in the grant developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EA's and FONSI's are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:30 p.m.: Office of Surface Mining Reclamation and Enforcement, Ohio Field Office, 2242 South Hamilton Road, Columbus, Ohio 44327.

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, Director, Ohio Field Office, (614) 886–0578 (address above).

Reclamation projects included in FONSI's, location and description:

1. Lewis and Wolfe Drive Project, Meigs County (fill and stabilize four mine openings, create positive drainage, regrade and seed all disturbed surface areas).

2. Tecumseh Village Trailer Park Project, Mahoning County (backfill and regrade open pit, regrade highways and adjacent unstable areas, revegetate all disturbed areas).

3. Holloway Project, Belmont County (remove sediment from section of Trail Run, reduce erosion from areas within watershed, remove sediment from Holloway storm drainage system).

Dated: December 1, 1982.

Murray Newton,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 82-33924 Filed 12-13-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Further notice of proposed costing standards and decision.

SUMMARY: The Commission has decided to use Rail Form A for estimating railroad cost to be used in determining the Cost Recovery Percentage (CRP) required by Section 202 of the Staggers Rail Act of 1980. The 1982 CRP is 183.5 percent. This CRP has been computed using 1980 Rail Form A regional unit costs updated to a 1981 level and movement data from the 1981 waybill tape. Both the 1980 Rail Form A unit costs and the 1981 waybill tape are the latest available. Comments on refining this costing methodology, as well as other aspects of the computation of a Cost Recovery Percentage are invited.

DATE: Comments are due 60 days after the publication of this decision in the **Federal Register.**

ADDRESS: An original and 15 copies should be sent to: Interstate Commerce Commission, Room 3315, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

William T. Bono, (202) 275–7354
Robert C. Hasek, (202) 275–0938.

Copies: For copies of the full decision contact the Office of the Secretary, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, DC 20423; 202–275–7428.

SUPPLEMENTARY INFORMATION:

Background

Section 202 of the Staggers Rail Act of 1980 (Staggers Act) requires the Commission to calculate, within 180 days after the effective date of the Act, and on an annual basis thereafter the Cost Recovery Percentage (CRP) for all railroad traffic. The CRP is to be set at such a level that if all traffic moving at rates above the CRP level were held at the CRP level, the railroad industry, in total, would earn revenues sufficient to cover industry-wide variable plus fixed costs.[1] The CRP is a ratio of revenue to variable cost that is to serve as the jurisdictional threshold for railroad rate regulation by the Commission beginning October 1, 1984 (or October 1, 1983 if the CRP is 175 percent or less.)

The Staggers Act sets a threshold of: (a) 160 percent for the period from the effective date of that Act through September 30, 1981, (b) 165 percent for the period from October 1, 1981 through September 30, 1982, (c) 170 percent for the period from October 1, 1982 through September 30, 1983, (d) 175 percent or the CRP, whichever is lower, (to a low of 170 percent), for the period from October 1, 1983 through September 30, 1984. The Staggers Act also established a threshold range of 170 to 180 percent for the period commencing October 1, 1984. If the Commission derived CRP falls below this range, the threshold will be set at 170 percent. If it falls above the range, it will be set at 180 percent. If it falls within the range, it will be the calculated ration.

By notice served January 28, 1981 (46 FR 9794; January 29, 1981) the Commission requested comments for a methodology to be used in the calculation of railroad costs for the computation of the Cost Recovery Percentage (CRP). This methodology was to be used by the Commission for the implementation of Section 202 of the Staggers Act.

In a decision served April 1, 1981 (46 FR 20794; April 7, 1981) the Commission issued its first CRP. That CRP, determined to be 197.5 percent, was computed from the 1977 one percent waybill sample as costed by a contractor, A. T. Kearney Inc., using Rail Form A procedures. That CRP was computed using 1976 Rail Form A unit costs indexed to 1977 levels and the 1977 waybill tape. The procedures and methodology used by A. T. Kearney are described in that decision. (This CRP employs a different methodology than the one used by A. T. Kearney. It also uses a 1981 rather than a 1977 waybill tape). Further public comments were invited. We have carefully considered those comments prior to the development of this 1982 CRP. An analysis of those comments follows. We also invite further comment concerning areas which the parties believe have been inadequately addressed.

Use of Rail Form A

The State of Vermont, the Long Island Rail Road, (LIRR), the Western Coal Traffic League (Western Coal) and the Association of American Railroads (AAR), suggest that Rail Form A be used for the computation of the CRP until the Uniform Rail Costing System (URCS) can be evaluated. These parties observe that while URCS may be theoretically superior to Rail Form A, it is, at this untested methodology. LIRR conditions its recommendation that Rail Form A continue to be used on satisfactory indexing of 1977 Rail Form A costs or converting 1978 and subsequent accounting data to a form acceptable as Rail Form A input.

In any event, URCS is not operational at this time. Therefore, we must use Rail Form A for the CRP computation until URCS is operational. At that time a decision on the use of URCS or Rail Form A will be made.

Public Participation in Development of Methodology and Calculation of CRP, Availability of Working Papers. The National Industrial Traffic League (NITL), and the AAR state that the Commission must provide for public participation in the development of a CRP methodology. AAR asks that the public be permitted to review the calculations and call to the Commission's attention any errors that are discovered. AAR also comments on the volatile and sensitive nature of the CRP calculation process noting that a relatively minor change in the data can produce a markedly different CRP.

NITL, the American Paper Institute (American Paper), and Western Coal request an opportunity to participate in the establishment of the CRP and ask that the Commission's working papers be made available. They note that the

[1] Fixed costs are defined for this particular purpose in the Staggers Act to include a return to both equity and debt capital using the embedded debt rate.

possiblities of errors are very great and full participation of the public in all steps of the CRP computation process minimizes the possibility of error.

As previously noted, the process for the development of the CRP is wide open and parties are free to comment at every step of the process. Working papers have been made available. Various items used by the Commission in the computation of the last CRP have been appended to responses to our decision served April 1, 1981. We expect to continue to make underlying material available to the various parties.

We acknowledge the sensitive nature of the CRP computation process and realize that presently even small changes in the input data or methodology can result in major changes in the CRP. Improvement of the methodology should help alleviate these concerns. We have provided for and continue to provide for public participation in the development of a CRP methodology through the continued solicitation of comments from the parties. We solicit suggestions for specific methodological or data changes which would enable us to stabilize the CRP computation process.

Individual Railroad CRP's. American Paper and Carolina Power and Light Company, Duke Power Company, South Carolina Electric and Gas Company and Virginia Electric and Power Company (Carolina Power), request CRP computations for individual railroads. These parties state that use of a nationwide CRP would result in undeserved windfalls to certain individual railroads at the expense of the shipper. Both parties find nothing in the Staggers Act prohibiting the computation of a CRP for individual carriers.

We are required by 49 U.S.C. 10709(d)(1)(B)(i) to determine an industry-wide CRP. The CRP is to be set at a level such that even if all rates above the CRP were held at the CRP, carriers in the aggregate would earn revenues sufficient to cover industry-wide variable plus fixed costs.

Waybill Study Deficiencies. Carolina Power cites problems with the 1977 waybill study specifically mentioning difficulties with multi car shipments and coal movements. NITL cites possible defects in the waybill tape and notes that the Commission has acknowledged the under-representation of bulk commodities in the 1977 sample.

In the production of this 1981 CRP we have attempted to use the best possible waybill information. The Staggers Act requires the Commission to use "a valid and reliable statistical sample" for computing the CRP. We believe that the 1981 waybill tape as enhanced by ALK Associates through use of the Princeton Railroad Network Model is the best such sample available. The Commission's new sample, effective July 1, 1981, should correct defects in the under-representation of bulk commodities and also improve the overall accuracy of the sample.

Examination of 20%–60% Revenue-Variable Cost Movements. Carolina Power suggests that we examine movements with revenue to variable cost ratios falling in the 20 percent to 60 percent range for probable error and further notes that, because of these errors, the average revenue to variable cost ratio developed for the 1977 CRP computation is understated. They note that significantly more carloads moved at revenue to variable cost ratios of less than 60 percent in the A. T. Kearney 1977 Study than in the Commission's 1972 Burden Study.

The Commission is continuing to review both the basic waybill data which provides movement and revenue data for the computation of a CRP and the methodology use for the CRP computation. We have further reviewed the 1977 waybill data and methodology and conclude that, because of the improper inclusion of certain waybill data and the use of a waybill tape which at that time was incomplete, there are errors. The deficiencies of the prior waybill tape are irrelevant to the current CRP determination since we are using a different waybill tape.

180 Percent CRP Ceiling. NITL urges the Commission to emphasize that the CRP, for regulatory benchmark purposes, cannot be over 180 percent of variable cost. It notes that the Staggers Act ultimately mandates a range of 170 to 180 percent into which a computed CRP must fall in order to be used for regulatory purposes.

We acknowledge this and note that in both the prior CRP decision and in this one we have stated that, in order to use the computed CRP for regulatory purposes, it must fall within the statutory range.

Reduction of Revenues Above the CRP Level. American Paper questions the practice of reduction the excess (above the CRP level) revenues to the CRP level. They state that reducing revenues disregards the actual fact that these shipments did produce revenues above the CRP level.

The Staggers Rail Act states that the "cost recovery percentage means the lowest revenue-variable cost percentage which, *if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage,* would produce revenues which would be equal, when combined with total revenues produced by all other rail traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier." 49 U.S.C. 10709(d)(1)(B)(i). (Emphasis added) We interpret this to mean that the revenues must be reduced to the CRP level.

Inclusion of Below Variable Cost Traffic, Presumptive Rate Floor. Arkansas Power and Light Company, Central Illinois Light Company, Central Louisiana Electric Company, Potomac Electric Power Company, Public Service Company of Indiana, Inc., and South Carolina Public Service Authority (Arkansas Power) and Nevada Power have questioned the inclusion in the study of traffic moving at less than a 1.0 revenue to variable cost ratio. They note that the captive shipper should not be forced to pay for the shipments of traffic moving below variable cost and that the Commission itself prepared CRP calculations which removed below variable cost shipments from the base and which adjusted the revenues of below variable cost shipments to equal variable cost.

AAR argues that traffic moving below the 1.0 revenue to variable cost level should not be presumed to be moving at rates that are too low and states that traffic moving at these rate levels may still contribute to going concern value.

In Ex Parte No. 355, Cost Standards for Railroad Rates, (Served April 28, 1981) we found that the presumptive rate floor was directly variable cost and not the variable costs produced by Rail Form A. Below variable cost rates may still contribute to a railroad's going concern value. The presumptive rate floor will be determined by the circumstances in each case.

Therefore, traffic moving below variable cost must be included in the computation of the CRP. The CRP section of the Staggers Act requires the inclusion of all traffic received by rail carriers for rail transportation. Those Commission CRP computations which removed below variable cost shipments from the CRP base and adjusted revenues of below variable cost shipments up to the variable cost level were done for research purposes only. Those computations were not used in the prior CRP decision because the Staggers Act does not permit us to adjust the revenues of traffic other than that moving above the CRP level or to remove from the computation movements other than those found to be

in error. 49 U.S.C. 10709(d)(1)(B)(i) and 49 U.S.C. 10709(d)(5)(A).

Use of Adjusted or Unadjusted Rail Form A. Bartlett Agri Enterprises states that the same methodology used in the costing aspects of market dominance cases (application of unadjusted Rail Form A costs) be used in the computation of the CRP. Bartlett cites sections 10709(d)(3) and 10705(m)(1) of the Staggers Act and states that shippers have great difficulty in meeting burden of proof requirements under the Act. Bartlett further notes that the CRP methodology should be no different than that required of shippers.

In reviewing the sections of the Staggers Act cited by Bartlett we find that Section 10705 does indeed require the use of unadjusted Rail Form A costs but that section refers to surcharges and not to market dominance. Section 10709 states "For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined pursuant to Section 10705a(m)(1) of this title *with adjustments specified by the Commission.*" (Italics added) 49 U.S.C. 10709(d)(3).

Thus, although we are using unadjusted Rail Form A unit costs for the computation of this particular CRP, we are under no obligation to do so and are free to specify certain adjustments. We are still seeking comments on a final CRP methodology. That final methodology, when adopted, may or may not include adjustments to unit costs. We believe that it would be premature at this time to adopt a final methodology using only unadjusted costs.

Validity of 1981 CRP. Nevada Power and American Paper have questioned the validity of the prior CRP computation. That CRP was computed using a costed 1977 waybill sample done for the Commission by a contractor, A. T. Kearney, Inc. Specific criticisms of the 1977 CRP include waybill tape deficiencies and alleged faulty adjustments to Rail Form A costs. The parties allege that waybill tape deficiencies include data errors and omissions which could not be corrected. Nevada Power claims that 7 percent of the records were incomplete and could not be processed and that an additional 2 percent resulted in unreasonable revenue to variable cost ratios. These records were also rejected for use in that CRP computation. They also allege that the use of unit trains is not fully reflected in the revenue to variable cost ratio for some commodities. American Paper alleges that the treatment of movements on single car waybills does not reflect possible multiple car switching efficiencies.

We have taken these and other comments into consideration in formulating the methodology for and the computation of the CRP. We believe that the 1981 waybill tape is of better quality than the similar 1977 version. We also believe that the waybill study, despite its limitations, is the best source of movement and revenue data for CRP computation purposes. In the calculation of traffic movement costs we must rely on reported waybill data. We again note that we are using a different methodology than was used by A. T. Kearney to cost the waybill data used in the prior CRP computation. We solicit specific comments which would enable us to overcome any deficiencies in the waybill data or costing methodology.

Periodic Verification of Special Studies. AAR suggests that any special studies used in computing the CRP be verified periodically. They state that it is incumbent on the ICC to support both the methodological reasonableness of the studies utilized and the appropriateness of its application of the study results.

AAR does not specify which special studies should be verified. During our annual calculation of the CRP we will verify and update special studies as needed.

Federal Register Publication. NITL requests the publishing of the final CRP methodology in the **Federal Register** as a protection against unannounced revisions.

We do not plan to publish the final methodology in the **Federal Register.** However, we do plan to fully describe the proposed final methodology in a decision and request comments. A final methodology will be adopted only after careful consideration of these comments.

CRP Computation Using Both Rail Form A and URCS. The Edison Electric Institute and Western Coal urge that the Commission compute a CRP using both Rail Form A and URCS and analyze the differences before adopting a final methodology. They note that URCS is an untried system and is not yet fully operational and argue that this "dual computation" will insure a smooth and accurate transition between the two costing systems.

We plan to issue a CRP using an URCS based methodology as soon as URCS is operational. At that time we plan to solicit public comments on the application of URCS for CRP purposes. Ample time will be allowed for comments and evaluation of various methodologies before any final methodology is issued. In the development of the CRP we are charged with using the best possible methodology available to us. URCS has been specifically designed for use with the Commission's new system of accounts for railroads. Rail Form A requires the conversion of expense data from the new to the old accounting system. After carefull evaluation of CRP methodologies using both Rail Form A and URCS we will formulate a final methodology using the better of the two.

Exclusion of Movements from Study. Nevada Power and Arkansas Power have questioned the exclusion from the CRP computation of movements showing revenue to variable cost ratios over 1,000 percent and under 20 percent. These parties also questioned the practice of "compressing" to the 300 percent level movements showing revenue to variable cost ratios between 300 percent and 1,000 percent. They argue that these exclusions and compressions distort study results.

We have included the movements producing revenue to variable cost ratios of over 1,000 percent and under 20 percent in the computation of this CRP. We have also "left alone" and not compressed to the 300 percent level those movements showing revenue to variable cost ratios of between 1,000 percent and 300 percent. However, because of the "revenue reduction" process, even if we had included the movements over 1,000 percent and had compressed to 300 percent the moves in the 1,000 percent to 300 percent range, the CRP would not be affected as long as that number remained below 300 percent. Inclusion or omission of the movements showing revenue to variable cost ratios of 20 percent or less can have a major effect on the CRP. This 1982 CRP, for example, would be six percent lower if the movements showing revenue to variable cost ratios of 20 percent or less had been omitted. Other analysis shows that the inclusion of 20 percent and under moves can increase the CRP by as much as 38 percent.

In our prior CRP computation we omitted movements showing revenue to variable cost ratios of 1,000 percent or more or 20 percent or less as probable errors. We recognize that the inclusion of these moves in the CRP computation means that we will be using some incorrect revenue data. We seek specific suggestions for the processing of movements with very high or very low revenue to variable cost ratios.

Conclusions

We have determined that the 1982 Cost Recovery Percentage (CRP) is 183.5 percent.

The CRP determined by the Commission will not be used as the jurisdictional threshold until October 1, 1983 at the earliest. If, at that time, the Commission determined CRP is in excess of 175 percent the 175 percent figure will be used and the Commission determined CRP will not be used until October 1, 1984. After that date the CRP computed by the Commission must fall within the range of 170 to 180 percent in order to be used as the jurisdictional threshold.

We have decided to use an uncomplicated costing approach for the determination of this CRP and solicit comments on costing refinements. Although this methodology is relatively uncomplicated it does properly apply regional average unit costs to movements and compute the contribution or deficit of each movement. Rail Form A regional unit costs for the year 1980, updated to a 1981 level, were applied to movement and revenue data contained on the 1981 waybill tape. Both 1980 Rail Form A unit costs and the 1981 waybill tape are the latest available. A detailed explanation of our costing approach may be found in Appendix A, which is available, along with Appendix B, from the Office of the Secretary, 202–275–7428.

We request comments on all aspects of the computation of the CRP. Comments on costing refinements may include but need not be limited to the areas of volume and multi-car adjustments, special commodity adjustments, traffic type adjustments (i.e., export traffic, etc.) TOFC/COFC adjustments and others.

In our decision served March 26, 1982 (47 FR 13430, March 30, 1980) we stated that we wished to consider using the new Uniform Rail Costing System (URCS) for the calculation of the 1982 CRP. We further stated that we contemplated releasing the 1982 CRP using URCS on or before September 1, 1982. Delays in the release of URCS have made this impossible. In order to avoid further delay we have decided to use 1980 Rail Form A unit costs, updated to a 1981 level. Traffic movement and revenue data were obtained from the 1981 waybill sample as collected under Commission order and processed under contract by the Department of Transportation.

Comments are due 60 days from the publication of this decision in the **Federal Register**. A proposal will be issued with sufficient time for comments before the issuance of another Commission derived CRP.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources or have an adverse effect on small business.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison. Vice Chairman Gilliam and Commissioner Andre concurred in the result. Commissioner Sterrett was absent and did not participate.

Dated: December 3, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33829 Filed 12-13-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all suporting evidence, within three days of a request and upon 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 fo 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–309

Decided; December 3, 1982.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC 14743 (Sub-32), filed November 19, 1982. Applicant: E. L. POWELL & SONS TRUCKING CO., INC., 3777 South Jackson, P.O. Box 356, Tulsa, OK 74101. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101; 703–893–3050. Transporting *Petroleum, natural gas and their products,* between points in the U.S. (except HI), under continuing contract(s) with (a) Twin Oaks Energy, Inc., (b) Little Indian Energy Corp., and (c) Bluestem Production Company, all of Tulsa, OK.

MC 22182 (Sub-45), filed November 16, 1982. Applicant: NU–CAR CARRIERS, INC., 950 Havorford Rd., Bryn Mawr, PA 19010. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877; 301–840–8585. Transporting *transportation equipment,* between points in the U.S. (except AK and HI).

MC 25823 (Sub-17), filed November 16, 1982. Applicant: WERCH TRUCKING COMPANY, INC., Rt. 2, Box 113, Berlin, WI 54923. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703; 608–256–7444. Transporting *clay, concrete, glass or stone products,* between points in WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 87113 (Sub-28), filed November 23, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006; 202–833–8884. Transporting *household goods,* between points in the U.S. under continuing contract(s) with Computer Sciences Corporation, of El Segundo, CA.

MC 87113 (Sub-29), filed November 26, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006; 202–833–8884. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Watkins Associated Industries, Inc., of Atlanta, GA.

MC 106893 (Sub-20), filed November 23, 1982. Applicant: PHILLIP G. WIEDERHOLD AND EDWARD E. WIEDERHOLD, d.b.a. WEIDERHOLD BROTHERS, 5224 Whalen St., Elkton, MI 48731. Representative: James R. Davis, Tenth Fl., Michigan National Tower, Lansing, MI 48933; 517–482–5800. Transporting *fertilizer, fertilizer ingredients and materials, stone, farm products, grain, seed, feed and feed ingredients, and supplies* used in farming operations, between points in MI, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada.

MC 115793 (Sub-41), filed November 23, 1982. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, NC 28645. Representative: C. Douglas Woods (same address as applicant) 800–438–8244. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NC and SC, on the one hand, and, on the other, points in IN and OH.

MC 126542 (Sub-23), filed November 29, 1982. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984; 205–634–4885. Transporting *metal and plastic articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hager Hinge Manufacturing Co., Inc., of Oxford, AL.

MC 126633 (Sub-3), filed November 22, 1982. Applicant: BERGHOLZ TRUCKING, INC., P.O. Box 357, Bergholz, OH 43908. Representative: James R. Stiverson, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212; 614–481–8821. Transporting *coal, coke, stone, limestone, scrap and waste materials,* between points in OH, PA, MD and WV.

MC 140283 (Sub-4), filed November 22, 1982. Applicant: McHENRY TRUCK LINE, INC., 3939 Albany St., McHenry, IL 60050. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956; (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Cook, DuPage, Kane, and McHenry Counties and Chicago, IL, on the one hand, and, on the other, points in WI.

Note.—Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing Certificate of Registration in MC 140283, at applicant's written request.

MC 143702 (Sub-27), filed November 19, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114; 816–444–7474. Transporting *processed potatoes,* between points in the U.S. (except AK and HI), under continuing contract(s) with J. R. Simplot Company, of Boise, ID.

MC 151193 (Sub-32), filed November 16, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same address as applicant) 201–499–3869. Transporting *such commodities* as are dealt in and sold by supermarkets, between points in the U.S. (except AK and HI), under continuing contract(s) with Dreyer's Grand Ice Cream, of Oakland, CA.

MC 152843 (Sub-2–B), filed November 29, 1982. Applicant: GREEN ARROW, INC., Rt. 7, Box 668, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701; (208) 343–3071. (1) Transporting *chemicals and commodities in bulk,* between points in ID, MT, NV, OR, UT, WA, and WY. (2) 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.

Note.—Part (2) is published in the Federal Register, this issue, with "Fitness applications."

MC 153723 (Sub-13), filed November 29, 1982. Applicant: A&M ENTERPRISES, INC., P.O. Box 1549, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702; (501) 521–8121. Transporting *such commodities* as are dealt in or used by wholesale or retail business houses, between points in the U.S. (except AK and HI).

MC 163742, filed November 22, 1982. Applicant: JOHN H. BROWN, R.D. #2, Portersville, PA 16051. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222; 412–471–3300. Transporting (1) *coal and coal products,* (2) *clay, concrete, glass or stone products,* (3) *metal products,* (4) *salt,* (5) *vermiculite,* and (6) *waste or scrap materials not identified by industry producing,* between points in PA, on the one hand, and, on the other, points in CA and those points in the U.S. east of MT, WY, CO and NM.

MC 164642, filed November 9, 1982. Applicant: SPENCER TRUCKING, INC., Box 90A, Boulder Canyon, Sturgis, SD 57785. Representative: David Robinson, 2228 W. Northern Ave., Suite B201, Phoenix, AZ 85021; (602) 864–0999. Transporting *general commodities* (classes A and B explosives, and household goods), between points in U.S. (except AK and HI).

MC 164652, filed November 8, 1982. Applicant: JOHN LIMBLOM, INC., 112 Gray St., Oxford, AL 36203. Representative: John Limblom (same address as applicant) (205) 835–1966. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jim Segrest and Associates, Inc., of Dolomite, AL.

MC 164692, filed November 9, 1982. Applicant: CENTRAL MINNESOTA OIL COMPANY, INC. d.b.a. EAST SIDE TRUCK STOP, P.O. Box 1043, Albert Lea, MN 56007. Representative: Robert S. Lee, 1600 TCF Tower, 121 South Eighth St., Minneapolis, MN 55402; 612–333–1341. Transporting *transportation equipment,* between points in MN and IA, on the one hand, and, on the other, points in IA, IL, IN, MN, MO, MT, NE, ND, OH, SD, and WI.

MC 164703, filed November 15, 1982. Applicant: EMERALD CITY INTERNATIONAL VAN LINE, INC., 23028 100th Ave. West, Edmonds, WA 98020. Representative: Jerrold Effenberger (same address as applicant) 206–771–2303. Transporting *used household goods, furniture, fixtures,* between points in the U.S.

MC 164743, filed November 12, 1982. Applicant: GLEN BOCH d.b.a. GLEN'S DELIVERY, 13401 West 82nd St., Lenexa, KS 66215. Representative: Patrick K. McMonigle, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105; 816–221–1464. Transporting *such commodities* as are dealt in by automotive supply houses, between points in MO and KS.

MC 164903, filed November 29, 1982. Applicant: GENE COOK d.b.a. GENE COOK TRUCKING, 4325 Oilpatch Rd. P.O. Box 689, Woodward, OK 73801. Representative: G. Timothy Armstrong, 200 N. Choctaw P.O. Box 1124, El Reno, OK 73036; 405–262–1322. Transporting *Mercer commodities,* between points in OK, on the one hand, and, on the other, points in KS and TX.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–221

Decided: December 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 144120 (Sub-1), filed November 23, 1982. Applicant: K W TRANSIT, INC., 10706 Tesch Lane, Mosinee, WI 54455. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520; (715) 478–3341. Transporting *pulp, paper and related products, metal products, and such commodities,* as are dealt in or used by wholesale and retail florists, between points in Marathon County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *wood products,* between points in Lincoln County, WI, on the one hand, and, on the other, points in IN, IL, TN, MS, KY, AL, GA, FL, SC, NC, VA, WV, OH, MI, DE, MD, MA, NJ, CT, PA, NY, VT, NH, RI, and ME.

MC 145190 (Sub-7), filed November 19, 1982. Applicant: D.A.D. TRANSPORT CORP., New Cummings Road, P.O. Box 2056, Chattanooga, TN 37409. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603; (312) 641–1944. Transporting (1) *food and related products,* between Chicago, IL, and points in Williams County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by manufacturers and distributors of bakery products, soy products and animal feed, between Louisville, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151571 (Sub-2), filed November 24, 1982. Applicant: STORES DELIVERY SERVICE, d.b.a. SOUND DELIVERY SERVICE, INC., 3601 South 263rd, P.O. Box 58722, Seattle, WA 98188. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421; (206) 383–3998. Transporting *sand,* between points in Benewah County, ID, on the one hand, and, on the other, points in OR and WA.

MC 155410 (Sub-1), filed December 2, 1982. Applicant: VERSHON TRUCKING CORP., 274 West Street, Ludlow, MA 01056. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103; (413) 732–1136. 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 Universal Distributing Services, Inc., of Springfield, MA.

MC 156390 (Sub-4), filed November 26, 1982. Applicant: PROGRESSIVE PIER DELIVERY, INC., 900 Dell Ave., North Bergen, NJ 07047. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410; (201) 791–2270. Transporting *such commodities* as are dealt in or used by retail department stores, (a) between points in VA, NC, SC, TN, GA, AL, MS, FL and LA, on the one hand, and, on the other, points in SC, CA, OR and WA, and (b) between points in VA, on the one hand, and, on the other, points in VA, NC, SC and TN.

MC 162431 (Sub-1), filed November 23, 1982. Applicant: TRIPLE L TRANSPORT, INC., 7149 S. Hall Dr., E., West Jordan, UT 84084. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. Transporting *metal products and building materials,* between points in UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, WA and WY.

MC 164820, filed November 22, 1982. Applicant: SHENANDOAH MOTOR EXPRESS, INC., 8028 Stillbrook Road, Manassas, VA 22110. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006; (202) 828–5015. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 164840(A), filed November 24, 1982. Applicant: BIG D TRANSPORT, INC., P.O. Box 2508, Dalton, GA 30720. Representative: Dean N. Wolfe, 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 points in the U.S. (except AK and HI), under continuing contract(s) with C & M Carpet Company, Dalyn Corporation, and Rosewood Rug, Inc., all of Dalton, GA.

Note.—Applicant has also requested authority in MC–164840(B) published in this same Federal Register issue.

MC 164851, filed November 22, 1982. Applicant: NATIONWIDE TRANSPORTATION, INC., 4601So. 50th St., Suite 309, Omaha, NE 68117. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. 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 Raven Industries, Inc., of Sioux Falls, SD, and Lear Siegler, Inc., Safelite, Division, of Wichita, KS. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or an appropriate petition for exemption

or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to team 1, Room 2379.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–056

Decided: December 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 143956 (Sub-35), filed November 22, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Box 493, Walterboro, SC 29488. Representative: Steven W. Gardner (same address as applicant) (803) 549–2026. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Coastal Transportation Co., of Philadelphia, PA, and Simkins Industries, of Dallas, TX.

MC 149036 (Sub-2), filed November 23, 1982. Applicant: MAHAFFEY'S WAREHOUSE, INC., P.O. Box 317, Yellow Jacket, CO 81335. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114; (402) 397–9900. Transporting (1) *food and related products,* (a) between points in CO, on the one hand, and , on the other, points in CA, CO, MO, NE, OR and TX, (b) between points in NM, on the one hand, and, on the other, points in CA and TX, (2) *such commodities as are dealt in or used by manufacturers of food and related products,* between points in CO, on the one hand, and, on the other, points in CA, NE and OR, (3) *such commodities as are dealt in or used by producers and distributors of alcoholic beverages,* between points in NM, on the one hand, and, on the other, points in CA and TX, and (4) *such commodities as are dealt in, used, manufactured or distributed by food, agricultural and feed business houses,* between points in AZ, on the one hand, and, on the other, points in CA.

MC 149576 (Sub-25), filed November 22, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant) (201) 985–2182. *Transporting general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with United Technologies Corp. of Hartford, CT.

MC 150526 (Sub-6), filed November 23, 1982. Applicant: YARMOUTH LUMBER, INC., North St., Box 46, Yarmouth, ME 04096. Representative: William H. Phipps (same address as applicant), (207) 846–4853. Transporting *lumber and building products,* between those points in the U.S. 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 boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

MC 152636 (Sub-1), filed November 22, 1982. Applicant: FLOYD'S TRUCKING, INC., 2340 Bankhead Highway, NW., Atlanta, GA 30318. Representative: Albert Baker (same address as applicant), (404) 794–4436. 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 164806, filed November 22, 1982. Applicant: CAPITOL EXPRESS, INC., 9459 Vollmerhausen Dr., Columbia, MD 21046. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MD, DE, VA, and DC.

MC 164846, filed November 22, 1982. Applicant: DUMONT TRANSPORT, INC., 200 Central Ave., Teterboro, NJ 07608. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0201. 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).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–33830 Filed 12–13–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transporation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 oppostion 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.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–220

Decided: December 8, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 17751 (Sub-4), filed November 29, 1982. Applicant: PRICE BUS COMPANY, INC., 232 South Sherman Ave., Scranton, PA 18504. Representative: John C. Fudesco Suite 960, 1333 New Hampshire Ave., N.W., Washington, DC 20036; (202) 659–5157. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

NOTE.—Applicant seeks to provide privately-funded charter and special transportation.

MC 95751 (Sub-2), filed November 24, 1982. Applicant: APPOLLO BUS LINES, INC., 90–15 Queens Blvd., Elmhurst, NY 11373. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022; (212) 759–3700 Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 125581 (Sub-1), filed November 29, 1982. Applicant: CONOVER BROS. BUS SERVICE, INC., Route 206, Chester, NJ 07930. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123; (212) 239–4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 128450 (Sub-3), filed December 2, 1982. Applicant: SAN JUAN TOURS, INC., P.O. Box 38667, Denver, CO 80238. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278; (703) 750–1112. Transporting *passengers*, in charter and special operations, between points in the U.S. (excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136631 (Sub-2), filed November 26, 1982. Applicant: LEO THOMAS SWINEY, Box 207, Owaneco, IL 62555. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701; (217) 544–5468. Transporting *plastic and plastic products, and lumber* between points in the U.S., under continuing contracts(s) with Alma Plastics Company, of Taylorville, IL.

MC 148011 (Sub-1), filed November 22, 1982. Applicant: EDENFIELD STAGES, INC., 50 West Main St., New Salem, PA 15468. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222; (412) 471–3300. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 161651 (Sub-1), filed November 29, 1982. Applicant: R. HELFRICH & SON CORP., 503 South Laurel Avenue, W. Keansburg, NJ 07734 Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123; (212) 239–4610. Transporting *passengers*, in charter and special operations between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164831, filed November 22, 1982. Applicant: COLONIAL TRAVEL AGENCY, INC., 71 Main St., Southbridge, MA 01550. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036; (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164840(B), filed November 24, 1982. Applicant: BIG D TRANSPORT, INC., P.O. Box 2508, Dalton, GA 30720. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877; (301) 840–8565. (1) As a *broker* of *general commodities* (except household goods), (2)(a) 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), and (b) *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).

Note.—Applicant has also requested authority in MC 164840A published in this same **Federal Register** issue.

MC 164871, filed November 23, 1982. Applicant: KEITH BUS SERVICE, 385 Bayview Ave., Apt. 6C, Inwood, NY 11696. Representative: Keith Brent (same address as applicant) (516) 239–2185. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164891, filed November 29, 1982. Applicant: JAMES C. PECK, d.b.a. J.C.P. TRUCK BROKERS, 15 Bartlett Road, Ashland, MA 01721. Representative: Mary E. Kelley, 22 Stearns Avenue, Medford, MA 02155; (617) 396–4090. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164910, filed November 29, 1982. Applicant: LLOYDS OF NEW YORK MESSENGER SERVICE, INC., 112 West 31st Street, New York, NY 10001. Representative: Bruce J. Robbins, 18 East 48th Street, New York, NY 10017; (212) 755–9400. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164921, filed November 24, 1982. Applicant: ACTIVE TOURS, DIVISION OF ACTYVE SKI VACATIONS, INC., 251–11 Northern Blvd., Little Neck, NY 11363. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022; (212) 759–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164941, filed November 29, 1982. Applicant: ATLANTA UNITED TRANSPORTATION, INC., 2218 Candler Road, Decatur, GA 30032. Representative: John W. Greer, III, 925 Healey Bldg., 57 Forsyth Street, Atlanta, GA 30303; (404) 523–1601. Transporting *passengers*, in charter and special operations, beginning and ending at

points in GA, and extending to points in the U.S. (except AK and HI).

Not.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164951, filed November 30, 1982. Applicant: M H S BUS COMPANY, 92 Middle Neck Road, Great Neck, NY 11021. Representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021; (516) 482–0881. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343, or an appropriate petition for exemption, or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to team 2 (202) 275–7030.

Volume No. OP2–310

Decided: December 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 22072 (Sub-2), filed November 19, 1982. Applicant: CISKO BUS CO., INC., 123 Pershing Blvd., LaVallette, NJ 08735. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116212 (Sub-18), filed November 19, 1982. Applicant: EYRE BUS SERVICE, INC., 15910 Union Chapel Rd., Woodbine, MD 21797. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312; 703–750–1112. Transporting *passengers* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 152843 (Sub-2–A), filed November 29, 1982. Applicant: GREEN ARROW, INC., Rt. 7, Box 668, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. (1) Transporting *chemicals and commodities in bulk*, between points in ID, MT, NV, OR, UT, WA, and WY. (2) 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.

Note.—Part (1) is published in the Federal Register, this issue, with "regular applications."

MC 160482, filed November 26, 1982. Applicant: SILVER COACH, INC., 3904 Ledgewood Drive, Cincinnati, OH 45229. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, DC 20006, 202–337–6500. Transporting *passengers*, in special and charter operations, beginning and ending at points in Hamilton County, OH, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163552, filed November 19, 1982. Applicant: THOMPSON OIL CO., INC., 8 Grove St., Upton, MA 01568. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164653, filed November 8, 1982. Applicant: JOHN TAVASCI d.b.a. JOHN'S BUS LINES, P.O. Box 249, Cottonwood, AZ 86326. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014; (602) 264–4891. Transporting *passengers*, in special and charter operations, beginning and ending at points in AZ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164722, filed November 15, 1982. Applicant: CARGO SERVICES, INC., 4800 Highway H, Franksville, WI 53126. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064; 615–790–2510. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164723, filed November 15, 1982. Applicant: WESTERN BROKERS, INC., 2800 Brighton Blvd., Denver, CO 80216. Representative: Kenneth P. Svela (same address as applicant) 303–294–0400. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164733, filed November 15, 1982. Applicant: JAYPACK CRATING AND DISTRIBUTION, INC., 330 Oak Tree Ave., So. Plainfield, NJ 07080. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164752, filed November 19, 1982. Applicant: GEORGE M. CARROLL TRANSPORTATION, INC., P.O. Box 2522, Route 17K, Newburgh, NY 12550. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103; (413) 781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164772, filed November 18, 1982. Applicant: TEXTILE TRAFFIC ASSOCIATION, INC., 400 Wendell Court, SW, Suite 400, Atlanta, GA 30336. Representative: James M. Jones, Jr. (same address as applicant) 404–691–5311. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164832, filed November 22, 1982. Applicant: SOUTHWEST FLORIDA COACH LINES, INC., 1930 Dana Dr. S.E., Fort Myers, FL 33907. Representative: David H. Baker, 600 Maryland Ave., S.W., Washington, D.C. 20024; 202–484–9090. Transporting *passengers* in special and charter operations, beginning and ending at points in FL and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164892, filed November 29 1982. Applicant: VALLEY TRANSPORTATION OF VALE, INC., Rt. 4, Box 315, Vale, NC 28168. Representative: Terrell Price, 800 Briar Creek Rd., Suite DD–504, Charlotte, NC 28295; 704–372–8212. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164893, filed November 29, 1982. Applicant: TRANSPORT SERVICE COMPANY, P.O. Box 5773, Viewmont Station, Hickory, NC 28601. Representative: Terrell Price, 800 Briar Creek Rd., Suite DD–504, Charlotte, NC 28205. As a *broker of general commodities* (except household goods), between 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. OP4–057

Decided: December 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 15317 (Sub-7), filed November 22, 1982. Applicant: BROWN TRANSIT LINES, INC., 1650 N. 14th St., Springfield, IL 62703. Representative: Edward D. McNamara, Jr., 907 S. 4th St., P.O. Box 5039, Springfield, IL 62705; (217) 528–8476. Applicant seeks: Privately-funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, beginning and ending at points in Sangamon and Morgan Counties, IL, and extending to points in the U.S. (except AK and HI).

MC 106207 (Sub-17), filed November 22, 1982. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO., INC., 50 Highway No. 36, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022; (212) 759–3700. Privately-funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, and or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 147777 (Sub-5), filed November 22, 1982. Applicant: TRAVEL TIME BUS LINES, INC., 99 Arnold St., Springfield, MA 01119. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103; (413) 781–8205. Applicant seeks: Privately-funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.

MC 164326, filed November 22, 1982. Applicant: MACLEN EXPRESS CO., INC., 521 Broadway, Somerville, MA 02143. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 01019; (617) 966–2093. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164667, filed November 12, 1982. Applicant: MICHAEL BERG AND PATRICIA BERG, d.b.a. BLUE STAR TRUCK LINES, 3025 Oreana Dr., Reno, NV 89509. Representative: Michael Berg (same address as applicant) (702) 826–7515. 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 164837, filed November 18, 1982. Applicant: S. JACKSON & SON, INCORPORATED, P.O. Box 53235, New Orleans, LA 70153. Representative: Anthony J. Daleo (same address as applicant) (504) 581–7720. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 82–33831 Filed 12–13–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30051]

Rail Carriers; Burlington Northern Railroad Company—Exemption—Operation Between Council Bluffs and Bayard, IA, and Assumption of Obligation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10901 Burlington Northern Railroad Company (BN) operations over rail lines acquired by the Shippers Consortium, Inc. (SCI), between Council Bluffs (milepost 483.8), and Bayard (milepost 383.6), IA, a distance of approximately 100.2 miles; and between station 90 + 06.1 and station 86 + 00 at Council Bluffs, a distance of 366 feet. BN's assumption of certain SCI financial obligations is also exempted from the requirement of prior approval under 49 U.S.C. 11301.

DATES: This exemption shall be effective on January 13, 1983. Petitions to stay the effectiveness of this decision must be filed by December 27, 1982. Petitions to reopen must be filed by January 3, 1983.

Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423, and (2) Petitioner's representative: Douglas J. Babb, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 30051.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: December 8, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33828 Filed 12–13–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. G. Heileman Brewing Co., Inc., and Pabst Brewing Co.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation Competitive Impact Statement, as set forth below, have been filed with the United States District Court for the District of Delaware in *United States v. G. Heileman Brewing Company, Inc. and Pabst Brewing Company*, Civil Action No. 82–750.

The Complaint in this case alleges that the proposed acquisition of control over all the assets of Pabst Brewing Company ("Pabst") and Olympia Brewing Company ("Olympia") by G. Heileman Brewing Company, Inc. ("Heileman"), may substantially lessen competition in the production and sale of beer in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The geographic market alleged in the suit consists of the United States as a whole.

The proposed Final Judgment permits Heileman to retain only a portion of the total assets of Pabst and Olympia. These retained include the Pabst breweries in Pabst, Georgia and Portland, Oregon; the Olympia brewery in San Antonio, Texas; and the following brands of beer: Red White &

Blue, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve, Bohemian, Lone Star, Lone Star Light, and the Texas version of Buckhorn. The proposed Final Judgment prevents Heileman from retaining any interest in, or exercising any control over, the remainder of the Pabst and Olympia assets. If Heileman and Pabst fail to accomplish the division of assets conteplated under the proposed Final Judgment by March 31, 1983, a trustee will be appointed to complete it.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Anthony V. Nanni, Chief, Trial Section, United States Department of Justice, Antitrust Division, Room 3266, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530, telephone (202) 633–2541.

Joseph H. Widmar,

Director of Operations.

United States District Court for the District of Delaware

United States of America, Plaintiff, v. *G. Heileman Brewing Company, Inc. and Pabst Brewing Company,* Defendants.

[Civil Action No. 82–750; Filed: November 22, 1982]

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the court's own motion at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing the notice with the Court.

2. Defendant G. Heileman Brewing Company, Inc. ("Heileman"), hereby agrees that it will not purchase any of the shares tendered pursuant to the tender offer of November 10, 1982 for the common stock of defendant Pabst Brewing Company ("Pabst") until Pabst and Olympia Brewing Company ("Olympia") have executed a firm agreement that if the subsequent mergers and the exchange transaction (as defined in the proposed Final Judgement) have not been completed by February 28, 1983, Pabst and Olympia will transfer to Heileman before March 31, 1983 the Retained Assets (as defined in the proposed Final Judgment) and Olympia will transfer to Pabst March 31, 1983 those Non-Retained Assets (as defined in the proposed Final Judgment) owned by Olympia.

3. Pabst hereby agrees that, if the subsequent mergers and the exchange transaction have not been consummated by February 28, 1983, it shall effect the purchase of the remaining outstanding shares of Olympia for cash by March 31, 1983.

4. Defendants hereby agree to be bound by the provisions of the proposed Final Judgment from the date of filing of this Stipulation, and without limitation on the generality of the foregoing, shall from such date comply with all of the terms and provisions of Section IV A through C thereof as though the same were in full force and effect as an order of the Court.

5. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: November 22, 1982.

For the Plaintiff:

William F. Baxter,

Assistant Attorney General.

Joseph H. Widmar,

Anthony V. Nanni,

Michael H. Byowitz,

Judith Batty,

Attorneys, U.S. Department of Justice, Antitrust Division, Attorneys for Plaintiff, Washington, D.C.; (202) 633–2477.

For the Defendants:

Howard W. Fogt, Jr.,

On behalf of G. Heileman Brewing Company, Inc., Foley & Lardner, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202; (414) 271–2400.

Douglas E. Rosenthal,

On behalf of Pabst Brewing Company, Sutherland, Asbill & Brennan, 1666 K Street, NW., Washington, D.C. 20007, (202) 872–7800.

United States District Court for the District of Delaware

United States of America, Plaintiff, *v. G. Heileman Brewing Company, Inc. and Pabst Brewing Company,* Defendants.

[Civil Action No. 82–750; Filed: November 22, 1982

Final Judgment

Whereas, plaintiff, United States of America, has filed its Complaint herein on November 22, 1982, and defendants, G. Heileman Brewing Company, Inc. ("Heileman") and Pabst Brewing Company ("Pabst"), have appeared, and plaintiff and defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence, or an admission by any party, with respect to any issue of fact or law herein;

Whereas, the following facts and circumstances underlie the parties' agreement to the entry of this Final Judgment:

Pursuant to the Agreement in Principle, as hereinafter identified and described, Heileman on November 10, 1982 commenced a tender offer for Pabst (the "tender offer") through HBC Acquisition Corporation ("HBC"), a wholly-owned subsidiary of Heileman. The tender offer is intended as the initial step of a series of transactions whereby certain assets (the "Retained Assets" as hereinafter identified and described) owned as of November 19, 1982 by Pabst and Olympia Brewing Company ("Olympia") are to be transferred to Heileman and the balance of Pabst's and Olympia's assets (the "Non-Retained Assets" as hereinafter identified and described) are to be transferred to a new entity in which Heileman will have no interest. Under the Agreement in Principle, upon consummation of the tender offer, Heileman will attempt to effect two mergers whereby HBC will acquire all of the remaining stock of Pabst and Olympia in exchange for HBC securities (the "subsequent mergers"). The Agreement in Principle contemplates that upon consummation of the subsequent mergers, Heileman will give up all of its interest in HBC in exchange for the Retained Assets (the "exchange transaction"). By the tender offer, the subsequent mergers and the exchange transaction, Heileman intends to acquire the Retained Assets, and does not intend to acquire control, directly or indirectly, of any portion of the Non-Retained Assets.

Heileman has agreed that it will not purchase any of the shares tendered pursuant to the tender offer until Pabst and Olympia have agreed that if the subsequent mergers and the exchange transaction have not been completed by February 28, 1983, Pabst and Olympia will transfer to Heileman before March 31, 1983 the Retained Assets and Olympia will transfer to Pabst before March 31, 1983 those Non-Retained Assets owned by Olympia.

Pabst has agreed that, if the subsequent mergers and the exchange transaction have not been consummated by February 28, 1983, it shall effect the purchase of the remaining outstanding shares of Olympia for cash by March 31, 1983.

The Agreement in Principle contemplates an escrow arrangement whereby the remaining Olympia shareholders are assured that the shares they will receive in the subsequent mergers will have a value of not less than twenty-six dollars ($26) per share, or a total of thirty-five million dollars ($35,000,000) for all of the shares collectively, and provides for the making of cash payments to the Olympia shareholders in the event that the shares are determined to have a lower market value.

The defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court.

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged and decreed:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "Heileman" means defendant G. Heileman Brewing Company, Inc., including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

B. "Pabst" means defendant Pabst Brewing Company, including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

C. "Olympia" means Olympia Brewing Company, including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

D. "Defendants" means Heileman and Pabst.

E. "Person" means any natural person, corporation, association, firm, partnership or other business or legal entity.

F. "Brewery" means the manufacturing plant, real property, capital equipment, and any other interests, tangible assets or improvements, associated with a facility for brewing and packaging beer.

G. "Agreement in Principle" means the Agreement in Principle between Heileman and Pabst dated November 5, 1982 (a copy of which is attached hereto as Exhibit I) as amended by letter agreement dated November 9, 1982 (a copy of which is attached hereto as Exhibit II).

H. "Retained Assets" means the assets of Pabst and Olympia to be acquired by Heileman pursuant to the Agreement in Principle. The Retained Assets include, but are not limited to, the breweries owned by Pabst (as of November 19, 1982) located in Pabst, Georgia, and Portland, Oregon; the brewery owned by Olympia (as of November 19, 1982) located in San Antonio, Texas; and the following brands of beer: Red, White & Blue, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve and Bohemian, all owned by Pabst (as of November 19, 1982), and Lone Star, Lone Star Light and Buckhorn (Texas), all owned by Olympia (as of November 19, 1982).

I. "Non-Retained Assets" means all assets of Pabst and Olympia other than the Retained Assets. The Non-Retained Assets include, but are not limited to, the breweries owned by Pabst (as of November 19, 1982) located in Newark, New Jersey, Peoria Heights, Illinois, and Milwaukee, Wisconsin; the breweries owned by Olympia (as of November 19, 1982) located in St. Paul, Minnesota, and Tumwater, Washington; and the following brands of beer: Pabst Blue Ribbon, Andeker, Pabst Extra Light, Pabst Light, Jacob Best and Olde English 800, all owned by Pabst (as of November 19, 1982), and Olympia, Olympia Gold (light beer), Hamm's, Hamm's Special Light, and Buckhorn (non-Texas), all owned by Olympia (as of November 19, 1982).

III

The provisions of this Final Judgment shall apply to the defendants, to each of their subsidiaries, successors and assigns, to each of their officers, directors, agents and employees and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

A. Until the appointment of a trustee under this Final Judgment, Heileman shall be free to vote in any manner the stock of Pabst, subject to plaintiff's prior approval. Heileman shall not otherwise manage or control Pabst or Olympia in any manner directly or indirectly. Furthermore, Heileman shall not have access to any confidential business information, data or records of Pabst or Olympia concerning the Non-Retained Assets. Heileman shall have access to confidential business information, data and records of Pabst and Olympia concerning the Retained Assets; provided, however, that such access shall only take the form of the submission of written material to Heileman by Pabst and Olympia (unless plaintiff specifically agrees otherwise) and provided further that plaintiff shall be furnished with copies of all materials furnished to Heileman at the same time as such materials are furnished to Heileman.

B. Defendants shall report to plaintiff promptly, upon plaintiff's request, in whatever manner requested by plaintiff, including sworn affidavit, on all steps taken and all actions contemplated by defendants to accomplish the subsequent mergers and the exchange transaction.

C. Heileman shall increase its obligation under the Heileman demand note referred to in paragraph 2 of the Agreement in Principle from fifteen million dollars ($15,000,000) to twenty-five million dollars ($25,000,000), without an increase in the collateral to be provided by Pabst, so that Pabst's obligation under the Olympia escrow agreement referrred to in the Agreement in Principle shall be limited to ten million dollars ($10,000,000).

D. If the subsequent mergers and the exchange transaction have not been consummated by February 15, 1983, plaintiff may petition the Court for the appointment of a trustee, which appointment shall become effective no later than March 31, 1983. Upon the filing of such a petition, plaintiff and Heileman each shall promptly notify the other in writing of the names and descriptions of not more than two persons it wishes to nominate as a trustee. Should plaintiff and Heileman agree upon one of such nominees to serve as trustee, that nominee's name will be submitted to the Court. Should plaintiff and Heileman fail to agree on a common nominee, the plaintiff shall submit the names of each party's nominees to the Court. The Court shall appoint a trustee from the candidates so named.

E. The trustee shall have all powers necessary to accomplish the purposes of the trust. The purposes of the trust shall be as follows:

(1) To accomplish the transfer of the Retained Assets to Heilemen;

(2) To accomplish the transfer of the Non-Retained Assets, as a viable, on-going business in the brewing industry, (a) to the then shareholders of Pabst and Olympia other than Heileman or persons controlled by Heileman (the "required divestiture"), or (b) to a purchaser approved by plaintiff (the "alternative divestiture") with the proceeds of such sale going to the then shareholders of Pabst and Olympia other than Heileman in exchange for their Pabst of Olympia shares; and

(3) To carry out the parties' intention that Heileman not acquire control, directly or indirectly, over any of the Non-Retained Assets.

F. Upon its appointment, the trustee shall have full power and authority to vote the Pabst stock acquired by Heileman and to exercise control or management of Pabst and Olympia in order to carry out the purposes of the trust.

G. Within three (3) months of the trustee's date of appointment, the trustee shall submit a plan to accomplish the required divestiture or the alternative divestitute to the Court for approval. The trustee shall simultaneously provide copies of said plan to the parties. Said plan shall contain any and all terms that the trustee deems appropriate to accomplish as expeditiously as is possible the purposes of the trust. If the trustee deems it appropriate, said plan may provide for divestiture by way of the required divestiture in the following manner. The trustee shall cause Heilemen, or Pabst and Olympia, to place all the Non-Retained Assets in a subsidiary of Heileman ("Newco"), and transfer all of Newco's stock to the trustee. Once such transfer is made, the trustee shall exchange Newco's stock on a *pro rata* basis for the Pabst and Olympia shares then held by all Pabst and Olympia shareholders other than Heileman or persons controlled by Heileman. The exchange rate will be determined by the trustee who will be empowered to employ, at Heileman's expense, financial, investment and legal advisors to accomplish the exchange. Thereafter, the trust shall cease, and Newco shall exist as a wholly independent entity.

H. Prior to granting any approval of a divestiture plan proposed by the trustee, the Court shall provide the parties an opportunity for a full hearing on said plan, taking into consideration all factors urged by the parties consistent with the purposes of the trust. If the Court approves the trustee's divestiture plan, it shall enter all appropriate orders necessary to put such plan into effect. If the Court is not satisfied that the trustee's divestiture plan is fair and equitable to the then shareholders of Pabst, the trustee thereupon shall be invested with full power and authority, with full jurisdiction over the parties, to take any and all affirmative steps necessary to accomplish the trustee's proposed divestiture in a manner approved by the Court and without impairment to the financial condition or viability of the Non-Retained Assets as an on-going business in the brewing industry. In this event, Heileman shall provide such additional financial contribution in such form and amount as the Court may reasonably determine to be necessary to proceed with the divestiture on terms that are fair and equitable to the Pabst shareholders.

I. Except as otherwise provided in Section IV (J) with respect to the trustee's fees and expenses incurred in connection with the accomplishment of the alternative divestiture, Heileman shall pay all of the reasonable fees and expenses of the trustee on such reasonable terms and conditions as the Court may prescribe. The compensation of such trustee shall be based in significant part on a fee arrangement providing the trustee with an incentive to accomplish the proposed divestiture as soon as possible and, with respect to the alternative divestiture, to obtain the best possible price.

J. In the event that the alternative divestiture is accomplished, the trustee shall account for all monies derived from said divestiture, if any, and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies, if any, shall be paid to the then shareholders of Pabst and Olympia and the trust shall then be terminated.

K. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture or the alternative divestiture.

L. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court and the parties a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture was not accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purposes of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purposes of the trust, which shall, if necessary, include extending the trust and the term of a trustee's appointment.

V

Until divestiture as contemplated under this Final Judgment has been accomplished, Pabst shall and shall cause Olympia prudently to carry on the brewery business involving the Retained Assets in the ordinary course and shall not sell, dispose of or otherwise encumber the Retained Assets without approval by Heileman or, failing such approval, by the Court. Until said divestiture is accomplished, Pabst shall maintain the breweries located in Pabst, Georgia, and Portland, Oregon, in good working condition and repair and Pabst shall cause Olympia to maintain the brewery located in San Antonio, Texas, in good working condition and repair; and neither Pabst nor Olympia shall remove any assets used in connection with or otherwise relating to the maintenance or operation of said breweries except as required in the ordinary course of business without approval by Heileman or, failing such approval, by the Court. Until said divestiture is accomplished, Pabst shall and shall cause Olympia to continue to provide for each brand of beer among the Retained Assets the level of marketing and advertising support each was providing as of November 19, 1982, to maintain the level of personnel who conduct the business of the Retained Assets and to preserve the goodwill and distributor relationships of the brands included in the Retained Assets.

VI

For the purposes of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

1. Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days' notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

VIII

This Final Judgment will expire upon order of the Court after the trust has terminated.

IX

Entry of this Final Judgment is in the Public interest.

Dated:———————

———— ————,

United States District Judge.

Exhibit I

November 5, 1982.

G. Heileman Brewing Company, Inc., 100 Harborview Plaza, P.O. Box 459, LaCrosse, Wisconsin 54601.

The following represents our agreement in principle to a proposed acquisition by G. Heileman Brewing Company Inc. ("Heileman") of both the Pabst Brewing Company ("Pabst") and the Olympia Brewing Company ("Olympia"). It is contemplated that after acquiring Pabst and Olympia in the merger transactions described below, Heileman will retain certain assets (the "Retained Assets" described below) and spin off interests (also described below), in the other brewing assets and brewery business of Pabst and Olympia, to the Pabst and Olympia shareholders at the time of the respective merger transactions. The acquisition transaction shall be effected by means of a definitive acquisition agreement among Heileman, Pabst and Olympia and is contemplated to take place in the following manner.

1. Heileman, through a wholly-owned Delaware subsidiary called for convenience herein "Brewing Co.", shall commence and complete a cash tender offer for up to 6,000,000 shares of Pabst common stock for $25 per share. The offer shall be subject to Brewing Co. acquiring at least 3,700,000 of the outstanding Pabst shares and to all other conditions customary and appropriate for such a tender offer.

2. Brewing Co. shall seek Olympia shareholder approval for and shall effect a merger of one of Pabst's wholly-owned subsidiaries into Olympia, pursuant to which merger Olympia shareholders on the effective date of the merger will receive an aggregate of 10,000,000 shares of the 30,000,000 shares of Brewing Co. outstanding and a right to receive cash on June 1, 1983 to the extent that the aggregate market value of the common stock does not represent an average market value, during a defined period after the merger to be agreed upon, of at least $35,000,000. Pabst shall agree to vote its Olympia shares in favor of the merger transaction. To facilitate the acquisition of Olympia, Heileman, at the time Brewing Co. purchases Pabst shares pursuant to the tender offer, shall lend Pabst $20,000,000 (of which $5 million shall be in cash and $15 million shall be in the form of a demand note)

secured by certain non-brewery assets of Pabst to be agreed upon. An escrow arrangement shall be set up with a letter of credit for $20,000,000 and the $15,000,000 secured demand note from Heileman to assure the payment of the cash, if necessary, to Olympia shareholders. In the event that the Heileman note is called, Pabst shall transfer to Heileman the assets securing such note.

3. Concurrently with the acquisition of Olympia described in paragraph 2 above, Brewing Co. shall effect a merger of a wholly-owned subsidiary with Pabst pursuant to which Pabst shareholders on the effective date of the merger (other than Brewing Co. and Heileman) will receive convertible subordinated debentures of Brewing Co. the debentures shall have a principal amount to be agreed upon, be entitled to be prepaid in the event of a substantial sale of assets of Brewing Co., be subordinated in right of payment to all indebtedness of Brewing Co. for money borrowed, and shall have such other economic terms as shall be agreed upon by the parties. Heileman, subject to the terms and conditions of the acquisition agreement, shall vote and Pabst shares acquired in the tender offer in favor of the merger. The acquisition of Pabst shall be conditioned on the acquisition of Olympia being effective at approximately the same time.

4. Immediately after effectiveness of the merger transactions, Brewing Co. shall, in exchange for (i) Brewing Co. stock held by Heileman and (ii) such cash (if any), in the event Brewing Co. holds less than the maximum number of shares sought in the tender offer, that would have been required to obtain the maximum number of shares sought in the tender offer, that would have been required to obtain the maximum number of shares sought in the tender offer), transfer the following assets and enter into the following agreements with Heileman (or cause its subsidiaries to effect such transfers and enter into such agreements), which assets together with all related liabilities, are herein referred to as the "Retained Assets":

a. The Pabst brewing facilities at Pabst, Georgia and Portland, Oregon.

b. The Olympia brewing facility at San Antonio, Texas.

c. The following brands, related Light brands and primium brands: Blitz, Blitz economy brands, Henry Weinhard, Lone Star, Buckhorn (Texas), Red White and Blue and Bergermeister.

d. $10,000,000 in unspecified surplus assets of Pabst, 100,000 kegs and Pabst office building nad related parking areas in Milwaukee, Wisoncsin.

e. Pabst will enter into a five-year contract to brew with Heileman, requiring Heileman to brew for Pabst 3,150,000 barrels annually at the Pabst, Georgia facility. The foregoing required amount shall decline annually as follows:

Year 2	2,970,000
Year 3	2,670,000
Year 4	2,370,000
Year 5	2,070,000

Of the foregoing amounts, Pabst shall be entitled to request that the following barrels be brewed in San Antonio:

Year 1	400,000
Year 2	370,000
Years 3 through 5	270,000

In the event that the acquisition transactions are not effected by February 28, 1983, the Pabst and Olympia shall transfer the Retained Assets to Heileman in exchange for 6,000,000 shares of Pabst stock held by Brewing Co. (or such number of shares purchased in the tender offer plus the cash that would have been required to obtain the maximum number of shares sought); and Heileman and Pabst shall cause the release of the escrow to Olympia against release of Pabst's obligations to Olympia under the agreement dated June 11, 1982 between Pabst and Olympia. If the retained assets, for any reason, can not be transferred to Heileman by March 15, 1983, Heileman shall be free to terminate the Acquisition Agreement and all the arrangements thereunder.

All out-of-pocket costs and expenses for the acquisition transactions shall be allocated and paid for in a fair and equitable manner to be determined by Heileman and Pabst in good faith.

Brewing Co. shall purchase, immediately before the effective time of the Pabst merger Pabst stock held by Heileman at the time of initiation of the tender offer for on amount in cash equal to the cost to Heileman of such stock less $5 million.

The Acquisition Agreement shall have customary terms and conditions to be agreed upon by the parties.

The parties shall use their best efforts to obtain approval of the transactions contemplated by this letter with the United States Department of Justice.

This letter does not constitute a contract. The matters covered by this letter are subject to the execution of a definitive Acquisition Agreement, the approvals of the Boards of Directors of Heileman, Pabst and Olympia, receipt of fairness opinions of Lehman Brothers Kuhm Loeb Incorporated, satisfactory to the Board of Pabst, approval by the Department of Justice and such other matters as the parties may agree.

Pabst Brewing Company.

William F. Smith, Jr.,

President.

Accepted and agreed: G. Heileman Brewing Company, Inc.

Russell G. Cleary,

President.

Exhibit II

November 9, 1982.

G. Heileman Brewing Company, Inc., 100 Harborview Plaza, P.O. Box 459, La Crosse, Wisconsin 54601.

This letter amends and supplements our agreement in principle of November 5, 1982.

Paragraph number 1 is amended to read as follows:

1. Heileman, through a wholly-owned Delaware subsidiary called for convenience herein "Brewing Co.", shall commence and complete a cash tender offer for up to 5,500,000 shares of Pabst common stock for $27.50 per share. The offer shall be subject to Brewing Co. acquiring at least 3,800,000 of the outstanding Pabst shares and to all other conditions customary and appropriate for such a tender offer.

Paragraph 3 is amended to read as follows:

3. Concurrently with the acquisition of Olympia described in paragraph 2 above, Brewing Co shall effect a merger of a wholly-owned subsidiary with Pabst pursuant to which Pabst shareholders on the effective date of the merger (other than Brewing Co. and Heileman) will receive subordinated notes of Brewing Co. The notes shall have a principal amount of $20 for each share exchanged, be entitled to be prepaid in the event of a substantial sale of assets of Brewing Co. and be subordinated in right of payment to all indebtedness of Brewing Co. for money borrowed. The notes shall mature ten years from the date of issue, bear interest at the rate of 15% per annum and benefit from a sinking beginning in the sixth year, designed to retire the notes in equal annual installments by maturity. Heileman, subject to the terms and conditions of the acquisition agreement, shall vote the Pabst shares acquired in the tender offer in favor of the merger. The acquisition of Pabst shall be conditioned on the acquisition of Olympia being effective at approximately the same time.

In addition, the first paragraph on page 4 of the November 5, 1982 agreement in principle is amended to read as follows:

Brewing Co. shall purchase, immediately before the effective time of the Pabst merger Pabst stock held by Heileman at the time of initiation of the tender offer for an amount in cash equal to the cost of Heileman of such stock less $3,750,000.

Pabst Brewing Company.

William F. Smith, Jr.,

President and Chief Executive Officer.

Accepted and Agreed: G. Heileman Brewing Co.

Russell G. Cleary,

President.

United States District Court for the District of Delaware

United States of America, Plaintiff, v. *G. Heileman Brewing Company, Inc., and Pabst Brewing Company*, Defendants.

[Civil Action No. 5 Filed: November 22, 1982]

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On November 22, 1982, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, challenging the acquisition of all the assets of

Pabst Brewing Company ("Pabst") and Olympia Brewing Company ("Olympia") by G. Heileman Brewing Company, Inc. ("Heileman"), as a violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The complaint alleges that the acquisition eliminates actual and potential competition between Heileman and Pabst-Olympia in the production and sale of beer; that competition generally in the production and sale of beer may be substantially lessened; and that concentration in the production and sale of beer may be substantially increased. The complaint alleges that the acquisition will have these effects in the United States as a whole. The complaint seeks to enjoin Heileman from retaining any interest in any breweries or brands of beer owned by Pabst or Olympia as of November 19, 1982, other than the Pabst breweries situated in Pabst, Georgia and Portland, Oregon; the Olympia brewery situated in San Antonio, Texas; and the following brands of beer: Red White & Blue, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve, Bohemian, Lone Star, Lone Star Light and Buckhorn (Texas).

The United States, Heileman and Pabst have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify or enforce the proposed Final Judgment. Defendants have agreed to be bound by the terms of the proposed Final Judgment prior to its entry by the Court.

II

Description of Practices and Events Giving Rise To the Alleged Violation in the Complaint

On or about November 5, 1982, Heilman and Pabst entered into an Agreement in Principle. As contemplated under the Agreement in Principle, on or about November 10, 1982, Heileman, through a wholly-owned subsidiary, commenced a cash tender offer (the "tender offer") for up to 5.5 million shares of Pabst stock representing approximately 67 percent of the common stock of Pabst. Under the tender offer, Heileman's obligation to purchase is contingent upon a minimum tender of 3.8 million shares representing approximately 46 percent of Pabst's common stock. When combined with the 400,005 shares of Pabst common stock that Heileman currently owns, the tender offer, if successful, will result in Heileman owning a minimum of 4,200,005 shares representing approximately 51 percent of the common stock of Pabst. Thereafter, Heileman intends to acquire the remaining common stock of Pabst.

Currently, Pabst owns 1,270,000 shares of Olympia stock representing 49 percent of Olympia's common stock. Heileman owns an additional 57,000 shares representing approximately 2 percent of the Olympia common stock. The Agreement in Principle also contemplates that after completion of Heileman's tender offer for Pabst, Heileman and Pabst will vote their Olympia stock to enable Heileman to acquire the remaining stock of Olympia.

Heileman was the nation's fourth largest brewer with 1981 shipments of 13,965,000 million barrels, accounting for 7.6 percent of total industry shipments. Heileman owns and operates ten breweries with a total production capacity of approximately 17,100,000 barrels. These breweries are located in Phoenix, Arizona; Auburndale, Florida; Belleville, Illinois; Evansville, Indiana; Newport, Kentucky; Baltimore, Maryland; Frankenmuth, Michigan; St. Paul, Minnesota; Seattle, Washington; and LaCrosse, Wisconsin. Heileman markets beer in all 50 states and the District of Columbia under a variety of brand names. Its principle brands include Old Style, Special Export, Blatz, Rainier, Schmidt, Wiedemann, Carling Black Label and Colt 45 malt liquor.

Pabst was the nation's fifth largest brewer in 1981 with shipments of 13,465,000 barrels, representing 7.4 percent of total industry shipments. Pabst owns and operates four breweries with a total production capacity of 16,300,000 barrels. These breweries are located in Pabst, Georgia; Newark, New Jersey; Portland, Oregon; and Milwaukee, Wisconsin. Pabst markets beer in all 50 states and the District of Columbia under a variety of names. Its principal brands include Pabst Blue Ribbon, Andeker, Pabst Light, Pabst Extra Light, Red White & Blue, Jacob Best, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve, Bohemian and Olde English "800" malt liquor.

Olympia was the nation's eighth largest brewer in 1981 with shipments of 5,700,000 barrels, accounting for 3.1 percent of total industry shipments. Olympia owns and operates three breweries with a total production capacity of approximately 9,500,000 barrels. These breweries are located in St. Paul, Minnesota; San Antonio, Texas; and Tumwater, Washington. Olympia markets beer in 22 western states under a variety of brand names. Its principal brands include Olympia, Olympia Gold (light beer), Hamm's, Hamm's Special Light, Lone Star, Lone Star Light and Buckhorn (Texas and non-Texas).

In 1981, total domestic sales of beer, including imports and excluding exports, are estimated to have been 183,000,000 barrels. The combined national market share of the four largest brewing companies was approximately 67 percent, with the two largest companies alone accounting for approximately 52 percent of the nation's sales.

Since 1981, two consolidations have occurred, further increasing concentration in the brewing industry. In a two-step transaction begun in April 1982, and completed in June 1982, The Stroh Brewery Company of Detroit, Michigan ("Stroh"), acquired all of the common stock of Jos. Schlitz Brewing Co. of Milwaukee, Wisconsin ("Schlitz"). Thereafter, on or about June 29, 1982, Pabst acquired 49 percent of the common stock of Olympia Brewing Company ("Olympia") in what was intended as the first step of Pabst's acquisition of the entire equity interest in Olympia. To date, Pabst has not acquired the remaining outstanding Olympia common stock.

Treating Stroh-Schlitz and Pabst-Olympia each as a combined entity in recognition of these consolidations, Heileman was the nation's fifth largest brewer, with 1981 shipments of 13,965,000 barrels and a national market share of approximately 7.6 percent. Collectively, Pabst and Olympia were the nation's fourth largest brewer, with 1981 shipments of 19,165,000 barrels and a national market share of 10.5 percent.

The combination of Heileman with Pabst and Olympia would result in the nation's third largest brewing company, with 1981 shipments of 33,130,000 barrels and a national market share of 18.1 percent. Such a combination would increase total seller concentration in the nation, as measured by the Herfindahl Index, by 163 points, from 1764 to 1927; it would increase the industry four-firm concentration ratio of sellers in the nation by 7.6 percent, from 75.1 percent to 82.7 percent.[1]

III

Explanation of the Proposed Final Judgment and Its Anticipated Effects on Competition

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (1974). The proposed Final Judgment constitutes no admission by either party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

A. Divestiture

The proposed Final Judgment permits Heileman to retain only a relatively small portion of the total assets of Pabst and Olympia. These retained assets include the Pabst breweries in Pabst, Georgia and Portland, Oregon; the Olympia brewery in San Antonio, Texas; and the following brands of beer: Red White & Blue, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve, Bohemian, Lone Star, Lone Star Light and Buckhorn (Texas).

The proposed Final Judgment prevents Heileman from retaining any interest in, or exercising any control over, the remaining assets of Pabst and Olympia, which assets constitute the bulk of all of the assets of Pabst and Olympia. The proposed Final Judgment further provides that Heileman and Pabst will cause these non-retained assets to be transferred to an independent Pabst no later than March 31, 1983. Until such a transfer is accomplished, Heileman may vote the Pabst stock it acquires through the tender offer only with the approval of the United States, and is otherwise prohibited from managing or controlling Pabst. Should Heileman and Pabst fail to accomplish such a

[1] The Herfindahl Index is a measure of seller concentration in a market which takes into account the number and size distribution of all sellers in the market. It is computed by squaring the market shares of each firm in the market and then adding them. For example, the index for a market share where 10 firms each have 10 percent would be 1000.

The four-firm concentration ratio is the sum of the market shares of the four largest firms in the market.

transfer by March 31, 1983, a trustee will be appointed to effect the transfer.

The proposed Final Judgment provides the trustee with all powers necessary to accomplish the purposes of the trust, including the power to vote the Pabst stock Heileman acquires in the tender offer. The purposes of the trust are as follows: (1) to accomplish the transfer of the retained assets to Heileman; (2) to accomplish the transfer of the non-retained assets as a viable, ongoing business in the brewing industry, (a) to the then shareholders of Pabst and Olympia other than Heileman, or (b) to a purchaser approved by the United States, with the proceeds of such sale going to the then shareholders of Pabst and Olympia other than Heileman in exchange for their Pabst and Olympia shares; and (3) to carry out the parties' intention that Heileman not acquire control, directly or indirectly, over the non-retained assets.

The proposed Final Judgment requires that any divestiture proposed by the trustee must be approved by the Court. If the Court is not satisfied that the trustee's proposed divestiture is fair and equitable to the then shareholders of Pabst, the trustee thereupon is empowered to take all affirmative steps necessary to accomplish its proposed divestiture in a manner approved by the Court and without impairment to the financial condition or viability of the non-retained assets as an ongoing business in the brewing industry. In this event, the Court may require Heileman to provide such additional financial contribution in such form and amount as the Court may reasonably determine to be necessary to proceed with the divestiture on terms that are fair and equitable to the Pabst shareholders.

If a trustee is appointed, the proposed Final Judgment provides that Heileman will pay all costs and expenses of the trustee. The trustee's compensation will be based in significant part on a fee arrangement providing the trustee with an incentive to accomplish divestiture as expeditiously as is possible and, with respect to a sale to a purchaser approved by the United States, to obtain the best possible price. The trustee will serve for six months. If after six months the divestiture is not accomplished, the trustee and the parties will make recommendations to the Court and the Court may extend the trust or enter such other orders as it deems appropriate to accomplish the purposes of the trust.

B. Miscellaneous Provisions

The proposed Final Judgment also contains a number of provisions which enable the plaintiff to secure and determine compliance.

The Final Judgment will expire upon order of the Court after the trust has terminated.

IV

Remedies Availability To Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V

Procedures Available for Modification of the Proposed Final Judgment

The proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The Act provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to any comments, and determine whether it should withdraw its consent. The comments and the responses of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Anthony V. Nanni, Chief, Trial Section, U.S. Department of Justice, Antitrust Division, Room 3266, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530. The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification or enforcement.

VI

Alternatives to the Proposed Final Judgment

The United States considered one alternative to the proposed Final Judgment: to conduct a trial on the merits. The proposed Final Judgment achieves the objectives of the lawsuit and also saves the United States the expenses of litigation. The anti-competitive effect alleged in the complaint was the lessening of competition in the manufacture and sale of beer in the United States as a whole. By denying the non-retained assets to Heileman, and instead maintaining them as a viable ongoing concern in the brewing industry, the proposed Final Judgment eliminates this anticompetitive effect. Had there been a full trial on the merits, and had the plaintiff prevailed, the prayer for relief would have been substantially similar to the relief in the proposed Final Judgment. Thus, the United States believes that entry of the proposed Final Judgment is in the public interest.

VII

Determinative Documents

Pursuant to 15 U.S.C. 16(b), there are no determinative documents. Consequently, none are filed with this Competitive Impact Statement.

Respectfully submitted,

Michael H. Byowitz,

Judith N. Batty,

Attorneys, U.S. Department of Justice, Room 3256, Main Justice Building, Washington, D.C. 20530; 202/633–2417.

[FR Doc. 82–33800 Filed 12–13–82; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

DATE: The additions to the annual list are effective on December 1, 1982.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street NW., Washington, D.C. 20213. Telephone: 202–376–6890.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and are added to the annual list of labor surplus areas, effective December 1, 1982. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on November 30, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas

December 1, 1982

Labor Surplus Area and Civil Jurisdiction Included

Iowa

Sioux City—Sioux City in Woodbury County

Kansas

Montgomer County—Montgomery

Massachusetts

Pittsfield City—Pittsfield City in Berkshire County

Michigan

Ottawa County—Ottawa County

New York

Chautauqua County—Chautauqua County

North Carolina

Davie County—Davie County
Mitchell County—Mitchell County

Oregon

Balance of Multnomah County—Multnomah County less Portland City

South Carolina

Greenville City—Greenville City in Greenville County
Balance of Greenville County—Greenville County less Greenville City

Washington

Clark County—Clark County.

[FR. Doc. 82-33809 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-30-M

U.S. Steel Corp. et al.; 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 29, 1982–December 3, 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–13,453; U.S. Steel Corp., Homestead Works, Rankin, PA

TA–W–13,410; U.S. Steel Corp., Homestead Works, Homestead, PA

TA–W–13,410A; U.S. Steel Corp., Homestead Works, McKees Rocks, PA

TA–W–13,410B; U.S. Steel Corp., Homestead Works, Saxonburg, PA

TA–W–13,203; U.S. Steel Corp., Edgar Thomson-Irvin Works, Dravosburg, PA

TA–W–13,203A; U.S. Steel Corp., Edgar Thomson-Irvin Works, Braddock, PA

TA–W–13,377; General Electric Co., Wiring Device Dept., Warwick, RI

TA–W–13,677; General Electric Co., Wiring Device Dept., Middletown RI

TA–W–13,534; Hawaiian Comercial & Sugar Co., Puunene, HI

TA–W–13,543; McBryde Sugar Co., Ltd, Eleele, HI

TA–W–13,535; Hilo Coast Processing Co., Pepeeko, HI

TA–W–13,539; Ka'u Sugar Co., Inc., Pahala, HI

TA–W–13,542; Mauna Kea Sugar Co., Inc., Papaikou, HI

TA–W–13,546; Olokele Sugar Co., Ltd, Kaumakani, HI

TA–W–13,550; Wailuku Sugar Co., Inc., Waialua, HI

TA–W–13,526; Theodavies Hamauka Sugar Co., Paauilo, HI

Affirmative Determination

TA–W–13,203B; U.S. Steel Corp., Edgar Thomson-Irvin Works, Vandergrift, PA

A certification was issued in response to a petition received on January 12, 1982 covering all workers engaged in employment related to the production of electrical sheet separated on or after July 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period November 29, 1982–December 3, 1982. Copies of these determinations are available for inspection in room 10332, 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: December 7, 1982.

Marvin M. Fooks,

Adjustment Assistance.

[FR Doc. 82-33814 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-97-C]

Glory Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Glory Coal Company, Route 1, Box 100A5, Lumberport, West Virginia 26386 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Dola Mine (I.D. No. 46–01314) located in Harrison County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Numerous roof falls have occurred in the mine's returns, rendering these areas hazardous to travel and examine.

3. As an alternative method, petitioner proposes to inspect the main return by walking as far as safety permits and using man doors along a parallel separate split of air for access to continue the inspection of the return in its entirety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons intertested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 13, 1983. Copies of the petition are available for inspection at that address.

Dated: December 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33811 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-88-C]

New River Co.; Petition for Modification of Application of Mandatory Safety Standard

The New River Company, Lock Drawer 711, Mount Hope, West Virginia 25880 has filed a petition to modify the application of 30 CFR 75.305 (weekly examination for hazardous conditions) to its Skelton Mine (I.D. No. 46-01500) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. The return entries from 4th left overcast at mouth of north to the old Skelton fan were developed 40 years ago. Support timbers have deteriorated and numerous roof falls have occurred, which render these entries extremely hazardous to travel. Rehabilitation of the airways would expose miners to hazardous and dangerous conditions.

3. As an alternative method, petitioner proposes to establish three checkpoint stations at specified underground locations and one measuring station on the surface. Access to and from the stations will be maintained in a safe and travellable condition. Methane and air quantity readings will be made weekly by competent persons with results recorded on a date board at each location, and a record book at the mine office. Daily examination will be made at the surface station at the fan.

4. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 13, 1983. Copies of the petition are available for inspection at that address.

Dated: December 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33812 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-29-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard.

Sunshine Mining Company, P.O. Box 1080, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19-110 (bulkhead requirements) to its Sunshine Mine (I.D. No. 10-00089) located in Shoshine County, Idaho. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act fo 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a substantial bulkhead or equivalent protection be provided above miners at work deepening a shaft.

2. As an alternative method, petitioner proposes to use bulkheads in compartments not used for hoisting. In the compartments used for hoisting, petitioner proposes that the conveyances in the hoisting compartment be positioned above the miners while they are working in the bottom of the shaft in lieu of installing a bulkhead.

3. Petitioner states that this proposed use of the conveyance for overhead protection is regarded as standard operating procedure in shaft repair work as well as in shaft sinking, and for this reason requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 13, 1983. Copies of the petition are available for inspection at that address.

Dated: December 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33813 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit

Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 82-212; Exemption Application No. D-3258]

Atlanta Pathology Professional Association Profit Sharing Plan and Trust (the Plan) Located in Atlanta, Georgia

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed sale of a portion of a promissory note (the Smith-Kline Note) to the Plan by John B. Otis, a party in interest with respect to the Plan, provided that the terms and conditions of the sale are at least as favorable to the Plan as those obtainable from an unrelated third party; and (2) the extension of credit by Mr. Otis to the Plan in connection with the sale of the Smith-Kline Note. The sale and extension of credit will involve only the individual account of Mr. Otis.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 3, 1982 at 47 FR 39004.

For further information contact: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This in not a toll-free number.)

[Prohibited Transaction Exemption 82-213; Exemption Application No. D-3295]

Bay West Gynecology & Obstetrics, Ltd. Employees' Profits Sharing Plan (the Plan) Located in Green Bay, Wisconsin

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of funds by the Plan to Bay West Gynecology & Obstetrics, Ltd., the sponsor of the Plan, provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a smilar transaction withan unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 22, 1982 at 47 FR 47110.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82-214; Exemption Application No. D-3554]

Goldman, Sachs & Company (GSC) Located in New York, New York

Exemption

Section I. *Exemption for Certain Transactions Involving the Fund (as defined in Section IV(a)).*

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-Interest and the Fund: General.* Any transaction between a party-in-interest with respect to an employee benefit plan which participates in the Fund (Participating Plan) and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not GSC or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Participating Plan, and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) the interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a substantial employer with respect to the plan, or

(B) the interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a substantial employer with respect to the plan and would not be a substantial employer if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to GSC or to the employer, or any affiliate of GSC or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither GSC nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. GSC, its affiliates and any collective investment fund maintained by GSC or its affiliates shall be considered to be persons independent of the issuer if GSC is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real

property with respect to which GSC or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which GSC or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 4096(a)(1) (A) through (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties-in-Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party-in-interest with respect to a Participating Plan if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provided described in section 3(14) (F), (G), (H), or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of GSC.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not GSC, any affiliate of GSC, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by GSC or by an affiliate of GSC in connection with the management of the real property owned by the Fund, if the compensation paid to GSC or its affiliate does not exceed the cost of the services to GSC or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of Units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of GSC and any of its affiliates, and the applicable conditions of Section III are met.

Section II. *Excess Holdings Exemption for Employee Benefit Plans.*

(a) The restrictions of sections 406(a) 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III—*General Conditions.*

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of GSC or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) GSC or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of GSC or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civial penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Paticipating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of GSC or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV—*Definitions and General Rules.*

For the purposes of this exemption,

(a) The term "the Fund" shall include Institutional Property Assets (the Trust) and any collective investment fund that may hereafter be established, operated and managed by GSC or its affiliate in essentially the same manner as the Trust.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e) (6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a) (4) and (e) (3) (c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a) (1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a) (1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 21, 1982 at 47 FR 41662.

Written Comments and Hearing Requests

The only comment letter received by the Department was submitted by the applicants to clarity several facts and representations made in connection with the proposed exemption. The applicants report that the Trust Agreement executed in December 1981, which was referred to in paragraph 2 of the Summary of Facts and Representations (the Summary) in the notice of proposed exemption had been amended and restated by an agreement dated September 17, 1982. A supplemental determination letter holding that the Trust is exempt from federal income taxation under section 501(a) of the Code as a qualified group trust within the meaning of Rev. Rul. 81–100, 1981–1 C.B. 326, has been issued by the Internal Revenue Service (the Service).

One of the revisions made to the Trust Agreement permits "Governmental Plans" described in section 414(d) of the Code and "Governmental Units" described in section 805(d)(6) of the Code to participate in the Trust. The applicants request that the Summary be modified to reflect the fact that "Governmental Plans" and "Governmental Units" may acquire units in the Trust (Units). Similarly, the representation contained in paragraph 6 of the Summary should provide that redemption of Units is required if it is determine that a "Governmental Plan" no longer qualifies as a "Governmental Plan" within the meaning of section 414(d) of the Code or if a "Governmental Unit" no longer Units for use in satisfying an obligation to provide a benefit under a "Governmental Plan."

The applicants also state that in accordance with the requirements of Rev. Rul. 81–100, the Trust Agreement prohibits the transfer or assignment to a third party of Units acquired by a Participating Plan. The trustees of the Trust intend to amend the Trust Agreement to provide that the restriction on assignment contained in the Trust would not apply in the event, and to the extent, that Service ruling satisfactory to the trustees is issued or appropriate legislation or regulations are enacted permitting such assignment.

The applicants futher state that at the time the applicant for exemption was submitted, it was not contemplated that GSC would act in a fiduciary capacity with respect to any employee benefit plan other than by reason of a plan's acquisition of Units in a group trust for which GSC provides investment management services. Subsequent to the submission of the exemption application, GSC was requested to provide investment advice to an employee benefit plan on an individualized basis, which may render GSC a fiduciary with respect to such plan. It is conceivable that GSC may render similar services to other employee benefit plans in the future. Therefore, the applicants request that the representation contained in paragraph 5 of the Summary that "neither the Trustees nor any employee, officer or partner or GSC will act in a fiduciary capacity to any Participating Plan (other than to the extent such persons would be deemed fiduciaries by reason of the Participating Plan's acquisition of Units in the Trust)" be deleted. The applicants seek confirmation that Section I(c) of the proposed exemption would permit a plan for which GSC provides investment advice on an individualized basis to purchase Units in the Fund provided the applicable conditions of the exemption are met. The Department agrees, in light of the condition of Section I(c) which requires that each purchase and sale of Units in the Fund be authorized in writing by a fiduciary of the Participating Plan who is independent of GSC and any of its affiliates. The applicants represent that if GSC or its affiliate provides investment advice to Participating Plan on an individualized basis, neither GSC nor its affiliate will act as a fiduciary with respect to the

assets of that Participating Plan which are to be invested in the Fund.

The Department has considered the entire record, including the applicant's comments, and has determined to grant the exemption as proposed.

For further information contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82–215; Exemption Application No. L–3649]

The Group Life Insurance Plan for Employees of Manufacturers Hanover Trust Company and Certain Affiliated Companies (the Plan) Located in New York, New York

Exemption

The restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and receipt of premiums therefrom by Tempco Life Insurance Company (Tempco) from the group life insurance contracts sold by the Metropolitan Life Insurance Company to Manufacturers Hanover Trust Company (MHTH) to provide benefits to the Plan, provided the following conditions are met:

(a) Tempco—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with MHTC that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authority from the Insurance Director of its domiciliary state, Arizona, which has neither been revoked nor suspended; and

(4) (A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction, or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Arizona) by the Insurance Commissioner of the State of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the group life insurance contracts;

(c) No commissions are paid with respect to the direct sale of the contract, or the reinsurance thereof; and

(d) For each taxable year of Tempco, the gross premiums and annuity considerations received in that taxable year by Tempco for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which Tempco is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by Tempco. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance, or annuity contracts to such plans (and their employers) by Tempco. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Tempco.

(2) All premiums and annuity considerations written by Tempco for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 22, 1982 at 47 FR 47106.

Written comments and hearing requests: One comment was received by the Department, but it was subsequently withdrawn.

For further information contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82–216; Exemption Application No. D–3701]

The Plumbing and Pipefitting Industry Pension Plan (the Plan) Located in Portland, Oregon

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the sale of a building in Portland, Oregon known as Riviera Plaza (the Building) to the Plan by Riviera Motors, Inc., and the lease of a portion of the Building to Carney, Probst & Cornelius, which commenced on May 1, 1981 (including the renegotiation thereof at the time of expiration), provided the sale and lease terms are no less favorable to the Plan than those available in arms-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 22, 1982 at 47 FR 47104.

For further information contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 9th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–33920 Filed 12–13–82; 8:45 am]

BILLING CODE 4510–29–M

Proposed Exemption

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrtictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and request for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

[Applications Nos. D-3575 and D-3576]

The Hayes-Albion Salaried Employees Savings Plan (the Savings Plan) and the Hayes-Albion Salaried Employees Pension Plan (the Pension Plan; Collectively, the Plans) Located in Jackson, Michigan

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the cash sale by the Savings Plan to the Pension of an interest (the Savings Plan Interest) in the Equitable Life Assurance Society of the United States (Equitable) Direct Placement Bond Fund (the Equitable Bond Fund), provided the price paid for the Savings Plan Interest is its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plans consist of the Savings Plan and the Pension Plan, both of which are sponsored by the Hayes-Albion Corporation (the Employer). The Savings Plan is a thrift plan which, as of February 1, 1982, had approximately 335 participants and total assets of $2,850,000. The Pension Plan is a defined benefit plan providing retirement benefits to eligible salaried employees of the Employer. As of February 1, 1982, the Pension Plan had approximately 909 participants and total assets of $12,580,000. All of the participants of the Savings Plan are participants in the Pension Plan. Conversely, some of the participants in the Pension Plan do not participate in the Savings Plan. The applicant represents that the Plans are not parties in interest with respect to each other.

City Bank and Trust Company, N.A. of Jackson, Michigan serves as the trustee (the Trustee) of the Plans. The Trustee and Mr. Robert J. Negri, the administrator of the Plans, are primarily responsible for making investment decisions for the Plans.

2. The Employer is a supplier of parts to the domestic automobile industry. The Employer maintains its business location at 1999 Wildwood Avenue, Jackson, Michigan.

3. Among the assets of the Savings Plan and the Pension Plan are participation interests in the Equitable Bond Fund. The Savings Plan began its participation on August 31, 1978 with an investment of $400,000. The amount of money invested by the Pension Plan was $600,000. The annual rate of return from the Equitable Bond Fund is slightly greater than 9 percent, without consideration of any gain or loss due to revaluation of principal due to market value. The current rate of return on market value is 11.3 percent. The application states that the annual rate of return applicable to market value will fluctutate with interest rates and also with the market value. Also, none of the issuers of bonds comprising the Equitable Bond Fund are parties in interest with respect to the Plans.

4. An exemption is requested to permit the cash sale of the Savings Plan Interest in the Equitable Bond Fund to the Pension Plan. The sales price at the date of sale will be the market value as regularly provided the Trustee by Equitable. As of August 31, 1982, the Savings Plan Interest had a market value of $308,987. Neither Plan will incur any brokerage fees or expenses as a result of the sale.

5. According to Equitable, the market value of the Equitable Bond Fund is determined monthly by computing the value of publicity traded securities with comparable terms, quality and maturity. Equitable then makes further adjustments to the figure computed to recognize factors unique to private placement investments. Equitable represents that its valuation procedures have been authorized by the Investment Committee of its Board of Directors and have been reviewed by the New York State Insurance Department. Equitable believes the valuation procedures reflect as closely as possible the price a willing buyer would pay for private placement issues on the open market.

6. The Trustee believes the proposed transaction is an appropriate investment because it would increase the liquidity of the Savings Plan and enable it to meet demands more readily for participant withdrawals The Trustee also asserts that on the other side of the transaction, the Pension Plan would be provided with an investment that would be of an intermediate term with a good yield. The Trustee notes that the acquisition of the

Savings Plan Interest by the Pension Plan would represent approximately 3 percent of the Pension Plan's assets. According to the Trustee, the liquidating schedule of the investment on a steady basis over time also makes it appropriate for the Pension Plan since the payments received from Equitable can be used to meet benefit payments to retirees.

7. The application indicates attempts have been made by the Savings Plan to sell its Interest to unrelated parties but no firm offers have been received. To wit, in January 1982 Equitable was requested to find a buyer for the Savings Plan Interest and placed the request on a waiting list. In addition, the New England Life Insurance Company (New England) was contacted regarding the proposed sale. However, New England declined to make an offer.

8. In summary, the proposed transaction will satisfy the statutory requirements of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) neither Plan will be required to pay any brokerage fees or expenses with respect to the sale; (c) the purchase price for the Savings Plan Interest in the Equitable Bond Fund will be its fair market value on the date of sale as determined by Equitable; and (d) the Trustee has determined that the transaction is appropriate for the Plans.

For further information contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll free number.)

[Application No. D–3819]

The C&S Profit Sharing Plan of Citizens and Southern Georgia Corporation and Its Affiliates (the Plan) Located in Atlanta, Georgia

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the January 1, 1982 sale by the Plan of 3,240 shares of Citizens and Southern of Cobb County (C&S Cobb) stock to Citizens and Southern Georgia Corporation (C&S Georgia) for $226,800 in cash, provided such amount was not less than the fair market value of such stock at the time of the sale.

Effective date: If the proposed exemption is granted, the exemption will be effective January 1, 1982.

Summary of Facts and Representations

1. The Plan has been in existence since January 1, 1948. As of June 30, 1982, the Plan had total assets of $43,670,401.59. The assets of the Plan are held by certain individual trustees in a trust. The assets of this trust are in turn held as part of a pooled trust, known as the C&S Profit Sharing Trust, for assets held under the qualified profit sharing plans of 17 separate employers, in addition to C&S Georgia (Employer Members). Each Employer Member owns a portion of the pooled trust. This exemption application is being filed in the name of C&S Georgia, the largest Employer Member, as a representative of the entire class.

2. C&S Georgia is a bank holding company organized and existing under the laws of the State of Georgia. C&S Georgia owns the controlling interest in The Citizens and Southern National Bank (C&S National) and in numerous banking related corporations and Georgia state banks.

3. The Plan over a period of time, commencing in 1964, acquired 3,240 shares of stock of C&S Cobb, which is a state bank chartered under the laws of the State of Georgia. C&S Cobb is known as a "correspondent associate" bank within the C&S system because of the close relationships which C&S Georgia has established with C&S Cobb through sharing of banking, personnel, and administrative services, as well as the use of a common logo and name. However, C&S Georgia has historically owned no more than 5% of the stock of C&S Cobb.

4. On August 12, 1981, C&S Georgia, C&S National and C&S Cobb entered into a plan of merger pursuant to which the shareholders of C&S Cobb would surrender their C&S Cobb stock to C&S Georgia in return for cash or notes, following which C&S Cobb would be merged into C&S National. The consummation of the merger required approval by two-thirds of the shareholders of C&S Cobb and C&S Georgia, as well as approval by various regulatory agencies.

5. On October 16, 1981, a Proxy Statement-Prospectus (the Proxy Statement) was mailed to all shareholders of C&S Cobb notifying them of a special meeting on November 19, 1981, at which time a vote would be taken on the proposed merger. The Proxy Statement contained the following relevant information regarding the merger:

(a) If the merger were approved, each holder of C&S Cobb stock would be entitled to receive from C&S Georgia a cash payment in the amount of $70 per share of C&S Cobb stock; or, at the shareholder's election, the holder would be entitled to receive from C&S Georgia for each share of C&S Cobb stock (i) a 10% three-year installment note in the principal amount of $73, (ii) a 10% seven-year installment note in the principal amount of $76, or (iii) any combination of a three-year note, seven-year note, and cash.

(b) If the merger were approved, any shareholder who voted against the merger would have the option of exercising dissenter's rights under the applicable provisions of 12 U.S.C. 215a.

(c) As of June 30, 1981, identified persons related to C&S Georgia (i.e., present and former directors, officers and employees of C&S Georgia, C&S National, and their subsidiaries; C&S National in a fiduciary capacity; and the Plan) owned 28,722 shares, or 9.6% of outstanding C&S Cobb stock. At the close of business on October 10, 1981, there were 300,000 shares of C&S Cobb stock issued and outstanding, held by approximately 305 shareholders of record. One shareholder, who was at the time the president and a director of C&S Cobb, owned individually or by attribution to his wife and children 40.12% of the outstanding shares.

(d) There was no public market for the shares of C&S Cobb. The most recent sale of C&S Cobb known to the management of C&S Cobb occurred on February 4, 1981, when 40 shares were sold for $800, a price of $20 per share.

(e) Cash dividends declared per share of C&S Cobb stock were $1.00 per share during 1979, and $1.25 per share during 1980. Net income per share of C&S Cobb stock for 1980 was, without dilution, $5.93 per share. The book value of C&S Cobb stock on June 30, 1981, was $27.50 per share.

(f) C&S Cobb engaged the Robinson-Humphrey Company, Inc. (RHC), an investment banking firm, to provide its opinion to the Board of Directors of C&S Cobb concerning the fairness to the stockholders of C&S Cobb of the forms of consideration and exchange rates in the proposed merger. RHC advised the Board that, in its opinion, the consideration and exchange rates in the merger were fair to the stockholders of C&S Cobb.

6. Following receipt of the Proxy Statement, the Plan's trustees voted in favor of the merger and elected to receive $70 in cash for each share of C&S Cobb surrendered by the Plan to C&S Georgia. Since the merger was

approved by holders of 280,110 shares of C&S Cobb stock (93.4% of the total shares outstanding), the vote of the trustees did not affect the outcome of the merger vote. There were no shareholders who exercised dissenter's rights under the merger. There was no vote response from 19,890 shares of the stock (6.6% of the total shares outstanding). Under the payment election procedures in the merger, 270,232 shares were surrendered for cash, 24,230 were surrendered for three-year notes and 5,338 shares were surrendered for seven-year notes. Pursuant to the terms of the merger and its payment election, the Plan surrendered its 3,240 shares of C&S Cobb to C&S Georgia on January 1, 1982 and received in return therefor a single cash payment of $70 per share, for a total of $226,800.

7. The Plan's trustees did not request an exemption before the exchange of stock because they mistakenly believed that the exchange did not constitute a prohibited transaction. In June, 1982, however, the trustees learned that the exchange might constitute a prohibited transaction, and they filed the subject request as soon as possible thereafter.

8. In summary, the applicants represent that the subject transaction meets the statutory criteria of section 408(a) of the Act because: (1) the sale was a one-time transaction for cash; (2) the merger was approved by 93.4% of the total shares outstanding with not a single dissenting vote, and only 9.6% of the outstanding shares were held by persons related to C&S Georgia; (3) the overall fairness of the merger to the C&S Cobb shareholders is supported by the professional opinion rendered by RHC to the shareholders of C&S Cobb; (4) the Plan was able to receive cash in exchange for a low-yield asset with limited marketability; (5) the trustees' decision to receive all cash for its shares of C&S Cobb is supported by the decision of the holders of over 90% of C&S Cobb shares who exercised the same option; and (6) the Plan's trustees determined that the subject transaction was appropriate for the Plan and in the best interests of its participants and beneficiaries.

For further information contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Notice to Interested Persons

Notice will be provided to interested persons in the manner agreed upon by the Department and the applicants within 30 days of the date of publication of this proposed exemption. Comments and requests for a hearing must be received by the Department within 60 days of the date of publication of this proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 9th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33915 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3232]

Proposed Exemption for Certain Transactions Involving Atlantic States Construction, Inc., Profit Sharing Plan and Trust Located in Atlanta, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed leases of office space in certain real property (the Building) by the Atlantic States Construction, Inc. Profit Sharing Plan and Trust (the Plan) to Wilwat Properties, Inc. (Wilwat), Provident Security Life Insurance Company (Provident) and Waco Fire and Casualty Insurance Company (Waco), parties in interest with respect to the Plan. The proposed exemption, if granted, will affect the participants and beneficiaries of the Plan, Wilwat, Provident, Waco and other parties participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before January 28, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–3232. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with forty participants and net assets of approximately $915,000 on September 30, 1981. The sponsor of the Plan is Atlantic States Construction Company (Atlantic). Atlantic, Wilwat, Provident and Waco are all wholly owned subsidiaries of Watkins Associated Industries (Watkins) and therefore are parties in interest with respect to the Plan. The trustee of the Plan (the Trustee) is the Citizens and Southern National Bank of Atlanta, Georgia. No officers of Watkins or its subsidiaries serve as directors of the Trustee, nor do any officers of the Trustee serve as directors of Watkins or any of its subsidiaries. Watkins and its affiliates have an outstanding loan with the Trustee, however, this loan represents less than .0042 percent of the total loans outstanding of the Trustee. Investment decisions for the Plan are made by the Trustee in conjunction with an administrative committee comprised of Messrs. William A. Freeman, Jerry Johnson, Milton Eades and James H. Maples, all of whom are officers or employees of Watkins or its subsidiaries.

2. On September 15, 1961, a ground lease of certain improved real property located at 1940 Monroe Drive, Atlanta, Georgia was contributed to the Plan. The ground lease expires on December 31, 2019. The property is improved by the Building, which contains approximately 9,700 square feet of rentable space. Between September 15, 1961 and February 5, 1980 the Building was leased by the Plan to various unrelated parties. These unrelated lessees have gradually been moving out of the Building or reducing the amount of space leased, leaving vacancies in the Building which the Plan has been unable to fill, partly because of the deteriorating condition of the Building. The Plan made attempts to sell the Building but was unable to find a purchaser. On February 5, 1980 one of the unrelated lessees began subleasing space in the Building to Provident, a party in interest with respect to the Plan. Subsequently, since June 15, 1981 the Plan has leased other portions of the Building to Wilwat and Waco, also parties in interest. Since moving into the Building, Provident, Wilwat and Waco (collectively, the Companies) have contracted with unrelated parties for renovations of the Building which will inure to the benefit of the Plan. The renovations, which were financed by the Companies, were entered into with full knowledge and approval of the Trustee and all contractors performing the renovations were and are independent of Watkins and its affiliates. An appraisal of the Building and of the renovations in progress on June 29, 1981, by Richard S. Childers, M.A.I. (Childers) of Atlanta, Georgia projected that the renovations financed by the Companies would increase the fair market value of the Building from approximately $270,000 to $445,000, an increase of approximately $175,000. Childers is independent of all parties involved in these transactions. The application requested retroactive relief for the leases previously entered into. However, the Department is unable to make a finding that such transactions satisfy the statutory requirements upon which administrative relief is granted. Accordingly, the applicants represent that they will pay all excise taxes which are applicable under section 4975(a) of the Code within 60 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein.

3. The applicants request an exemption to permit the Companies to enter into similar leasing arrangements for the entire Building prospectively, having added certain safeguards, discussed below, which were not present in the prior leases. The proposed leases (the Leases) will be for terms of five years with options exerciseable solely by the Plan to renew for an additional three years. The Trustee will have sole discretion to make all decisions for the Plan with regard to the Leases and the renewal options.

4. The fair rental value of the renovated Building was determined on January 27, 1982 by Childers to be $46,839 per annum. Under the new Leases the initial rental rate, after expenses for which the plan is responsible, will be $46,839 per annum, and will be adjusted every three years during the terms of the Leases to reflect the then-current fair rental value as determined by a qualified, independent appraiser. The Companies will be responsible for utilities and insurance costs, as well as any increases in taxes. The return to the Plan from rental payments under the Leases will be approximately 10.5 percent of the appraised fair market value of the Building. Any additional improvements or renovations made by the Companies will be subject to the approval of the Trustee and will inure to the benefit of the Plan upon termination of the Leases. The Companies have agreed to indemnify and hold the Plan harmless with regard to any loss or damages caused to the Building by reason of their use or occupancy of the leased premises.

5. The Trustee represents that it has reviewed the needs of the Plan and the proposed Leases and has determined that the Leases are in the best interests of the Plan's participants and beneficiaries. The Trustee states that the Leases will provide the Plan with a high annual yield and that if the Leases were not entered into, it is likely that the Building would be totally unoccupied for at least one month and partially unoccupied for several months. The Trustee will monitor the Leases on behalf of the Plan, physically inspect the Building annually, assure that the Building is adequately insured and that taxes and rents are collected in a timely manner, and take any steps necessary to enforce the rights of the Plan with regard to the Leases.

6. In summary, the applicants believe that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The Trustee has reviewed the Leases and has determined, in view of the needs of the Plan, that the Leases are in the best interests of the Plan and its participants and beneficiaries;

(b) The net rental under the Leases will be the fair market rental value as determined by a qualified, independent appraiser, and will be adjusted every three years during the terms of the

leases to reflect the then-current fair market rental values;

(c) The Companies have agreed to indemnify and hold the Plan harmless for any loss or damages caused to the Building by reason of their use or occupancy of the leased premises; and

(d) The Trustee will monitor the Leases, make decisions on behalf of the Plan as to whether to renew the Leases, and will take any steps necessary to enforce the rights of the Plan with regard to the Leases.

Notice to Interested Persons

Notice of the pending exemption will be given to present and former participants of the Plans within fifteen (15) days after publication of the notice of pendency in the **Federal Register**. Such notice shall contain a copy of the notice of pendency as proposed in the **Federal Register** and shall inform interested persons of their right to comment on and/or request a hearing regarding the pending exemption. Notice will be provided to interested persons by personal delivery and by first class mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed Leases of office space in the Building by the Plan to the Companies as herein described, provided that the terms and conditions of the Leases are not less favorable to the Plan than those obtainable by the Plan in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33919 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-2490 and L-2491]

Proposed Exemption for Certain Transactions Involving Plumbers Local Union No. 14 Pension and Education Funds Located in Lodi, New Jersey

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of money by the Plumbers Local Union No. 14 Pension Fund (the Pension Plan) to the Plumbers Local Union No. 14 Education Fund (the Education Plan, collectively, the Plans), a party in interest with respect to the Pension Plan. The Plans are administered by common trustees (the Trustees). The proposed exemption, if granted, would affect the Plans, their participants and beneficiaries and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before January 14, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Program, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-2490 and L-2491. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Trustees pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applications.

1. The Plans are multiemployer plans administered by the Trustees. The Trustees' membership is equally divided between three representatives of the contributing employers and three representatives of the United Association of Journeyman Plumber Local Union 14 (Local 14). The Plans each have approximately 830 participants. The Pension Plan had total assets, as of April 30, 1980, of approximately $6,981,000. The Education Plan had total assets, as of April 30, 1980, of approximately $682,320. No services are provided by either of the Plans to the other. However, the Education Plan is a party in interest with respect to the Pension Plan under section 3(14)(C) of the Act because an employee of the Education Plan is a participant of the Pension Plan.

2. The Education Plan owns a building (the Building) in Lodi, New Jersey which it uses as a training facility for participants of the Education Plan. The Education Plan also leases office space within the Building to Local 14, the Pension Plan and Plumbers Local Union No. 14 Welfare Plan (the Welfare Plan).[1] The Building is subject to a first mortgage (the Bank Mortgage) with the National Community Bank of Maywood, New Jersey (the Bank) which at its inception in April 30, 1980, was in the amount of $335,000. As of March 24, 1980, the Building had a fair market value of $533,000, as determined by William Balene, an independent appraiser from Jersey City, New Jersey. As of November 10, 1981, the Bank Mortgage had an outstanding balance of $316,000. The Bank Mortgage is for a five year term with equal monthly payments of principal and interest based upon a twenty year amortization schedule with a "balloon payment" at the end of the five year term. The Bank Mortgage has an interest rate which fluctuates monthly with the prime commercial lending rate set by the Bank.

3. The applicant represents that the Bank and the First National State Bank of New Jersey (First National) have offered to renegotiate the Bank Mortgage with the Education Plan. The Bank and First National have offered the Education Plan a 15 year first mortgage with equal monthly installments of principal and interest and an interest rate of 16% per annum. The Trustees have concluded that it would be in the best interests of the Pension Plan and Education Plan if the Pension Plan could become the mortgagee of the Building on terms identical to those offered the Education Plan by the Bank and First National.

4. Accordingly, the applicants request an exemption to permit the loan by the Pension Plan to the Education Plan (the Pension Plan Mortgage) in the amount of the outstanding balance remaining on the Bank Mortgage on the date the grant of an exemption for the Pension Plan Mortgage is published in the **Federal Register**. The Pension Plan Mortgage would be secured by a first mortgage on the Building and would be for a term of 15 years with equal monthly installments of principal and interest and an interest rate of 16% per annum. Mildred D. Deating, S.R.P.A., an independent real estate appraiser, of Hackensack, New Jersey, has accepted appointment as an independent fiduciary to act on behalf of the Pension Plan and Education Plan for all transactions related to the Pension Plan Mortgage. Ms. Keating has seventeen years of experience as a realtor and appraiser and has been employed as a mortgage officer with the James E. Hanson and Company and as Vice President and senior appraiser with the United Jersey Bank. Ms. Keating represents that the transaction is in the interests and protective of the Pension Plan and Education Plan and their participants and beneficiaries. Ms. Keating further represents that the Pension Plan Mortgage is a sound investment for the Pension Plan and provides very attractive financing for the Education Plan. Ms. Keating will also monitor the terms and conditions of the Pension Plan Mortgage throughout its duration. Ms. Keating has been advised by an attorney to the Plans with in-depth experience with fiduciary matters with respect to employee benefit plans as to her duties, liabilities, and responsibilities as independent fiduciary under the Act and accepts those duties, liabilities, and responsibilities.

5. The applicants represent that the proposed Pension Plan Mortgage satisfies the statutory criteria of section 408(a) of the Act because: (1) The Trustees and Ms. Keating, an independent party, have concluded that it is in the best interests of the Plans; (2) it will provide the Pension Plan with a long term high rate of return and the Education Plan participants with continued operation of their training facilities; (3) it is a first mortgage secured by the Building with a fair market value, as determined by an independent appraiser, greatly in excess of the amount of the Pension Plan Mortgage; (4) Ms. Keating will monitor the Pension Plan Mortgage throughout its duration; and (5) the terms and conditions of the Pension Plan Mortgage are identical to those terms offered the Education Plan by the Bank and First National.

Notice to Interested Persons

Within 30 days of publication in the **Federal Register**, notice of the proposed exemption will be sent to all participants and beneficiaries of the Plans by first class mail. The notice will include a copy of the notice of pendency as it appears in the **Federal Register** as well as a statement informing interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and

[1] No exemption from section 406 of the Act is being proposed for the leasing of office space by the Education Plan to Local 14, the Pension Plan or the Welfare Plan beyond that which is provided by section 408(b)(2) of the Act, Prohibited Transaction Class Exemption 76–1, (41 FR 12740), March 26, 1976, and Prohibited Transaction Class Exemption 77–10, (42 FR 33918), July 1, 1977.

the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) shall not apply to the Pension Plan Mortgage between the Pension Plan and the Education Plan provided that the terms and conditions of the Pension Plan Mortgage are at least as favorable to the Plans as the Plans could obtain in a transaction with unrelated parties.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 9th, of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–33917 Filed 12–13–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3540]

Proposed Exemption for a Certain Transaction Involving the Profit Sharing Plan for the Employees of Fox Electric Co., Inc. and Participating Employers Located in Arlington, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $220,000 by the Profit Sharing Plan for the Employees of Fox Electric Co., Inc. and Participating Employers (the Plan) to Messrs. Frank M. Gilstrap, Frank Hill and Terrance D. Hill (collectively, the Borrowers). Frank Gilstrap and Frank Hill are parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Borrowers and participants and beneficiaries of the Plan.

DATES: Written comments must be received by the Department of Labor on or before January 28, 1983.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3540. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Borrowers, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 94 participants. As of June 8, 1982, the Plan had approximately $1,960,000 in total assets.

2. Frank Gilstrap and Frank Hill are attorneys practicing in Arlington, Texas for the law firm of Hill, Heard, Oneal, Gilstrap & Goetz. They are employees of the law firm and, in addition, are also officers, directors and shareholders having a 10% or more interest in the firm. For the past several years, the law firm has acted as counsel for Fox Electric Co., Inc. (the Employer). In such capacity, the firm has provided legal services for both the Employer and the Plan. Thus, the law firm is a party in interest as a service provider to the Plan under section 3(14)(B) of the Act, and Frank Gilstrap and Frank Hill are also

parties in interest. The applicants, who are the Borrowers, represent that they are not fiduciaries with respect to the Plan.

3. On September 24, 1981, the Borrowers acquired a parcel of land in Arlington, Texas for the purpose of constructing an office building thereon. Funding of the project will be accomplished through interim financing with the Texas Commerce Bank-Arlington. Completion of the project is estimated to be in the fall of 1982. Upon completion of the project, the owners propose to borrow funds from the Plan to pay off the interim loan. The loan from the Plan will be evidenced by a promissory note secured by the land and building and executed by the Borrowers as co-makers.

4. The note will bear interest at a rate equal to the prime interest rate of First City National Bank-Arlington (the Bank) on the date the loan is closed. The interest rate will be adjusted annually to equal the prime interest rate of the Bank on the anniverary date of the loan. The note will provide for equal principal and interest payments payable monthly and upon a 30 year amortization. However, after 60 monthly payments have been paid, the unpaid principal balance will be due and payable in full. A loan fee of one percent of the loan balance will be paid to the Plan on the closing date.

5. The property which will serve as security for the loan has been appraised by Mr. Ron Ward, M.A.I., an independent appraiser in Arlington, Texas, to have a fair market value of $330,000. This appraisal, dated February 17, 1982, assumed that all the proposed improvements were completed. Thus, the collateral-to-loan ratio for the loan would be 150%

6. Mr. Tom Cravens, and independent party, will serve as Plan fiduciary with respect to this transaction. Mr. Cravens is a past president of the Bank and is currently the Chairman of the Board of Directors of the Bank. Mr. Cravens is not a director, officer or shareholder of the Employer, and he has no business relationship with the Borrowers. Mr. Cravens has reviewed the proposed transaction and has found it to be appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries. Prior to the closing of the loan, Mr. Cravens represents that he will again review the transaction and supporting documentation to insure that it is in the best interests of the Plan. Mr. Cravens will also monitor the transaction during its course to assure that compliance with the terms and conditions of the loan will be maintained. Mr. Cravens has consulted with counsel familiar with the Act and understands his duties, responsibilities and liabilities as a fiduciary under the Act.

7. In summary, the applicants represent that the proposed transaction meets the criteria contained in section 408(a) of the Act because: (1) The loan transaction involves only about 11.2% of the Plan's assets; (2) the interest rate will be identical to the prime rate of the Bank at closing and will be adjusted annually; (3) the loan will be secured by collateral appraised at 1½ times the principal amount of the loan by an independent appraiser; (4) Mr. Cravens, an independent fiduciary, has determined that the proposed transaction is appropriate for the Plan and in the best interests of its participants and beneficiaries; and (5) Mr. Cravens will monitor the transaction and take whatever action is necessary to enforce the Plan's rights.

Notice to Interested Persons

Within 14 days of the publication of this proposed exemption in the **Federal Register**, notice will be provided to all Plan participants. Notice will be posted at those locations within the principal place of employment of the interested persons which are customarily used for employer notices to employees with regard to labor-management relations matters. Such notice will contain a copy of this proposed exemption and will inform all interested persons of their right to comment.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exlusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the loan of $220,000 by the Plan to the Borrowers, under the terms and conditions set forth in this notice, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33918 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3552]

Proposed Exemption for Certain Transactions Involving the Summit National Bank Employees' Pension Trust Located in Forth Worth, Texas

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the past loan (the Loan) of $100,081 to the Summit National Bank Employees' Pension Trust (the Plan) by Summit National Bank (the Employer), the sponsor or the Plan. The proposed exemption, if granted, would affect the Employer, the participants, and beneficiaries of the Plan, and other persons who participated in the transaction.

EFFECTIVE DATE: If the proposed exemption is granted, it will be effective September 15, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Progams, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3552. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is defined benefit pension plan which as of September 14, 1982 had 22 participants and assets of $135,013. The trustee (the Trustee) of the Plan is Jim Murray who is the Chairman of the Board of the Employer.

2. The applicant is requesting an exemption which will permit the Loan of $100,081 on September 15, 1981 by the Employer to the Plan. The proceeds of the Loan were used by the Plan to acquire mortgage pool certificates (the FNMA Certificates) guaranteed by the Federal National Mortgage Association, carrying an interest rate of 17% due February 11, 1985. The FNMA Cetificates were purchased by the Plan from an unrelated dealer in government securities. The applicant represents that at the time the Plan purchased the FNMA Certificates, the Plan's assets were invested in three certificates of deposit (the CDs) and that the Plan could not pay for the FNMA Certificates without suffering a substantial penalty for early withdrawal of the CDs. The rate of interest on the Loan was 17%, the same rate as that on the FNMA Certificates. The Loan, which was not collateralized, was repaid from the proceeds of each of the CDs as they matured. One CD matured on November 5, 1981, another CD matuured on November 11, 1981 and the remaining CD matured on December 28, 1981. The weighted average interest on the CDs was 15.08%. The applicant represents that at the time the Loan was initiated (1) the prime rate was 20½% and (2) the Employer made the Loan at an interest rate that was less than the market rate of interest. In addition, the applicant represents that while the Plan earned 17% on the FNMA Certificates and at the same time paid 17% on the Loan, the purpose of the Loan was to allow the Plan to increase its yield over a longer period of time by investing in the FNMA Certificates. The Trustee and a committee of senior management of the Employer who made the decision to buy the FNMA Certificates represent that the transaction was in the best interests of the participants and beneficiaries of the Plan and that the Plan was able to increase its rate of return on a secure investment.

3. In summary, the applicant represents that the transaction satisfied the statutory criteria of section 408(a) of the Act as follows: (1) The Trustee represents that the transaction was in the best interests of the participants and beneficiaries of the Plan; (2) the Plan was able to increase its investment yield; and (3) the Loan was made at an interest rate that was less than the fair market interest rate.

Notice to Interested Persons

Within ten days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be mailed to all participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan, and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code effective September 15, 1981 shall not apply to the Loan of $100,081 by the Employer to the Plan provided that the terms and conditions of the Loan were at least as favorable to the Plan as those which the Plan could have received in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction that is the subject of this exemption.

Signed at Washington, D.C., this 9th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33916 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Senior Executive Service; Schedule for Awarding Performance Awards (Bonuses)

The Office of Personnel Management, in paragraph 3(b) of its Memorandum to Heads of Departments and Agencies, dated July 21, 1980, recommends that each agency "publish a notice in the **Federal Register** of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be made."

Accordingly, the Department of Labor announces that bonuses will be paid by December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank A. Yeager, Director of Personnel Management, Room C5526, Department of Labor, Frances Perkins Building, Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of December 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-33816 Filed 12-13-82; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528, STN 50-529 and STN 50-530]

Arizona Public Service Co.; et al.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 5 to Construction Permit Nos. CPPR–141, CPPR–142, and CPPR–143 to delete M–S–R Public Power Agency as an applicant for the Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (the facilities), located in Maricopa County, Arizona. The amendments are effective as of their date of issuance. The present remaining applicants for Palo Verde are Arizona Public Service, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power and Southern California Public Power Authority.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendments. The Commission has also concluded that the amendments involve actions which are insignificant from the standpoint of environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and an environmental impact appraisal need not be prepared in connection with the issuance of the amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) The application for amendments, dated October 12, 1982; (2) Amendment No. 5 to Construction Permit Nos. CPPR–141, CPPR–142, CPPR–143 and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Dated at Bethesda, Maryland, this 6th day of December 1982.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-33928 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-318]

Baltimore Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–69 issued to Baltimore Gas and Electric Company (the licensee), for operation of

the Calvert Cliffs Nuclear Power Plant, Unit No. 2, located in Calvert County, Maryland.

The amendment would revise the Technical Specifications (Limiting Conditions for Operation, Surveillance Requirements, and Actuation Setpoints) regarding the addition of a third auxiliary feedwater train for Calvert Cliffs Unit No. 2 in accordance with the licensee's application dated November 5, 1982.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 13, 1983 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically expalin the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

No later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Docket Room 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: (Petitioner's name and telephone number), (date petition was mailed); (plant name); and December 14, 1982. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddson, Jr., General Counsel, G and E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for amendment dated November 5, 1982, which is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland this 6th day of December 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-33927 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Zion Nuclear Plant Units 1 and 2; Request for Action

Notice is hereby given that by its Request for Action Re Zion Nuclear Station (Request) dated October 11, 1982, Pollution and Environmental Problems, Inc. (PEP) requested that certain actions be taken by the Nuclear Regulatory Commission with respect to the Zion Nuclear Plant, Units 1 and 2, in regard to usage of high burnup nuclear fuel and the ability of the Zion reactor vessels to withstand embrittlement. The relief requested includes denial of permission for Commonwealth Edison to use high burnup fuel at the Zion facility until a full inquiry into the effect of high burnup nuclear fuel upon embrittlement of nuclear reactor vessel is completed and that NRC provide evidence to the public regarding the Zion facility's capacity to withstand embrittlement. The Request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the Request within a reasonable time. Copies of the Request are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Zion Nuclear Plant located at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland, this 30th day of November 1982.

Before the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-33928 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the lincensee), which revised the license for operation of the LaCrosse Boiling Water Realtor (facility) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance. However, the Guard Training and Qualification Plan is to be implemented within 60 days after issuance of the license amendment.

The amendment adds a license condition related to the Commission-approved Guard Training and Qualification Plan as part of the license.

The licensee's filings, which have been handled by the Commission as an application for amendment, comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and invironmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated August 17, 1979, as revised January 15, May 1 and July 6, 1981, are considered Safeguards Information and are being protected from unauthorized disclosure in accordance with 10 CFR 73.21.

For further details with respect to this action, see (1) Amendment No. 30 to Provisional Operating License No. DPR-45 and (2) The Commission's related letter to the licensee dated December 6, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the LaCrosse Public Libraty, 800 Main Street, LaCrosse, Wisconsin 54601. A copy of items (1) and (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 6th day of December 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-33929 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. A (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment revises Technical Specification 3/4.7.5 to reflect the new Ultimate Heat Sink flow barrier configuration and deletes the maximum water temperature limitation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated November 16, 1978, superseded January 8, 1981 and supplemented May 26, 1982, (2) Amendment No. 54 to License No. DPR-67 and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of December 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-33930 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications for limiting conditions for operation and surveillance requirements for the RPS power monitoring system (Electric Protective Assemblies).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1982, (2) Amendment No. 79 to License No. DPR-49, and (3) the Commission's related letter to the licensee dated December 6, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-33931 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised the Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment authorizes changes to the Technical Specifications to incorporate Limiting Conditions for Operation and surveillance requirements associated with the reactor protection monitoring system.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 24, 1982, (2) Amendment No. 12 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of November 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-33932 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised the Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to establish revised safety and operating limits for operation of the facility during fuel Cycle 10.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 25, 1982 as supplemented by letters dated August 3 and 24, 1982, (2) Amendment No. 13 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 6th day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-33933 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised the Technical Specifications for operation of the Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment adds operability and surveillance requirements for the reactor coolant overpressure mitigation system (OMS).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated May 1, 1979, (2) Amendment No. 78 to License No. NPF–1 and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of December 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-33934 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment; Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. NPF–10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California. This amendment is effective December 6, 1982.

Amendment No. 11 changes the technical specifications applicable to turbine overspeed protection to allow stem flow in low pressure stream leads in which an inoperative reheat intercept valve is located, and to allow immediate return to power in the event of an inadvertant turbine trip.

Issuance of this amendment complies with the standards and requirements of the Atonic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the liecense amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letter dated December 3, 1982, (2) Amendment No. 11 to Facility Operating License No. NPF–10, and (3) The Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of December 1982.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing

[FR Doc. 82-33936 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF-12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. This amendment modifies the Technical Specifications to provide for a tolerance on the hydrogen and oxygen content of the standard gas samples used in the calibration of the hydrogen and oxygen monitors in the waste gas holdup system explosive gas monitoring system. The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated October 20, 1982, (2) Amendment No. 7 to Facility Operating License No. NPF–12 with Appendix A Technical Specifications page change, and (3) the Commission's related safety evaluation.

All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 7 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of December 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-33935 Filed 12-13-82; 8:45 am]

BILLING CODE 7590-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Coporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests 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. The proposed form under review is summarized below.

DATE: Comments must be received within 14 calendar days of this notice. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Room 405, 1129 20th Street, NW., Washington, D.C. 20527; Telephone (202) 653–2818.

OMB Reviewer: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395–7231.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Revision
Title: OPIC Investment Mission Application Form
Form No. OPIC 78
Frequency of Use: Four times per year
Type of Respondent: Businesses
Standard Industrial Classification Codes: All
Description of Affected Public: U.S. Businesses
Number of Responses: 300
Reporting Hours: 100
Federal Cost: $3,932.00
Authority for Information Collection: Section 231(k) of the Foreign Assistance Act of 1961, as amended
Abstract (Needs and Uses): Additional information is needed to determine the appropriateness of respondents for participation in OPIC investment missions.

Dated: November 24, 1982.

Leo H. Phillips, Jr.,

[FR Doc. 82-33804 Filed 12-13-82; 8:45 am]

BILLING CODE 3210-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Conservation Subcommittee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Nothwest Power Planning Council).

ACTION: Cancellation of meeting.

SUMMARY: The meeting of the Conservation Subcommittee of the Scientific and Statistical Advisory Committee originally scheduled for December 14, 1982 at 9:30 a.m. in the Council's Central Office in Portland, Oregon has been concelled. Notice of this meeting was published in the **Federal Register** on December 7, 1982 (47 FR 55058).

FOR FURTHER INFORMATION CONTACT: Mr. Tom Eckman, (503) 222–5161.

Edward Sheets,

Exective Director.

[FR Doc. 82-33815 Filed 12-13-82; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19304; File No. SR-Amex-82-21]

Self-Regulatory Organization; Proposed Rule Change by American Stock Exchange, Inc.

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 November 18, 1982, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Rules 131 and 154 to redefine the term "percentage orders" to facilitate the handling of such orders.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* A percentage order is difined by Amex Rule 131 as "* * * a market or limited price order to buy (or sell) a stated amount of a specified stock after a fixed number of shares of such stock have traded." Percentage orders are primarily used by institutional investors who often prefer to "go along" or participate in stock transactions rather than initiate activity in a stock which may influence the market. While a member firm can give similar instructions to its floor broker, that broker generally cannot remain in an inactive crowd waiting for contra side orders to come into the market. The broker therefore gives a percentage order to the specialist.

The percentage specified in the order indicates the extent to which a buyer (seller) wishes to participate in the market in relation to the total volume of an issue. Before a percentage order can be executed, it must be "elected" by a prior transaction in the stock which occurs after the percentage order has been given to the specialist. With a 50% order, the amount that is elected is equivalent to the amount of the electing transaction, i.e., if 100 shares are sold, the percentage order will be elected to the extent of 100 shares; if 200 shares are sold, 200 shares will be elected. To further illustrate, assume a specialist has been given a limit percentage order of 50% to buy 1000 XYZ at 20. Thus, if the next trade (after the entry of the order) was 400 XYZ at 20⅛, 400 shares of the percentage order will be elected and thereby become a regular limit order to buy 400 XYZ at the price of 20. This new limit order is then eligible for execution, subject only to the priority of other orders at that price which may already be in the specialist's book. Since only 400 shares were elected, the original percentage order would now be a percentage order of 50% to buy 600 XYZ at 20.

As the present system for handling percentage orders is overly complex, it is proposed that the trading procedures be simplified and clarified to facilitate specialist executions of such orders

while making them a more useful tool for investors. The proposed changes are also intended to conform our rules to those of the New York Stock Exchange.

With percentage orders other than 50%, it is necessary for the specialist to keep track of each trade until he can determine when the specified percentage will be elected. This process gets increasingly complicated especially when the specialist has to handle several percentage orders at the same time, and for this reason it is proposed that only percentage orders of 50% be accepted.

We are also proposing to redefine percentage orders to eliminate market percentage orders. This reflects a concern that such orders can have a destabilizing affect on the market. The revised rule addresses this concern by requiring an investor to specify the price limit within which he wishes his order to be executed. The rule would permit three types of percentage orders—"straight limit," "last sale," and "buy minus"—"sell plus" percentage orders, thus offering an investor some flexibility in defining his exact wishes.

Also under the present rule, a percentage order to buy may not be executed on a straight plus tick and a percentage order to sell may not be executed on a straight minus tick. The revised rule provides that a percentage order may be executed on any tick, unless otherwise restricted by the terms of the order. This change will assist customers who might otherwise be unable to buy at the offer (if a plus tick) or sell to the bid (if a minus tick). If the customer does not want to trade on a straight plus or minus tick he can enter a "last sale", "buy minus" or "sell plus" order.

Another change provides that unless specifically instructed by the entering broker to "count all volume", only volume that occurs at or better than the limit price in the order will elect a percentage order. Currently, all volume subsequent to the receipt of the order by the specialist is considered in the election of a percentage order including that which occurs at prices outside the limit specified in the order.

In addition to its complexity, the current procedure for handling percentage orders does not offer the entering broker enough flexibility to fully reflect the intent of the investor who wishes to "go along" with the market, particularly in situations when large block transactions are presented for execution. Since a percentage order cannot be executed until a prior sale takes place and it is elected, it will be unable to participate in a block transaction if that is the electing trade even though such participation would fully satisfy the terms of the order. In order to address this problem, the revised rule sets forth a new procedure whereby a percentage order may be converted into a regular limit order (if so specified in writing by the entering broker) thus enabling it to fully participate in a block trade or in the opening trade in the security. A converted percentage order to buy will be permitted to participate in a block trade on any tick other than a straight plus tick, and a converted percentage order to sell will be permitted to participate on any tick other than a straight minus tick.[1] Although a converted percentage order will thus be subject to more restrictions than a percentage order which has not been converted, this will prevent such an order from accentuating destabilizing price changes in the stock on straight plus or straight minus ticks. However, even with this restriction, the conversion procedure will enable specialists to handle percentage orders more effectively, and help block orders which are represented in the market to receive a more favorable execution.

Finally, we are proposing to add a new Commentary to Rule 154 which sets forth specific procedures for specialists' handling of percentage orders. These include procedures for handling more than one percentage order, and guidelines for those times when the specialist receives permission from the entering broker to be on parity with his percentage order.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Section 6(b)(5) in particular in that they are designed to facilitate the handling of percentage orders, while making them a more useful tool for investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

[1] The NYSE's current rule further restricts the execution of converted percentage orders by providing that they also cannot be executed on zero minus or zero plus ticks, as the case may be. However, the NYSE has on file with the SEC a proposed revision to their rule which would permit purchases on zero plus ticks and sales on zero minus ticks to the extent of not more than 50% of the stock at that price, except if the stock is traded through ITS. If this proposal is approved, the Amex rule will essentially be the same as the NYSE's.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Insitute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 7, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33799 Filed 12-13-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-654]

Commonwealth Dealers Life Insurance Co.; Application and Opportunity for Hearing

December 7, 1982.

Notice is hereby given that Commonwealth Dealers Life Insurance Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Section 15(d) of the Act.

The Applications states, in part:

1. Applicant is authorized by the Department of Insurance of the State of Arizona to engage in the reinsurance of credit life and credit disability insurance. Applicant has two classes of stock, Voting Common and Participating Voting Common. All of the outstanding Participating Voting Common and a majority of the outstanding Voting Common is held by automobile dealerships and principals or other representatives of automobile dealerships. These dealer-shareholders have entered into agency agreements with various direct insurers with whom Applicant has a reinsurance treaty. Applicant reinsures portions of the risk of the policies written by the direct insurers. Applicant's stock may be sold only to prospective investors who represent automobile dealerships that have an automobile and insurance sales history that is satisfactory to Applicant.

2. On March 6, 1981, Applicant's registration statement on Form S-18 became effective. Upon completion of the offering to which that registration statement relates, Applicant will have no more than fifty-two shareholders.

3. Applicant's shareholders are provided semiannually with Applicant's financial statements prepared in accordance with Arizona statutory accounting requirements.

4. There is no trading market for Applicant's stock.

In the absence of an exemption, Applicant would be required to file a special financial report for the year ended December 31, 1980, as well as periodic reports for the year ending December 31, 1981. Applicant believes that its request for an order exempting it from the reporting provisions of Section 15(d) of the 1934 Act is appropriate inasmuch as it has fewer than 300 shareholders and its stock is not publicly traded.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than January 3, 1983, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly 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. 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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-33797 Filed 12-13-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-664]

Rochester Community Baseball, Inc.; Application and Opportunity for Hearing

December 7, 1982.

Notice is hereby given that Rochester Community Baseball, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting the Applicant an exemption from the provisions of Sections 12(g), 13, 14 and 16 of the 1934 Act.

The Applicant states, in part:

(1) The initial offering of Applicant's common stock was not registered under the Securities Act of 1933, in reliance upon the exemption provided by Section 3(a)(11) thereof.

(2) As of October 21, 1981, the Applicant had, for the first time, more than $1,000,000 in total assets, and it had approximately 7,900 shareholders.

(3) The by-laws of the Applicant prohibit payment of compensation to any officer or director of the corporation; and, no dividend has ever been paid to shareholders and none is anticipated, rather earnings will be retained in order to assure the continued existence of professional baseball in Rochester.

(4) There is no substantial market for the Applicant's common stock.

The Applicant contends that the granting of the exemptions would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, no later than January 7, 1983, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly 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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR. Doc. 82-33796 Filed 12-13-82; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisons of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the form proposed and supporing documentation, should be directed to the Agency Clearnance Officer whose name, address, and telephone number appear below. Questions or commets should be directed to the Agency Clearance Officer and also to the Office of

Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7340.

Agency Clearance Officer: E. Eugene Mynatt, Tennessee Valley Authority, 275 Lupton Building, Chattanooga, TN 37401; (615) 751–2146, FTS 858–2146.

Type of Request: New.

Title of Information Collection: Industrial Jobs and Training Assessment Survey.

Frequency of Use: Nonrecurring.

Type of Affected Public: Industries located in Madison, Morgan, Lawrence and Limestone Counties of Alabama.

Standard Industrial Classification: Multiple.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 240.

Estimated Total Annual Burden Hours: 360.

Estimated Annual Cost to Federal Government: $24,900.

Need For and Uses of Information: There is a need to sample the industrial population to determine the suitability of current and adjusted curriculums for occupations which are needed or will be needed in industries in the survey area. The gathered information will be used to determine employment trends and requirements of local industry.

Dated: December 6, 1982.

Charles Bonine, Jr.,

Manager, Office of Management Services.

[FR Doc. 82-33802 Filed 12-13-82; 8:45 am]

BILLING CODE 8120-01-M

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the form proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7340.

Agency Clearance Officer: E. Eugene Mynatt, Tennessee Valley Authority, 275 Lupton Building, Chattanooga, TN 37401; (615) 751–2146, FTS 858–2146.

Type of Request: Extension.

Title of Information Collection: TVA 6294, TVA 6294A, and TVA 6294B, TVA Commercial and Industrial Energy Conservation Financing Plan.

Frequency of Use: On Occasion.

Type of Affected Public: Commercial and industrial consumers of TVA electrical energy.

Standard Industrial Classification: All.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 200.

Estimated Total Annual Burden Hours: 150.

Estimated Annual Cost to Federal Government: None.

Need For and Uses of Information: TVA will make loans to consumers for the implementation of certain electrical energy conservation measures. The loan application, credit reference, and trade reference forms will be used to obtain the necessary credit information needed as a basis for loan approval or denial.

Dated: December 6, 1982.

Charles Bonine, Jr.,

Manager, Office of Management Services.

[FR Doc. 82-33803 Filed 12-13-82; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY
Office of the Secretary
Performance Review Board

ACTION: This is a new publication of the Office of the Secretary Performance Review Board (PRB), cancelling the publications of August 20, 1981, Volume 46 FR 42401; and September 23, 1981, Volume 46 FR 47038; in accordance with 5 U.S.C. 4313(c)(4).

SCOPE: This notice applies to all components within the Office of the Secretary, except the Legal Division.

PURPOSE: The purpose of the Board is to review performance appraisals, ratings, recommendations for performance awards, and other personnel actions, and to make recommendations to the Deputy Secretary, who is the Appointing Authority.

COMPOSITION OF PRB: Each session of the Performance Review Board will be attended by the Chairperson or her designee and at least two of the members listed below. The Board will be composed of more than 50 percent career appointees in cases involving the appraisal of an SES career appointee. The names and titles of the PRB members are as follows:

Cora P. Beebe, Chairperson, Assistant Secretary (Administration)
George Astengo, Deputy Assistant Secretary (Administration)
Edward W. Brooks, Director, Office of Administrative Programs
David S. Burckman, Director of Personnel
John Garmat, Deputy Director, Office of Budget and Program Analysis
Diane C. Herrmann, Director, Office of Equal Opportunity Program
Arthur D. Kallen, Director, Office of Budget and Program Analysis
Paul T. Weiss, Deputy Director of Personnel
Marc E. Leland, Assistant Secretary (International Affairs)
Jon M. Gaaserud, Senior Policy Advisor (Economic Analysis)
Charles Schotta, Deputy Assistant Secretary (Commodities and Natural Resources)
Roger W. Mehle, Assistant Secretary (Domestic Finance)
Francis X. Cavanaugh, Director, Office of Government Finance and Market Analysis
Robert W. Rafuse, Jr., Deputy Assistant Secretary (State and Local Finance)
John E. Chapoton, Assistant Secretary (Tax Policy)
J. Gregory Ballentine, Deputy Assistant Secretary (Tax Analysis)
David G. Glickman, Deputy Assistant Secretary (Tax Policy)
John G. Wilkins, Director, Office of Tax Analysis
Manuel H. Johnson, Jr., Assistant Secretary (Economic Policy)
John H. Auten, Director, Office of Financial Analysis
Gerald Murphy, Deputy Fiscal Assistant Secretary
John A. Kilcoyne, Assistant Fiscal Assistant Secretary (Banking)
John M. Walker, Jr., Assistant Secretary (Enforcement and Operations)
John F. Kelly, Assistant Secretary (Public Liaison and Consumer Affairs)
Paul K. Trause, Inspector General
Bruce E. Thompson, Jr., Deputy Assistant Secretary (Legislative Affairs)
Roy G. Hale, Deputy Treasurer of the United States

FOR FURTHER INFORMATION CONTACT: Charlene J. Robinson, Executive Secretary, PRB Room 1306, Main Treasury Building, 15th and Pennsylvania Avenue, NW.,

Washington, D.C. 20220. Telephone: (202) 566-5468.

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary, Administration.

[FR Doc. 82-33843 Filed 12-13-82; 8:45 am]

BILLING CODE 4810-25-M

[Dept. Circ. Public Debt Series—No. 33-82]

Treasury Notes of December 31, 1984; Series Z-1984

December 9, 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 $7,000,000,000 of United States securities, designated Treasury Notes of December 31, 1984, Series Z-1984 (CUSIP No. 912827 NY 4). 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 of 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 maturing 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 December 31, 1982, and will bear interest from that date, payable on a semiannual basis on June 30, 1983, and each subsequent 6 months on December 31 and June 30 until the principal becomes payable. They will mature December 31, 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 not 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. Bookentry 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 later 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, December 15, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 14, 1982, and received no later than Friday, December 31, 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 and 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 ⅛ 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 99.500. 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 noncompetitive 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. Except as otherwise stipulated, 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 Friday, December 31, 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 Tuesday, December 28, 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. Some Federal Reserve Banks and Branches and the Bureau of the Public Debt will be closed on December 31. Settlement for accepted tenders from institutional investors at those offices must be completed no later than Monday, January 3, 1983, with payment including three days' accrued interest unless settlement is made with Treasury securities maturing on or before December 31, 1982. 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 and 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 made 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.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-33976 Filed 12-10-82; 12:33 pm]

BILLING CODE 4810-40-M

Dept. Circ. Public Debt Series—No. 34-82]

Treasury Notes of December 31, 1986; Series K-1986

December 9, 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 $5,000,000,000 of United States securities, designated Treasury Notes of December 31, 1986, Series K-1986 (CUSIP No. 912827 NZ 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equvalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of 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 maturing 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 December 31, 1982, and will bear interest from that date, payable on a semiannual basis on June 30, 1983, and each subsequent 6 months on December 31 and June 30 until the principal becomes payable. They will mature December 31, 1986, 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 not 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 $1,000, $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 later 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, Thursday, December 16, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, December 15, 1982, and received no later than Friday, December 31, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, 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 and 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 ⅛ 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 99.000. 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 noncompetitive 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 notifed if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. Tne 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 alloted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Except as otherwise stipulated, 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 Friday, December 31, 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 Tuesday, December 28, 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. Some Federal Reserve Banks and Branches and the Bureau of the Public Debt will be closed on December 31. Settlement for accepted tenders from institutional investors at those offices must be completed no later than Monday, January 3, 1983, with payment including three days' accrued interest unless settlement is made with Treasury securities maturing on or before December 31, 1982. 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 alloted 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 to be "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and 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.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-33977 Filed 12-10-82; 12:33 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Exective Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Important Information Inside: The Still Life Painting of John F. Peto" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C. beginning on or about January 16, 1983, to on or about May 29, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: December 8, 1982.

Gilbert A Robinson,

Acting Director.

[FR Doc. 82-33986 Filed 12-13-82; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Raphael and America" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about January 9, 1983, to on or about May 8, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: December 8, 1982.

Gilbert A. Robinson,

Acting Director.

[FR Doc. 82-33987 Filed 12-13-82; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

VETERANS ADMINISTRATION

Development of a Clinical Addition; Veterans Administration Medical Center; Murfreesboro, Tenn., Finding of No Significant Impact

The Veterans Administration (VA) has determined that potential environmental impacts will be minimal from the development of a clinical addition at the Veterans Administration Medical Center, Murfreesboro, Tennessee.

The project will include 42,000 gross square feet (gsf) of new construction and 100,000 gsf of renovation needed to convert 200 existing long term care beds into 160 medical and 40 surgical beds. New construction will infill the space on the north side of the main hospital buildings.

Temporary impacts from construction of the proposed action will occur. These impacts are anticipated to be raised noise levels, air quality degradation from construction equipment and materials as well as some operational inconveniences. These are temporary and should not have a significant effect on hospital staff or patients.

A permanent impact will be the alteration of views from within the medical center. The new facade of the proposed clinic will replace the existing

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

view of parking and a few scattered trees. The view is considered an unavoidable impact, but it will be harmonious within the architectural features of the existing buildings.

Temporary impacts from construction will be mitigated so as to incur minimal disruption of hospital operations. The construction specifications will include the VA environmental protection section, which addresses actions to be taken to avoid any adverse environmental effects. To mitigate the impacts of new construction at an historic site, the design of the new addition will be accomplished with regard to key existing architectural elements which symbolize the historic nature of the site. Appropriate design will produce a structure of compatible scale, building materials and architectural style so as to mitigate any adverse effects. In addition, care will be given to landscaping and the renovation of existing buildings. These actions have been coordinated with the state historical preservation officer.

The significance of the indentified impacts has been evaluated relative to considerations of both context and intensity, as defined by the Council on Environmental Quality (40 CFR 1508.27).

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C., (202–389–3316). Questions or requests for single copies of the Environmental Assessment may be addressed to the above address.

Dated: December 3, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

December 3, 1982.

[FR Doc. 82-33842 Filed 12-13-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 240
Tuesday, December 14, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Consumer Product Safety Commission	1
Copyright Royalty Tribunal	2
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, December 15, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public:

1. *Chronic Hazard Advisory Panel/Asbestos*
   The Commission will consider the selection of members to the Chronic Hazard Advisory Panel on Asbestos.
2. *Compliance Status Report*
   The staff will brief the Commission on the status of various compliance activities.
3. *Enforcement Matter OS #3226*
   The Commission will consider enforcement matter OS #3226.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301-492-6800.

[S-1813-82 Filed 12-10-82; 3:53 pm]

BILLING CODE 6355-01-M

2

COPYRIGHT ROYALTY TRIBUNAL

DATE AND TIME: Monday, December 20, 1982, 2 p.m.

PLACE: Copyright Royalty Tribunal, 1111 20th Street, NW., #450, Washington, D.C. 20036.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. 1982 Adjustment of Rates for Use of Certain Copyrighted Works by Non-Commercial Broadcasting.

CONTACT PERSON FOR FURTHER INFORMATION: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., #450, Washington, D.C. 20036; (202) 653-5175.

December 9, 1982.

Edward W. Ray,

Chairman.

[S-1809-82 Filed 12-10-82; 2:21 pm]

BILLING CODE 1410-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: December 14, 1982, 4:00 p.m.

PLACE: Fourth floor, Conference Room 4-G, 1776 G Street, NW., Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

MATTERS TO BE CONSIDERED: Closed to the public:

Minutes of October 26, 1982 Board of Directors' and Financing Strategy Meetings
Pre-Sale Authority for Preferred Stock Issue
Complete September Financial Statements
Complete October Financial Statements
Minute Entry

December 10, 1982.

[S-1812-82 Filed 12-10-82; 3:46 pm]

BILLING CODE 6720-02-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, December 20, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed changes to the Plans administered under the Federal Reserve System's employee benfits program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 10, 1982.

William W. Wiles,

Secretary of the Board.

[S-1811-82 Filed 12-10-82 2:32 pm]

BILLING CODE 6710-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of December 6, 1982 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Wednesday, December 8:

2:00 p.m.:
Discussion of Order in Clinch River (Closed—Exemption 10) (replaces Discussion of Order in Waste Confidence Proceeding)

Thursday, December 9:

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (Items Revised)
a. Waste Confidence Order (postponed)
b. ALAB-687 (Duke Power) (As Announced)

Friday, December 10:

2:00 p.m.:
Possible Vote on Immediate Effectiveness Issues in TMI-1 Restart Proceeding (Public Meeting) (Cancelled)

All other meetings remain as announced.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

December 7, 1982.

Walter Magee,

Office of the Secretary.

[S-1807-82 Filed 12-9-82; 4:46 pm]

BILLING CODE 7590-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of December 13, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Tuesday, December 14:

10:00 a.m.:
Briefing on Human Factors Program Plan (Public Meeting)

Wednesday, December 15:

10:00 a.m.:
Sequoyah-Hydrogen Control (Public Meeting)
2:00 p.m.:
Briefing on SEP Program—Phase II Results (Public Meeting) (Tentative)

Thursday, December 16:

10:00 a.m.:
Briefing by Regulatory Reform Task Force (Legislative Proposals) (Public Meeting)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting)
a. ALAB–687 (Duke Power) (*postponed* from December 9)
b. Zimmer Intervenors' Petition Re Independent Review

Friday, December 17:

1:30 p.m.:
Discussion/Possible Vote on Contested Issues in Fermi Full Power Proceeding (Closed—Exemption 10)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

December 7, 1982.

Walter Magee,

Office of the Secretary.

[S–1808–82 Filed 12–9–82; 4:45 pm]

BILLING CODE 7590–01–M

7

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1301]

TIME AND DATE: 10:15 a.m. (e.s.t.), Friday, December 17, 1982.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

A—Project Authorization

A1. Project Authorization No. 3638—Construct an ash pond in area J west of the fishermen's lot at John Sevier Steam Plant.

A2. Project Authorization No. 3638—Construct ash disposal area No. 5 at Colbert Steam Plant.

A3. Project Authorization No. 3477.3—Amendment to project authorization for demonstration of a commercial coal gasification facility producing methanol and other products.

B—Purchase Awards

B1. Invitation No. 71–830869—Structural and Miscellaneous Steel for Barge Unloader Service Building at Paradise Steam Plant.

C—Power Items

C1. Deed and bill of sale to Bowater North America Corporation, Calhoun, Tennessee, covering conveyance of TVA's Bowaters 161–kV Substation.

C2. Quitclaim deed to Meriwether Lewis Electric Cooperative, covering conveyance of the landrights for a section of TVA's former Centerville-McEwen 46-kV line.

C3. Bill of sale and quitclaim deed to Bristol, Tennessee, covering conveyance of certain substation and transmission line facilities and properties.

C4. Bill of sale and quitclaim deed to Pulaski, Tennessee, covering conveyance of certain substation and transmission line facilities and properties.

C5. Proposed form agreement amending revised home insulation program agreements with distributors to modify program loan fund and method of reimbursement for loan security costs.

C6. Contract with The Babcock and Wilcox Company providing for chloride testing at TVA's Shawnes scrubber test facility.

C7. Interagency subagreement between TVA and the U.S. Department of Energy, in accordance with TVA/DOE memorandum of understanding, covering arrangements for a study of fuel oxidation in bresched cladding for unlimited air dry storage of spent fuel.

D—Personnel Items

D1. Renewal of consulting contract with Sheppard T. Powell Associates, Baltimore, Maryland, for advice and assistance in the field of chemical engineering and other related work associated with power generating plants, requested by the Office of Engineering Design and Construction.

D2. Recommendations resulting from mediation of dispute with Salary Policy Employee Panel.

E—Real Property Transactions

E1. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway, affecting approximately 8.12 acres of Guntersville Reservoir Land—Tract No. TGR–1453H.

E2. Filing of condemnation suits.

F—Unclassified

*F1. Contract with Alabama-Tennessee Natural Gas Company for natural gas supply to National Fertilizer Development Center, Muscle Shoals, Alabama.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: December 10, 1982.

[S–1818–82 Filed 12–10–82; 2:22 pm]

BILLING CODE 8120–01–M

federal register

Tuesday
December 14, 1982

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Petroleum Dry Cleaners; Proposed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2162-2]

Standards of Performance for New Stationary Sources; Petroleum Dry Cleaners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit volatile organic compound (VOC) emissions from new, modified, and reconstructed protroleum solvent dry cleaning facilities installed at any petroleum dry cleaning plant which consumes more than 17,800 liters (4,700 gallons) of petroleum solvent annually. The proposed standards would require the use of solvent recovery dryers whenever dryers are installed at a petroleum dry cleaning plant. Those plants installing solvent filtration systems would be required to use cartridge filters and to drain the cartridges in their sealed housings for at least eight hours prior to their removal. In addition, the proposed standards would require that perceptible solvent leaks from petroleum solvent washers, dryers, filters, stills, and settling tanks be promptly identified and repaired.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that petroleum solvent dry cleaners contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intended effect of this proposal is to require new modified, and reconstructed petroleum solvent dry cleaning facilities to use the best demonstrated technological system of continuous emission reduction considering costs, and non-air quality health, environmental, and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before February 14, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 12, 1983, a public hearing will be held on January 26, 1983, beginning at 9:00 a.m. at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at telephone number (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by January 19, 1983.

ADDRESS: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-80-2, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing by January 12, 1983, the public hearing will be held at the Office of Administration Auditorium. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone (919) 541-2777. Please refer to "petroleum Dry Cleaners—Background Information for Proposed Standards," EPA-450/3-82-012a.

Docket. Docket number A-80-2, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Standards Developmental Branch, Emission Standards and Engineering Division (MD-13), U.S Environment Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would require the installation and use of solvent recovery dryers when dryers are installed at petroleum dry cleaning plants. The use of cartridge filters would be required for any plants installing solvent filtration systems, and used filter cartridges would be drained for at least 8 hours in their closed housing prior to disposal. The proposed standards would also require prompt repair of perceptible solvent leaks from petroleum solvent dryers, washers, solvent filtration systems, settling tanks, and vacuum stills. For the purpose of these standards, each of these items includes the piping and duct systems associated with its installation and operation.

To determine whether petroleum solvent washers, dryers, filters, settling tanks, and vacuum stills are subject to these standards, annual plant solvent consumption would be calculated with one of three methods. When these facilities are installed in a plant that is not expanding its total manufacturers' rated petroleum solvent dryer capacity, plant solvent consumption would be calculated from receipts for petroleum solvent purchased during the previous 12 months. When these facilities are installed in a plant that is expanding its total manufacturers' rated petroleum solvent dryer capacity, plant solvent consumption would be projected by multiplying the previous 12 months' solvent consumption by the ratio of total manufacturers' rated dryer capacity after the expansion to the total manufacturers' rated dryer capacity prior to the expansion. When these facilities are installed in a new plant, plant solvent consumption (in gallons or liters per year) would be projected by multiplying the total manufacturers' rated dryer capacity of the new petroleum solvent dryer(s) in pounds (kilograms) by a factor of 56 gallons (467 liters) of petroleum solvent per pound (kilogram) of total manufacturers' rated dryer capacity.

When recovery dryers are installed, the owner/operator would be required to conduct an initial 2-week test demonstrating that the recovered solvent flow rate from the solvent recovery dryer is 0.05 liters per minute or less at the termination of the recovery cycle. The owner/operator would be required to maintain a record of this test. No emission tests would be required. The proposed standards would also require leak inspections at least every 15 days and would require that any leaks found be repaired within 15 days.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards would reduce the cumulative nationwide VOC emissions from petroleum dry cleaners through the first 5 years following proposal of the standards by an average of 22,700 megagrams (25,00 tons) or 41 percent, relative to baseline emissions (i.e., emissions in the absence of the

standards). In the fifth year following proposal of the standards, the average reduction in nationwide VOC emissions resulting from the standards would be 7,600 megagrams (8,400 tons). The proposed standards would result in negligible adverse water or solid waste impacts.

The proposed standards would reduce the steam and electrical energy consumption at dry cleaning plants affected by the standards by about 187 terajoules (177 billion Btu's) in the fifth year following proposal of the standards. This reduction in plant energy consumption would result from the lower steam and electrical demands of the solvent recovery dryer as compared to those of conventional dryers.

The capital costs for the petroleum dry cleaning industry would increase by $1.6 million in the fifth year following proposal of these standards. The annualized costs for the industry would decrease by $3.6 million, in the fifth year following proposal, as a result of the savings due to the value of the petroleum solvent recovered by the recovery dryer.

Rationale

Selection of Source Category for Control

Section 111 of the Clean Air Act requires establishment of standards of performance for new, modified, or reconstructed stationary sources that cause or contribute significantly to air pollution that may resonably be anticipated to endanger public health or welfare. The petroleum dry cleaning industry emits volatile organic compounds (VOC's). Sources that emit VOC's contribute to the formation of ozone, a pollutant for which National Ambient Air Quality Standards have been established under the authority of Section 109 of the Act. Information concerning the health and welfare effects associated with ozone can be found in "Air Quality Criteria for Ozone and Other Photochemical Oxidants," EPA–600/8–78–004, April 1978.

The petroleum dry cleaning industry is one of a number of industries which contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare (40 CFR 60.16, 44 FR 49222, August 21, 1979). These industries are included in a priority list of sources for which new source performance standards are to be promulgated. The dry cleaning industry, which includes both petroleum and perchloroethylene dry cleaning, ranks 5th of 59 source categories on this priority list. These proposed standards would apply only to facilities using petroleum solvent. Standards for perchloroethylene dry cleaning solvent have been proposed separately (45 FR 78174, November 25, 1980).

There are presently an estimated 6,150 commercial and 230 industrial dry cleaning establishments in the United States utilizing petroleum dry cleaning solvent. These dry cleaners are located throughout the country and are generally located in populated urban areas. Petroleum dry cleaners vary in size from the small commercial establishment (consuming about 4,900 liters (1,300 gallons) of petroleum solvent and processing 14,000 kilograms (31,000 pounds) of clothing per year) to the large industrial dry cleaner (consuming about 220,000 liters (58,000 gallons) of petroleum solvent and processing 635,000 kilograms (1,400,000 pounds) of industrial articles annually).

Selection of Pollutants and Affected Facilities

Volatile organic compounds (VOC's) are the only pollutants emitted from petroleum dry cleaners. VOC's are emitted from dryers, washers, solvent filtration systems, settling tanks, vacuum stills, and piping and ductwork associated with the installation and operation of these devices.

The largest source of emissions in a petroleum dry cleaning plant is the dryer. The conventional dryer consists of three parts that are housed in a single unit: The tumbler, blower, and steam coils. The dryer evaporates and removes the remaining petroleum solvent from the cleaned articles after they have been washed. The evaporated solvent is vented to the atmosphere during the entire drying cycle. Existing petroleum dry cleaning dryers range in capacity from 22 to 180 kilograms (50 to 400 pounds). Emissions from these dryers very depending on the extraction efficiency of the washer, the weight of articles per dryer load, and the type of articles being dried. VOC emissions from conventional petroleum dry cleaning dryers range from 14 to 28 kilograms of VOC per 100 kilograms dry weight of articles cleaned and represent about 80 percent of VOC emissions from a petroleum dry cleaning plant. Dryer fugitive emissions escape from door seals, leaks in ductwork, and during transfer of articles. These emissions have not been quantified.

Washers remove dirt from fabrics by mechanically agitating them in a petroleum solvent bath and then spinning them to extract the solvent. A washer consists of an enclosed basket, solvent holding tanks, a motor to agitate and spin the basket, and pumps to move the solvent. Fugitive liquid and vapor emissions escape around basket door seals during washing and through open doors during transfer of loads. These fugitive emissions have not been quantified.

Commercial petroleum dry cleaning plants and some industrial plants use solvent filtration systems to remove dirt, lint, and perspiration from used dry cleaning solvent after the wash cycle. This is accomplished by passing the solvent through a filter that traps and removes contaminants suspended in the solvent. These are two basic types of filters: diatomite and cartridge. The waste material from both types of filters contains significant amounts of solvent which evaporates to the atmosphere when discarded. Typically, discarded filter wastes are disposed of at locations remote from the dry cleaning plant.

Diatomite filtration systems remove insoluble contaminants by trapping them in diatomaceous earth. While diatomite filters have been used extensively in the past, most new or replacement filters will be of the less costly and more efficient cartridge type. A dry cleaning trade association has estimated that discarded diatomite filter waste can contain from 5 to 10 kilograms solvent per 100 kilograms of articles cleaned.

Cartridge filtration is a two-stage filtration process. Solvent is forced under pressure through dual-component cartridges that contain both filter paper and carbon. In the first stage, solid particles of lint and dirt are trapped by the paper, and the activated carbon removes impurities such as fabric dyes. Next, the solvent is passed through a second stage of one or more cartridges containing only activated carbon which remove most of the remaining insoluble impurities.

Cartridge filtration systems vary in size from a group of small, interconnected vessels containing one or two cartridges to one or more cylindrical tanks containing as many as 36 paper/carbon cartridges that are connected to an additional vessel or vessels containing as many as 6 all-carbon cartridges. Cartridges are usually changed after 450 to 500 kilograms of articles have been washed. Cartridge filters are typically drained in their housing before being discarded. However, all solvent retained in the discarded filter cartridges is eventually evaporated to the atmosphere. Emissions from cartridge filters range from approximately 0.5 to 1 kilogram solvent per 100 kilograms dry weight of articles cleaned based on both EPA and industry trade association estimates.

Industrial dry cleaning plants with heavy soil loadings and high throughputs use settling tanks instead of filtration systems for the partial removal of solids and non-solvent-soluble contaminants. Spent solvent is pumped from washers to settling tanks where the heavier liquids and solid wastes settle to the bottom. The "clarified" solvent is pumped from the top of the tank to a vacuum still for further processing. The waste material is removed from the bottom of the tank at a frequency that depends on the tank capacity and the dry cleaning throughput. This waste material is then either discarded (along with its solvent content), stored for sale to a waste oil processor, or stored for use as a supplementary boiler fuel. In each of these cases, fugitive VOC emissions result from the storage, transfer, and disposal of this waste. These emissions have not been quantified.

Vacuum stills are used to remove contaminants such as bacteria, detergents, water, oils, and dyes that are not removed from the solvent by filtration or settling. In this process, spent solvent from a filter or settling tank is pumped to a boiling chamber and heated until most of the solvent has been boiled off and recovered by condensation. Periodically, the contents of the still are heated in a final, high-temperature "boildown" and the waste still residue (composed of solvent, other hydrocarbons, and particulate matter) is discarded. VOC emissions from vacuum stills result from the evaporation of solvent remaining in the discarded still residue, and from leaks in the still pipes, ducts, and pumps. The quantity of emissions from this source can vary widely depending upon the efficiency of operation of the still, the type of fabrics processed, and the fabric soil loading. Estimated emissions from still wastes range from approximately 1 to 7 kilograms of solvent per 100 kilograms dry weight of articles cleaned, and represent about 13 percent of VOC emissions from a petroleum dry cleaning plant.

Precise quantification of fugitive emissions from door seals, solvent-laden article transfer, liquid and vapor leaks, and evaporation from open containers is not possible. However, both the EPA and an industry trade association have estimated that these sources account for approximately 1 kilogram of solvent per 100 kilograms dry weight of articles cleaned. This represents about 3 percent of the VOC emissions from a petroleum dry cleaning plant.

The EPA has determined that VOC emissions from each of the previously discussed principal sources can be reduced either by use of various control devices or by use of various work practices. Therefore, each dryer, washer, solvent filtration system, settling tank, and vacuum still has been selected as a separate affected facility under the proposed standards.

Analysis of Capture and Control Technologies

Dryer Controls. There are two demonstrated methods available for the control of VOC emissions from petroleum dry cleaning dryers—recovery dryers and carbon adsorbers.

The recovery dryer is essentially a conventional dryer with a condenser to remove solvent vapor from the dryer exhaust by condensation. The recovery dryer circulates steam-heated air through a tumbling load of drying articles and then forces the solvent-laden air through a lint filter and into a condenser. After partial condensation of both solvent and water vapors in the condenser, the air stream flows to a steam chest where it is reheated and passed back to the tumbler where the cycle of solvent evaporation/condensation repeats. This cycle, known as the solvent recovery cycle, continues until the last few minutes of dryer operation when an exhaust/cool-down cycle begins. During the exhaust/cool-down cycle, unheated ambient air is drawn into the dryer, passed through the articles in the tumbler, and exhausted to the atmosphere. With the exception of the "door-open" period, this is the only period of dryer operation when solvent is vented to the atmosphere. During the "door-open" period, the blower draws in ambient air through the dryer and exhausts it directly to the atmosphere while articles are loaded and unloaded from the dryer.

Three EPA emission tests were conducted at dry cleaning plants operating 48-kilogram (105-pound) capacity recovery dryers. The first test was conducted at a small industrial dry cleaning plant that processed approximately 1,300 kilograms (2,900 pounds) of heavy work gloves each day. This test measured an average VOC emission rate of 0.96 kilogram VOC per 100 kilograms dry weight of articles cleaned during the recovery dryer exhaust cycle with a range of 0.68 to 1.25 kilograms VOC per 100 kilograms of articles cleaned. During the test, the dryer was typically loaded beyond the manufacturer's specifications (by as much as 20 percent) with gloves having an unusually high solvent retention of as much as 30 percent by weight. In addition, the recovery cycle duration was relatively long (approximately 50 minutes) and resulted in very high solvent recovery (and resultant low solvent emissions).

The second recovery dryer emission test was conducted at a medium commercial plant that processes approximately 180 kilograms (400 pounds) of general apparel each day. This test evaluated the mass flow rate of recovered solvent, and the solvent vapor concentrations in both the condenser vapor inlet and in the exhaust cycle atmospheric exhaust. The average exhaust cycle VOC emission rate was found to be 3.85 kilograms VOC per 100 kilograms dry weight of articles cleaned, with a range of 2.34 to 9.45 kilograms VOC per 100 kilograms of articles cleaned. This wide range resulted from variations in load weights and compositions. The relatively high emission measured during this test were due to the processing of small loads (typically 50 to 60 percent of dryer capacity) of garments (principally synthetics) having a low-solvent retention. This combination of small loads and low-solvent retention resulted in increased dryer emissions per weight of articles cleaned. Also, recovery cycle durations were usually no more than 30 minutes, resulting in premature termination of the recovery phase with a corresponding increase in the solvent emissions during the exhaust cycle. Thus, the results of this test contrast sharply with those of the first test.

A third recovery dryer emission test was conducted at a large commercial plant that cleans about 550 kilograms (1,200 pounds) of personal clothing per day. Both dryer condenser vapor inlet and dryer atmospheric exhaust concentrations were monitored. Data on both the volume and flow rate of recovered solvent were collected. The average exhaust cycle VOC emission rate from the dryer was 3.47 kilograms VOC per 100 kilograms dry weight of articles dry cleaned, with a range of 1.2 to 7.2 kilograms VOC per 100 kilograms of articles cleaned. Dryer operating parameters (such as load weight, fabric composition, recovery period duration, and cooling water flow rate) were varied to examine their effect on solvent recovery. Variations in operating parameters were restricted, however, to those which are considered typical under normal operation.

The emission reduction attained by a recovery dryer is the result of recovery of solvent evaporated from the clothes during the solvent recovery cycle (in contrast to conventional dryers which vent their evaporated solvent directly to the atmosphere). The use of recovery dryers reduces VOC emissions by up to

95 percent compared to conventional dryers. Data from the third recovery dryer emission test indicate that recovery dryers can achieve average exhaust cycle emission rates of 3.5 kilograms VOC per 100 kilograms articles cleaned during normal operation over a wide variety of fabric loading conditions typical to the industry.

Maintaining high solvent recovery and low VOC emission rates may be accomplished by adhering to dryer manufacturer's operating specifications regarding steam pressure, condenser water inlet flow rate and temperature, tumbler drying temperature, and tumbler load weight. Operating within the range of manufacturer's specifications, tests have shown that VOC emissions can be minimized and solvent recovery maximized by drying large load weights (up to the rated capacity) and operating the condenser with the lowest cooling water inlet temperatures possible.

An important factor in ensuring optimum performance is the duration of the solvent recovery cycle. If the dryer is not operated in this cycle for a sufficient period of time, an excessive amount of solvent will be retained in the articles. This solvent will then be emitted to the atmosphere during the cool-down/exhaust cycle and after the articles have been removed from the dryer.

As mentioned above, solvent recovery rates were measured during the third recovery dryer test. The recovery rate was found to be very high during the first few minutes of the solvent recovery cycle and then gradually decreased to a point where there was little or no additional recovery with time. Thus, in order to optimize operating costs and solvent recovery, the recovery cycle can be terminated when little additional solvent recovery occurs. The maximum solvent recovery rate measured at the termination of the recovery cycle was found to be less than or equal to 0.05 liters per minute. This solvent recovery rate at the end of the recovery cycle is typical of a wide range of loading and operating conditions. Additional solvent recovery beyond this point would be impracticable from an economic viewpoint because the value of the additional recovered solvent would be less than the cost of continued recovery cycle operation. Although the amount of time necessary to reach this recovery level will vary with varying dryer loads and types of materials being dried, the measurement of the solvent recovery rate would help an operator determine the optimum drying time for various dryer load and fabric combinations.

Field test data on solvent concentrations in recovery dryers indicate that the lower explosive limit (LEL) of 10,000 ppmv (parts per million by volume) may be exceeded during the recovery cycle of certain loads. Consequently, the safety of recovery dryers was throughly assessed. The domestic recovery dryer now on the market has been approved by Factory Mutual underwriters as meeting the National Fire Protection Association (NFPA) standards for fire safety. The NFPA standards require that such equipment safely contain a possible explosion while effectively eliminating any resultant fire. The domestic recovery dryer incorporates explosion vents, steam injection, and safety interlocks which relieve the force of an explosion in a controlled manner while extinguishing any residual fire. Experience with solvent explosions in recovery dryers at two domestic plants indicates that the dryer safely contained the explosion with only minor damages to the tumbler basket and the explosion vents. These damages were quickly and easily repaired.

Although no domestic studies exist comparing the incidence of explosions and fires in recovery dryers with those in conventional dryers, a field study of recovery dryers in Japan, where such dryers are in widespread use, indicated that there was no increase in the frequency of fires or explosions after the installation of recovery dryers. In addition, a survey of fire marshals and insurance underwriters indicates that, where recovery dryer installations have been identified by authorities and insurers, the use of these dryers has been accepted. Finally, decisions on safety are entirely in the hands of safety officials and insurers, and the Agency does not intend to require a device that is not fully accepted. The above information, however, demonstrates that the safety of the recovery dryer is adequately demonstrated to warrant consideration as a basis for standards of performance.

Carbon adsorption can also be used to control VOC emissions from petroleum dry cleaning dryers. Carbon adsorbers reduce VOC emissions from conventional dryers by removing solvent vapor from the dryer exhaust through "adsorption" of the solvent on carbon. During the entire drying cycle, solvent-laden air from the exhaust of a conventional dryer is forced through one or more containers of activated carbon where the solvent is retained on the porous surface of the carbon. Because the carbon has a limited surface capacity for solvent, a process of carbon bed "regeneration" must be conducted periodically. During regeneration, steam is forced through the carbon to evaporate the solvent. The solvent-steam mixture is conveyed to a condenser where it is condensed and then passed to a gravimetric separator for separation of the recovered solvent from the condensed steam which is ultimately discharged as wastewater.

Because carbon adsorbers are not traditionally used by the petroleum dry cleaning industry, a carbon adsorber was installed by EPA at a large industrial petroleum dry cleaning facility to demonstrate the applicability of this control technique to petroleum dry cleaning dryers. The adsorption system was connected to the exhaust of a 180 kilogram (400 pound) capacity conventional dryer. During the tests, which lasted from June 1978 to February 1982, the VOC concentrations at the adsorber inlet and outlet were monitored throughout the course of normal daily operations. Approximately 1,600 kilograms (3,500 pounds) of general apparel were cleaned each day.

Results of the test program indicated that, based on the inlet/outlet VOC concentration measurements, the adsorption unit reduced emissions to the atmosphere by approximately 95 percent. Although the adsorber unit produced a 95 percent reduction in the VOC concentration emitted to the atmosphere, the solvent recovery efficiency was limited to approximately 80 percent, due primarily to solvent losses to the atmosphere during both the adsorption cycle and regeneration of the carbon beds. As a result, the carbon adsorber was found to be no more effective in reducing VOC emissions to the atmosphere than a recovery dryer.

The capital and annualized costs of carbon adsorbers are significantly higher than those of recovery dryers. These increased costs, along with the increased energy consumption, space requirements, and water pollution impacts of carbon adsorbers relative to recovery dryers, further reduce the likelihood that adsorbers would be used by the petroleum dry cleaning industry to control VOC emissions. Consequently, the carbon adsorber was not given further consideration for development of standards of performance for petroleum dry cleaning dryers.

Washer Controls. Petroleum solvent washers operate in a manner similar to that of home water washers. Articles are agitated in a bath of solvent, rinsed in clean solvent, and then spun at high speed to remove the excess solvent. As mentioned earlier, VOC emissions from washing operations are limited to fugitive emissions from door gaskets, pumps, pipes, and from the transfer of solvent-laden articles. While these

emissions have not been quantified and are not captured or controlled in normal operations, the inspection and prompt repair of door seals, pump gaskets and connections, and the general solvent piping system associated with the washer would minimize these emissions. (See section entitled General Fugitive Emission Controls.)

Filtration Controls. As discussed earlier, cartridge and diatomite filters are the most common forms of solvent filtration used in the petroleum dry cleaning industry. Presently, cartridge filtration comprises about 50 percent of the filtration systems being used in the petroleum dry cleaning industry. The other 50 percent is comprised of diatomite filtration. However, the incentives of lower capital costs and increased solvent recovery associated with the use of cartridge filtration are rapidly leading to industry-wide adoption of cartridge filtration.

VOC emissions from cartridge filtration systems result from evaporation of solvent retained in the filter cartridges after disposal as well as from minor fugitive vapor and liquid leaks in the filter housing and piping system. Currently, there is no technology for extracting solvent from used cartridges other than simple drainage in the closed filter housing.

Settling Tank Controls. As discussed earlier, settling tanks are used by some large petroleum dry cleaners in lieu of solvent filters. Solvent is pumped into the tank and heavy contaminants, such as lint and dirt, settle to the bottom. These contaminants are periodically removed from the tank. Emissions typically result from open containers of this waste and from its improper disposal. Covering of open containers of these wastes would reduce these emissions. (See section entitled General Fugitive Emission Controls.)

Vacuum Still Controls. As discussed earlier, vacuum stills are used in the majority of petroleum dry cleaning plants to remove grease, oil, and other solvent-soluble contaminants from the solvent by boiling it under a vacuum and condensing the vapors. The waste liquid remaining in the still is withdrawn and stored. Fugitive VOC emissions result from the storage and open-air disposal of this waste.

Reducing the solvent content of still wastes through use of various still operating procedures would result in reductions in VOC emissions from storage and disposal of these wastes. However, still operating procedures to minimize the solvent remaining in the still wastes vary with solvent throughput, fabrics, soil loading and still type. As a result, no still operating procedures have been identified which would result in consistent reductions in the solvent content of vacuum still wastes. Covering any containers of such wastes, however, would reduce fugitive emissions from these wastes. (See section entitled General Fugitive Emission Controls.)

General Fugitive Emission Controls. Fugitive emissions result when solvent liquid evaporates to the atmosphere. Each washer, dryer, filter, settling tank, and vacuum still contributes to the overall level of fugitive emissions in a given plant. Other sources of fugitive VOC emissions include liquid and vapor leaks in tanks and piping, and the evaporation of solvent from open containers.

The only ways to reduce or eliminate fugitive emissions are to: (1) Locate and repair liquid and vapor leaks; and (2) cover open containers of solvent or solvent wastes. Inspection of solvent pumps, storage and settling tanks, water separators, the general solvent piping system, and all containers of solvent or solvent wastes would identify leaks requiring repair and containers which should be covered. Repairing leaks and covering open containers would result in a substantial reduction in fugitive emissions.

Selection of the Basis for Proposed Standards

Three regulatory alternatives were considered during development of the proposed standards. These alternatives were based on the emission control technologies discussed above and each represents a different level of emission control resulting from use of a particular combination of control techniques.

Regulatory Alternative I represents no additional regulatory action. It represents the level of control that would occur in the absence of the proposed standards. This alternative is referred to as the baseline.

Conventional (non-recovery) dryers are assumed to represent the baseline for dryer emissions. While some dry cleaners are currently purchasing recovery dryers, the number of these purchases falls far short of the projected number of total dryer purchases due to growth and replacement.

Cartridge filters are also assumed to represent the baseline for solvent filtration systems because of the storng movement to these systems in the industry. This assumption is supported by recent sales of filtration systems.

Regulatory Alternative II would reduce fugitive VOC emissions from a dry cleaning plant through good housekeeping parctices. Such practices would eliminate perceptible fugitive leaks by way of an effective leak detection and repair program, and would minimize cartridge filter fugitive emissions by requiring a minimum drain time of 8 hours for used cartridge filters prior to disposal. Although specific costs and emission reductions associated with Alternative II have not been quantified, it is estimated that this alternative would result in less than a 9 percent reduction in VOC emissions beyond the baseline (i.e., Regulatory Alternative I).

Regualtory Alternative III is based on the use of a recovery dryer instead of a conventional dryer. In addition, Alternative III would require use of the good housekeeping practices of Regulatory Alternative II for cartridge filters and leak repair. This alternative would result in an average annual emission reduction of about 65 percent beyond the baseline.

The environmental, energy, and economic impacts of each regulatory alternative were analyzed through the use of model plants. Five model plants were used in the analysis to represent small, medium, and large commercial plants, and small and large industrial plants.

Under Regulatory Alternative I, nationwide VOC emissions from the petroleum dry cleaning industry would total an average of 18,600 megagrams in the fifth year following proposal of the standards. Under Regulatory Alternative II, total VOC emissions would be essentially equivalent to those of Regulatory Alternative I. The use of good housekeeping practices would result in only a slight decrease in VOC emissions. Under Regulatory Alternative III, the fifth years nationwide VOC emissions from the petroleum dry cleaning industry would be reduced by an average of 11,300 megagrams following proposal of the standards.

There would be no adverse water pollution or solid waste disposal impacts associated with Regulatory Alternative II relative to Regulatory Alternative I. Regulatory Alternative III would result in a small increase in the discharge of solvent-laden wastewater from the dry cleaning industry. This effluent would consist of dissolved solvent in the water discharged from the recovery dryer gravimetric separator which separates recovered solvent from water. The use of recovery dryers would result in an average fifth year nationwide petroleum solvent discharge of about 235 liters (60 gallons) in the wastewater. There would be no additional solid waste impacts associated with Regulatory Alternative III beyond those of Alternative I.

Nationwide energy consumption by conventional petroleum dry cleaning dryers covered by the proposed standards in the fifth year following proposal would average approximately 397 terajoules (376 billion Btu's) under Regulatory Alternative I. The food housekeeping practices employed to reduce emissions under Regulatory Alternative II would not affect energy consumption. Regulatory Alternative III, however, would result in an average reduction in nationwide energy consumption of approximately 45 percent or 220 terajoules (209 billion Btu's) in the fifth year following proposal of the standards. This reduction results because recovery dryers require much less stream to maintain the required temperature in the tumbler and have smaller blower motors than conventional dryer.

Total capital and annualized costs that would be imposed on the petroleum dry cleaning industry were analyzed to determine the economic impact of each regulatory alternative. Capital costs reflect the purchase and installation of dryers and equipment associated with their operation. Annualized costs reflect capital charges, utilities, maintenance and repairs, and operating labor associated with use of this equipment.

Regulatory Alternative I represents the baseline. Consequently, this alternative would impose no additional capital or annualized costs on the petroleum dry cleaning industry.

Regulatory Alternative II would not require the installation of any equipment. Therefore, there are no additional capital costs associated with this alternative. The good housekeeping practices for reducing fugitive emissions required by this alternative would result in little or no annualized costs and small savings of solvent.

Regulatory Alternative III would require the use of recovery dryers rather than conventional dryers. This would increase the nationwide capital costs to the dry cleaning industry by $4.7 million above the baseline in the fifth year following proposal of the standards. Although recovery dryers cost from two to three times as much as a conventional dryer and may require the addition of cooling water equipment, they result in an overall decrease in annualized costs due to the savings accrued by recovery of petroleum solvent for reuse. As a result, Regulatory Alternative III would result in an average annualized cost savings of about $3.6 million in the fifth year following proposal of the standards.

An economic analysis was performed to determine how the capital requirements of the regulatory alternatives would affect the finances of dry cleaning plants. This analysis evaluated the impacts of the regulatory alternatives in terms of their effects on plant earnings, the ability of the dry cleaner to purchase control equipment with internal funds, and the ability of the dry cleaner to obtain financing of control equipment.

The analysis indicates that all size plants, both commercial and industrial, could fund the capital requirements for Alternative II from internal funds alone. Because Alternative II would require only the use of good housekeeping practices, this alternative would have little impact on the economics of any plant.

The provisions of Alternative III would require a significant increase in capital costs over Alternatives I and II due to the requirement for installation of solvent recovery dryers. These dryers have installed costs of approximately $23,000 each, compared to conventional dryers with installed costs of approximately $7,000 each. Although recovery dryers result in an annualized cost savings due to solvent recovery, these savings are proportional to the dry cleaning throughput. Consequently, dry cleaning plants with lower throughputs would have more difficulty financing the installation of solvent recovery dryers than plants with higher throughputs. A "real" interest rate of 10 percent over a loan period of 5 years was assumed in the economic analysis. A "real," rather than a "nominal," cost of capital was used in the analysis in order to avoid having to make assumptions about future inflation rates. Assuming an inflation rate of 8 percent, a 10 percent "real" cost of capital is equivalent to an 18.8 percent "nominal" cost of capital. Based on this assumption, Regulatory Alternative III would increase annualized costs for small and medium commercial dry cleaning plants. Because of solvent recovery credits, large commercial dry cleaning plants and industrial dry cleaning plants would not experience an increase in annualized costs.

The magnitude of the potential increase in annualized costs of Alternative III on small and medium commercial plants would be about 90 and 25 percent, respectively, of the plants' baseline earnings before taxes. The ability of these plants to finance the purchase of recovery dryers from internal cash flow was evaluated, and small and medium commercial dry cleaning plants were found to have the lowest potential for internal financing. Therefore, the ability of these plants to obtain commercial (bank) financing was examined. Based on a comparison of overall plant earnings with anticipated interest payments resulting from the purchase of recovery dryers, both small and medium commercial plants would probably experience difficulty in obtaining financing due to the disproportionately high interest charges in relation to their limited earnings.

Because the economic attractiveness of recovery dryers relates closely to the scale of dry cleaning throughput, a level of throughput can be identified at which the net annualized costs of Alternative III would be no greater than those of Alternative I (i.e., the regulatory baseline). This level occurs at a throughput of about 60,000 kilograms (132,000 pounds) of articles cleaned per year. A commercial plant with this throughput level would have an annual cash flow equal to 129 percent of the capital requirements for installation of a recovery dryer. This indicates the plant would be in a strong position to fund the capital requirements for a recovery dryer largely from internal cash flow. Consequently, an exemption for dry cleaning plants with a dry cleaning throughput less than or equal to 60,000 kilograms (132,000 pounds) of articles cleaned per year was incorporated into Regulatory Alternative III.

With this exemption for small dry cleaning plants, Regulatory Alternative III would reduce cumulative nationwide VOC emissions from the dry cleaning industry by an average of 22,700 megagrams through the fifth year following proposal of the standards, and nationwide VOC emissions reductions would average 7,600 megagrams in the fifth year following proposal of the standards. While this represents a 41 percent average reduction beyond Alternative I (baseline) emissions, it reflects a 33 percent increase in emissions beyond the emissions without the exemption of small dry cleaning plants. The nationwide increase in total capital cost for Regulatory Alternative III with the exemption in the fifth year following proposal of the standards would be $1.6 million. The nationwide decrease in annualized cost for Regulatory Alternative III with the exemption in the fifth year would be $3.6 million. The cumulative annualized cost savings for Regulatory Alternative III with the exemption through the fifth year would be an average of $10.9 million. Overall, the average total cost-effectiveness of emission control resulting from Alternative III with the exemption in the fifth year following proposal of the standards is a savings of about $470 per megagram of emission reduction.

Regulatory Alternative III, as modified by the exemption for small dry cleaning plants, would not impose any adverse economic impacts on the petroleum dry cleaning industry. This alternative would, however, result in a substantial reduction in emissions. Consequently, Regulatory Alternative III, with an exemption for small dry cleaning plants, was selected as the basis for the proposed standards.

Selection of the Format of the Proposed Standards

Section 111(b) of the Clean Air Act requires that standards of performance reflect the degree of emission limitation achievable through application of the best demonstrated technological system of continuous emission reduction. Section 111(h) permits the promulgation of design, equipment, work practice, or operation standards under conditions where (1) a pollutant cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

Emissions vented to the atmosphere from dryers could be regulated by either numerical emission limits or equipment standards. Emission limits would require emission tests to demonstrate compliance. Because of the variability of emissions from dryers, emission tests would have to be conducted over an extended period of time (approximately 4 weeks). The cost of such an emission test would exceed $16,000. This is nearly equivalent to the purchase price of the recovery dryer itself. Therefore, numerical emission limits for dryers are considered unreasonable. Likewise, numerical emission limits for fugitive emissions are impracticable because these emissions are not conveyed through ducts or other sources where they can be captured or measured. Consequently, equipment and work practice standards were selected as the format for the proposed standards.

Selection of Equipment Standards

Regulatory Alternative III is based on the use of a cartridge filter and a recovery dryer. The proposed standards require that new petroleum solvent dryers and filtration systems be recovery dryers and cartridge filters in dry cleaning establishments which consume more than 17,800 liters (4,700 gallons) of petroleum solvent annually.

Initially, consideration was given to expressing the exemption for small dry cleaning plants in terms of annual dry cleaning throughput, as it was incorporated into Regulatory Alterative III. However, industry representatives pointed out that an exemption based on annual plant solvent consumption was more reasonable because plants generally maintain records of solvent consumption rather than annual dry cleaning throughput. Plant solvent consumption, therefore, was selected for the purpose of expressing the exemption for small dry cleaning plants.

An annual solvent consumption of 17,800 liters (4,700 gallons) per year is equivalent to the exemption level of 60,000 kilograms (132,000 pounds) of dry cleaning throughput per year which was incorporated into Regulatory Alternative III. Derivation of this solvent consumption level may be found in item number II–B–50, Docket A–80–2.

To decide whether a petroleum dry cleaning plant is subject to these standards, the most reasonable method of determining annual solvent consumption is to examine records of total plant solvent consumption for the 12 month period prior to purchase of the dryer. Although a single year may not be representative of typical operation due to routine fluctuations in business cycles, multi-year averages may not be practical since dry cleaners may not keep extensive historical records.

In order to determine the applicability of the standards, the previous year's solvent consumption can be used to project future solvent consumption only in plants where an existing dryer is being replaced with a new dryer of the same capacity. Historic solvent consumption cannot account for the solvent that would be consumed in existing plants that are expanding dry cleaning capacity or in new dry cleaning plants. Determining the applicability of the standards in these instances would require a projection of solvent consumption based on planned capacity additions.

Thus, to decide whether petroleum solvent dryers, filters, washers, settling tanks, and vacuum stills are subject to these standards, annual solvent consumption would be calculated with one of three procedures. When these facilities are installed in a plant that is not expanding the manufacturers' rated capacity of its petroleum solvent dryer(s), plant solvent consumption would be calculated from receipts for petroleum solvent purchased during the previous 12 months. When the facilities are installed in a plant that is expanding the total, plant manufacturers' rated, petroleum solvent dryer capacity, plant solvent consumption would be projected by multiplying the previous 12 month's solvent consumption by the ratio of total manufacturers' rated dryer capacity after the expansion to the total manufacturers' rated dryer capacity prior to the expansion. When these facilities are installed in a new plant, plant solvent consumption would be projected by multiplying the total manufacturers' rated dryer capacity in pounds (kilograms) by a factor of 56 gallons (467 liters) of petroleum solvent per pound (kilogram) of total manufacturers' rated dryer capacity. Derivation of this factor may be found in item number II–B–50, Docket A–80–2.

Selection of Work Practice Standards

Regulatory Alternative III includes work practice standards for cartridge filters and solvent liquid and vapor leaks.

The operating parameters associated with cartridge filters were analyzed to determine the time that used cartridges should drain in their sealed housing to minimize VOC emissions from disposed cartridges. A drain time of 8 hours was found to minimize VOC emissions. Typically, this requirement could be met by overnight draining and would not hinder plant operations. Thus, the standards would require no less than 8 hours of drain time for used cartridges prior to their disposal.

The proposed standards would also require inspection, detection, and repair of perceptible solvent leaks from all affected facilities (i.e., dryers, washers, filters, stills, and settling tanks). Any liquid or vapor leak large enough to drip, run off, or bubble after application of a soap solution would be considered "perceptible" and would have to be repaired following identification. Inspections would have to be conducted at least every 15 days, and leaks detected in these inspections would have to be repaired within 15 days. If repairs parts are not available, parts would have to be ordered within 15 days, and the repairs would have to be completed within 15 days of the arrival of the necessary parts.

Selection of Test Requirements

Section 111(h)(1) of the Clean Air Act requires that an equipment standard must include provisions that will assure the proper operation and maintenance of the equipment.

The parameter which provides the best indication of optimum emission reduction from the recovery dryer is the solvent recovery rate. Measurement of this rate allows the owner or operator to determine when the optimum drying time has been reached. If the drying cycle is too short, excess solvent will remain in the clothes. This results in increased emissions during the exhaust/

cool-down cycle. Measuring the solvent recovery rate allows the owner or operator to maximize the recovery of petroleum solvent while minimizing VOC emissions.

Based on test data from a well-operated recovery dryer processing a wide variety of articles, it was found that a solvent recovery rate of 0.05 liter per minute indicated that the optimum amount of solvent had been recovered. Further drying would have been exorbitantly costly because of increasing operating costs and decreasing solvent recovery. Therefore, a solvent recovery rate of 0.05 liter per minute was selected to indicate optimum emission reduction from the recovery dryer.

A 2-week test period is sufficient to establish optimum solvent recovery rates for the range of fabrics and loads normally cleaned in a dry cleaning plant. During this test period, the plant owner or operator would monitor both the solvent recovery rate and the duration of the recovery cycle for at least 50 percent of the loads dried. The exhaust/cool-down cycle should not begin until the solvent recovery rate is 0.05 liter per minute or less. Since it is to the benefit of the owner to optimize solvent recovery, the experience of this short-term test would be sufficient to ensure effective operation of the system in the future.

The suggested point for measuring the flow rate of recovered solvent is at the outlet of the solvent-water separator. Near the end of the recovery cycle, the flow of recovered solvent should be diverted to a graduated cylinder. The recovery cycle should continue until the minimum flow of solvent is 0.05 liter per minute. The type of articles cleaned and the total duration of the recovery cycle should then be recorded. The proposed standards would require that this information be maintained on site.

Analysis of Reporting and Recordkeeping Impacts

The General Provisions of 40 CFR Part 60, which apply to standards of performance, would require one type of report to notify the EPA that an affected facility has been installed. Each new dryer, washer, filter, still, and settling tank would be considered an affected facility. The proposed standards would require the owner or operator to keep on file the results of the initial 2 week solvent recovery rate and recovery cycle duration test for the recovery dryer. The documentation of this test would include the name of the individual performing the test, date, and the test results. These records would be kept on file at the dry cleaning plant available for inspection.

To determine whether a petroleum solvent washer, dryer, filter, still, or settling tank would be subject to these standards, a dry cleaner would be required to document annual solvent consumption using the procedures previously discussed. In addition, when these facilities are installed in an existing plant, a dry cleaner would be required to maintain a record of the volume of petroleum solvent consumed in the plant during the 12 months prior to the purchase.

The resources needed by the industry to collect, prepare, and maintain these records through the first 5 years after proposal of the standard would be about 3.2 person-years.

The reporting and recordkeeping provisions in this rule will be submitted for approval to the Office of Management and Budget (OMB) under Section 3504(b) of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting and recordkeeping provisions respond to OMB and public comments.

Equivalent Systems of Emission Reduction

The Administrator may approve, after notice and an opportunity for a public hearing, the use of other emission control equipment or procedures of operation that can be shown to be equivalent, in terms of reducing VOC emissions, to those prescribed in the proposed regulation. Section 111 (h)(3) of the Clean Air Act states:

> If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of (the standards), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

Equivalency to the equipment specified in the proposed standards could be demonstrated by any person, including users or manufacturers. In order to determine equivalency, one would have to show that the alternative control technology or procedures of operation would produce equivalent emission reduction to that achieved by the standards. A request for equivalence should be submitted to the Administrator and should describe the design and operation of the emission control device or procedure, the date of any testing, the test site, the test procedures, and the test results including all operating parameters that affect emissions. The equivalence provisions of the proposed standards have been developed to minimize their adverse impacts on the innovation and development of new or lower cost emission control techniques.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section in this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section, in Washington, D.C. (See **ADDRESSES** section of this preamble.)

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and to locate documents rapidly so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for inter-agency review materials (section 307(d)(7)(A))).

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for petroleum dry cleaners was preceded by the Administrator's determination that VOC emissions from dry cleaning contribute significantly to air pollution which may be reasonably anticipated to endanger public health or welfare.

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulations, including the technological issues and the inspection program. Any comments submitted to the Administrator should contain specific information and data pertinent to these issues.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

In addition to economics, the cost effectiveness of alternative standards was also evaluated in order to determine the least costly way to reduce emissions and to assure that the controls required by this rule are reasonable relative to other VOC regulations. In this case, the proposed standards would reduce the dry cleaners' operating costs, and produce an average 5-year total cost effectiveness savings of $470 per megagram of VOC emission reduction. Additional detail on costs can be found in the background information document.

Standards of performance have other benefits in addition to achieving reductions in emissions. Standards of performance provide documentation which reduces uncertainty in case-by-case determination of best available control technology (BACT) for facilities located in attainment areas and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of industry, government, and the public. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Because the recommended control equipment results in the recovery of solvent which would otherwise be lost, the effect of this regulation is to reduce costs. No increase in the price of dry cleaning services attributable to implementation of these proposed standards is expected. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

Regulatory Flexibility

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Determination of the need to perform a Regulatory Flexibility Analysis is based upon the consideration of three factors: (1) The maximum size of a small business; (2) the number of small businesses affected; and (3) the expected economic impacts.

The Small Business Administration has several definitions for small businesses. In the case of service industries such as petroleum dry cleaners, "small" is defined as having revenues less than or equal to $2 million. Almost all petroleum dry cleaners qualify as small businesses under this definition, except for large industrial plants.

However, as previously discussed, only dry cleaning plants with annual dry cleaning throughputs less than or equal to 60,000 kilograms (132,000 pounds) of articles would have difficulty financing the equipment requirements of these standards. These dry cleaning plants are exempt from the standards. Dry cleaning plants with throughputs above this level would have the same or lower costs and the same or higher profits as a result of the standards. Therefore, because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed rule (if promulgated) will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium, Sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: December 8, 1982.

Anne M. Gorsuch,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

1. Add Subpart JJJ to the table of sections as follows:

* * * * *

Subpart JJJ—Standards of Performance for Petroleum Dry Cleaners

Sec.

60.620 Applicability and designation of affected facility.
60.621 Definitions.
60.622 Standards for volatile organic compounds.
60.623 Equivalent equipment and procedures.
60.624 Test methods and procedures.
60.625 Recordkeeping requirements.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a), and additional authority as noted below.

2. Add Subpart JJJ as follows:

Subpart JJJ—Standards of Performance for Petroleum Dry Cleaners

§ 60.620 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities located at a petroleum dry cleaning plant with an annual petroleum solvent consumption that exceeds 17,800 liters (4,700 gallons): petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks.

(1) When the affected facility is installed in a plant that is not expanding the manufacturers' rated capacity of its petroleum solvent dryer(s), plant solvent consumption would be calculated from

receipts for petroleum solvent purchased during the previous 12 months.

(2) When the affected facility is installed in a plant that is expanding the manufacturers' rated capacity of its petroleum solvent dryers, plant solvent consumption would be projected by multiplying the previous 12 months' solvent consumption by the ratio of total manufacturers rated dryer capacity prior to the expansion.

(3) When the affected facility is installed in a new plant, plant solvent consumption would be projected by multiplying the total manufacturers' rated dryer capacity in pounds (kilograms) by a factor of 56 gallons (463 liters) of petroleum solvent per pound (kilograms) by a factor of 56 gallons (467 dryer capacity.

(b) Any facility under paragraph (a) of this section that commences construction or modification after December 14, 1982, is subject to the requirements of this part.

§ 60.621 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in subpart A of this part.

"Cartridge filter" means a discrete filter unit containing both filter paper and activated carbon which traps and removes contaminants from petroleum solvent, together with the piping and ductwork used in the installation of this device.

"Dryer" means a machine used to remove petroleum solvent from articles of clothing or other textile or leather goods, after washing and removing of excess petroleum solvent, together with the piping and ductwork used in the installation of this device.

"Manufacturers' rated dryer capacity" means the dryer's rated capacity of articles, in pounds or kilograms, that is typically found on each dryer on the manufacturer's name-plate.

"Perceptible leaks" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation or that bubble after application of a soap solution, such as pools or droplets of liquid, open containers of solvent, or solvent laden waste standing open to the atmosphere.

"Petroleum dry cleaner" means a dry cleaning facility that uses petroleum solvent in a combination of washers, dryers, filters, stills, and settling tanks.

"Settling tank" means a container which gravimetrically separates oils, grease, and dirt from petroleum solvent, together with the piping and ductwork used in the installation of the device.

"Solvent filter" means a discrete solvent filter unit containing a porous medium which traps and removes contaminants from petroleum solvent, together with the piping and ductwork used in the installation of this device.

"Solvent recovery dryer" means a class of dry cleaning dryers that employs a condenser to condense and recover solvent vapors evaporated in a closed-loop stream of heated air, together with the piping and ductwork used in the installation of this device.

"Still" means a device used to volatilize, separate, and recover petroleum solvent from contaminated solvent, together with the piping and ductwork used in the installation of this device.

"Washer" means a machine which agitates fabric articles in a petroleum solvent bath and spins the articles to remove the solvent, together with the piping and ductwork used in the installation of this device.

§ 60.622 Standards for volatile organic compounds.

(a) Each affected petroleum solvent dry cleaning dryer that is installed at a petroleum dry cleaning plant shall be a solvent recovery dryer. The solvent recovery dryer(s) shall be properly installed, operated, and maintained.

(b) Each affected petroleum solvent filter that is installed at a petroleum dry cleaning plant shall be a cartridge filter. Cartridge filters shall be drained in their sealed housings for at least 8 hours prior to their removal.

(c) Each owner or operator of an affected facility shall inspect the affected facility every 15 days and repair all perceptible petroleum solvent vapor and liquid leaks within 15 working days after identifying the leaks. If needed repair parts are not on hand, the owner or operator shall order these parts within 15 working days, and repair the leaks no later than 15 working days following the arrival of the necessary parts.

§ 60.623 Equivalent equipment and procedures.

(a) Upon written application from any person, the Administrator may approve the use of equipment or procedures that have been demonstrated to her satisfaction to be equivalent, in terms of reducing VOC emissions to the atmosphere, to those prescribed for compliance within a specified paragraph of this subpart. The application must contain a complete description of the equipment or procedure, the testing method, the date, time and location of the test, and a description of the test results. Written applications shall be submitted to the Administrator, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(b) The Administrator will make a preliminary determination of whether or not the application for equivalency is approvable and will publish a notice of these findings in the **Federal Register.** After notice and opportunity for public hearing, the Administrator will publish the final determination in the **Federal Register.**

§ 60.624 Test methods and procedures.

Each owner or operator of an affected facility subject to the provisions of § 60.622(a) shall perform a one-time test to verify that the flow rate of recovered solvent from the solvent recovery dryer at the termination of the recovery cycle is no greater than 0.05 liter per minute. This one-time procedure shall be conducted for a duration of no less than 2 weeks during which no less than 50 percent of the dryer loads shall be monitored for their final recovered solvent flow rate. The suggested point for measuring the flow rate of recovered solvent is from the outlet of the solvent-water separator. Near the end of the recovery cycle, the flow of recovered solvent should be diverted to a graduated cylinder. The cycle should continue until the minimum flow rate of solvent is 0.05 liter per minute. The type of articles cleaned and the total length of the cycle should then be recorded.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.625 Recordkeeping requirements.

(a) Each owner or operator of an affected facility shall document, according to the provisions of § 60.622(a), the calculation of annual petroleum solvent consumption of the dry cleaning plant and the receipts for petroleum solvent consumed in the plant during the 12 months prior to the purchase of the facility.

(b) Each owner or operator of an affected facility subject to the provisions of this subpart shall maintain a record of the performance test required under § 60.624(b)).

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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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