AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

3-15-83
Vol. 48 No. 51
Pages 10801-11100

federal register

Tuesday
March 15, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Classified Information
Science and Technology Policy Office

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodity Futures
Commodity Futures Trading Commission

Endangered and Threatened Wildlife
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Additives
Food and Drug Administration

Food Grades and Standards
Agricultural Marketing Service
Food and Drug Administration

Income Taxes
Internal Revenue Service

Loan Programs—Communications
Rural Electrification Administration

Manpower Training Programs
Employment and Training Administration

CONTINUED INSIDE



Selected Subjects

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

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

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

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

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

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Mortgage Insurance
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Nutrition
Food and Nutrition Service

Organization and Functions (Government Agencies)
Federal Emergency Management Agency

Pensions
Pension Benefit Guaranty Corporation

Radio
Federal Communications Commission

Radio Broadcasting
Federal Communications Commission

Surety Bonds
Customs Service

Television Broadcasting
Federal Communications Commission

Trade Practices
Federal Trade Commission

Travel and Transportation Expenses
Animal and Plant Health Inspection Service

Contents

Federal Register
Vol. 48, No. 51
Tuesday, March 15, 1983

The Vice President
NOTICES
10898 Financial services, regulation; inquiry; extension of time

Executive Agencies

Agricultural Marketing Service
RULES
10805 Celery grown in Fla.
10804 Oranges, grapefruit, tangerines, and tangelos grown in Fla.
10801 Potatoes, processed; grade standards
10806 Walnuts grown in Calif.
PROPOSED RULES
Milk marketing orders:
10848 Southeastern Florida

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Rural Electrification Administration; Soil Conservation Service.
NOTICES
Committees; establishment, renewals, terminations, etc.:
10898 Equal Opportunity Citizens' Advisory Committee

Animal and Plant Health Inspection Services
RULES
Overtime services relating to imports and exports:
10808 Commuted traveltime allowances
NOTICES
Animal welfare; lists:
10898 Horse protection; exhibitors, auctioneers, etc.; disqualification

Army Department
NOTICES
Meetings:
10901 Medical Research and Development Advisory Committee

Bonneville Power Administration
NOTICES
10903 Generic contracts for sale of energy for use by idle industrial capacity and irrigation loads; availability and inquiry

Centers for Disease Control
NOTICES
10922 Advisory committees; annual reports; availability

Civil Aeronautics Board
NOTICES
10900 Agency forms submitted to OMB for review
Hearings, etc.:
10900 First American Bank of Virginia

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
PROPOSED RULES
Domestic exchange-traded commodity options:
10857 Margin requirements; pilot options program

Consumer Product Safety Commission
NOTICES
11006 Meetings; Sunshine Act

Customs Service
PROPOSED RULES
11032 Customs bond structure, revision
NOTICES
Trade name recordation applications:
11003 Bayer Co.

Defense Department
See also Army Department.
NOTICES
10902 Agency forms submitted to OMB for review (2 documents)
Meetings:
10902, 10903 Electron Devices Advisory Group (2 documents)

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
10905 Public Service Electric & Gas Co.
Remedial orders:
10904 Corpening Enterprises
10905 TXO Oil Co.

Employment and Training Administration
RULES
11076 Job Training Partnership Act programs; implementation
NOTICES
Adjustment assistance:
10947 California Portland Cement Co. et al.
10948 New Process Gear Corp.
10948 Labor surplus area classifications; annual list; additions
10950 Wagner-Peyser activities, preliminary planning estimates; 1984 FY

Energy Department
See also; Bonneville Power Administration, Economic Regulatory Administration Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
10830 New Hampshire
10828 Pennsylvania
10834 Tennessee
10833 Virginia
Air quality planning purposes; designation of areas:
10836 Ohio

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
11092 Indiana
11093 New York
Hazardous waste managment system:
10877 Identification and listing; warfarin and zinc phosphide; correction

Federal Communications Commission
RULES
Common carrier services; telephone companies:
10843 Annual Report Form M, depreciation techniques; correction
Radio services; special:
10845 Maritime services; inland waterways communications systems
Radio stations; table of assignments:
10844 Kansas
PROPOSED RULES
Radio stations; table of assignments:
10893 California
10888 Colorado
10894 Indiana
10889 Kansas
10890 Michigan
10895 North Dakota
Television stations; table of assignments:
10887 Alaska
10892 Washington
NOTICES
Hearings, etc.:
10915 Akin, Raymond F., et al.
10916 Delta Communications, Ltd., et al.
10916 KMAP, Inc., et al.
10917 Metro Broadcasting, Inc., et al.
10918 Santee Cooper Broadcasting Co. of Hilton Head, Inc., et al.

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
10842 Colorado et al.
10836 Organization, functions, and authority delegations
PROPOSED RULES
Flood elevation determinations:
10877 Alaska et al.

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
10906 Arkansas Louisiana Gas Co.
10906 Central Illinois light Co.
10906, 10907 Connecticut Light & Power Co. (2 documents)
10908 Dayton Power & Light Co. (2 documents)
10909 Detroit Edison Co.
10909 Holyoke Water Power Co.
10909, 10910 Kansas Gas & Electric Co. (3 documents)
10910 Michigan Wisconsin Pipe Line Co.
10910 Niagara Mohawk Power Corp.
10911 Northwest Pipeline Corp. (2 documents)
10912 Pacific Gas & Electric Co.
10907 Public Service Co. of New Mexico (2 documents)
10913 Texas Eastern Transmission Corp. et al.
10913 Western Massachusetts Electric Co.
Natural Gas Policy Act:
10913 Fuel oil displacement transportation certificates; applications filed by various companies; Tennessee Gas Pipeline Co.
Small power production and cogeneration facilities; qualifiying status; certification applications, etc.:
10908 Jeanerette Sugar Co.

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
Mortgage and loan insurance programs:
10858 Multifamily programs; bonding requirements

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
10920 International Cargo Network
10920 M & A Cargo Services Inc.
10920 Savir, Inc.
10920 Sea-Wing International, Inc.
10921 Williams, Charles

Federal Mine Safety and Health Review Commission
NOTICES
11006 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
10921 Ellis Banking Corp.
10922 Sunshine Bankshares Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
10921 Barclays Bank PLC et al.

Federal Trade Commission
RULES
Prohibited trade practices:
10809 American Dental Association
10810 Foremost Dairies, Inc.
10810 Plaskolite, Inc.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
10896 San Francisco Peaks groundsel; reopening of comment period

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
10815 Hygromycin B; correction
10815 Lasalocid; conforming amendment
Color additives:
10811 D&C Red Nos. 6 and 7; permanent listing; correction
Food additives:
10814 Calcium disodium EDTA
Food additives and food for human consumption:
10811 Editorial amendments
Food for human consumption:
10812 Canned fruits with rum; repeal of identity standards
10812 Mushrooms, canned; identity standards and fill of containeer

NOTICES
Food for human consumption:
10924 Apricot, peach, and pear purees; defect levels for adulteration by mold; guide availability; inquiry
Human drugs:
10922 Anabolic steriod drug products; drug efficacy study implementation; exemption revoked, etc.; correction
Meetings:
10923 Advisory committees, panels, etc.

Food and Nutrition Service
PROPOSED RULES
Child nutrition programs:
10848 Nutrition education and training program; reduced administrative requirements

General Services Administration
NOTICES
Meetings:
10922 Advisory Board

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Public Health Service.

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing

Indian Affairs Bureau
NOTICES
10926 School construction priorities list, 1984 FY

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
10816 Reforestation expenditures, amortization; temporary
PROPOSED RULES
Income taxes:
10862 Addition to tax for substantial understatement of liability
10860 Reforestation expenditures; amortization cross-reference, etc.
10868 Top-heavy pension, profit-sharing, and stock bonus plans
NOTICES
Meetings:
11004 Art Print Advisory Panel

International Trade Administration
NOTICES
Scientific articles; duty free entry:
10901 A.T. & S.F. Memorial Hospitals, Inc., et al.; correction
10900 California State University et al.

Interstate Commerce Commission
RULES
Motor carriers:
10846 Fuel surcharge program; owner-operator reimbursement rate
NOTICES
Motor carriers:
10932 Finance applications (2 documents)
10933, 10937 Permanent authority applications (2 documents)
10945 Released rates applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
10945 Clayton's, Inc., et al.
10946 Frank Potter Trucking Co., Inc., et al.
10945 Hayward Trucking, Inc., et al.
10945 Milbank Freightways, Inc., et al.
Rail carriers; contract tariff exemptions:
10947 Seaboard System Railroad, Inc., et al.
Railroad operation, acquisition, construction, etc.:
10946 Burlington Northern Railroad Co.; abandonment exemption
Railroad services abandonment:
10946 Chicago & North Western Transportation Co.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
NOTICES
Geothermal resources lease sales:
10927 New Mexico
Meetings:
10927 Butte District Grazing Advisory Board
10928 Canon City District Advisory Council
Recreation use permit systems:
10927 Moab District, Utah; change in commercial and non-commercial use fees
Withdrawal and reservation of lands, proposed, etc.:
10926 Arizona

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
10929 Samedan Oil Corp.
10928 Well-control, training and qualifications of personnel; list of approved schools

National Credit Union Administration
NOTICES
11006 Meetings; Sunshine Act (2 documents)

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
10846 Bering Sea and Aleutian Islands groundfish; foreign and domestic fishing
10846 Tanner crab off Alaska

NOTICES
10901 Government versus contract operation; intent to conduct reviews

National Park Service
NOTICES
Historic Place National Register; pending nominations:
10930 Idaho et al.
Meetings:
10929 Canaveral National Seashore Advisory Commission
10930 Missouri National Recreation River Advisory Group
10930 Southeast Regional Advisory Committee

National Science Foundation
NOTICES
Meetings:
10955 Behavioral and Neural Sciences Advisory Panel
10956 Environmental Biology Advisory Panel
10956 Equal Opportunities in Science and Technology Committee
10956 Physiology, Cellular, and Molecular Biology Advisory Panel
10956 Social and Economic Science Advisory Panel

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
10957, 10959 Consumers Power Co. (2 documents)
10959 Duke Power Co.
10959 Florida Power Corp. et al.
10960 Pacific Gas & Electric Co.
10960 Public Service Co. of Colorado
10960 South Carolina Electric & Gas Co. et al.
10961 Vermont Yankee Nuclear Power Corp.
Meetings:
10961, 10962 Reactor Safeguards Advisory Committee (3 documents)

Occupational Safety and Health Administration
NOTICES
Meetings:
10950 Occupational Safety and Health National Advisory Committee

Pension Benefit Guaranty Corporation
RULES
Plan benefits valuation:
10819 Non-multiemployer plans; interest rates and factors

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
10950 Aigner Co. et al.
10953 Cincinnati Bell Inc.

Personnel Management Office
RULES
Intergovernmental Personnel Act programs:
10801 Merit system standards; correction

Postal Service
NOTICES
10963 Privacy Act; systems of records; annual publication

Public Health Service
NOTICES
Grants; availability, etc.:
10925 Family planning nurse practitioner training projects
10924 General family planning training projects

Rural Electrification Administration
RULES
Telephone borrowers:
10807 Preloan procedures for cooperatives and applicants, and loans for system improvements and extensions (Bulletins 230–1, 320–4, and 320–14)

Science and Technology Policy Office
RULES
10820 National security information program; implementation

Securities and Exchange Commission
NOTICES
Hearings, etc.:
11000 Kingsport Power Co.
11001 O.N. Fund, Inc.
11001 Pruco Life Insurance Co. et al.
11006, 11007 Meetings; Sunshine Act (2 documents)
Self-regulatory organizations; proposed rule changes:
11002 Midwest Clearing Corp.

Small Business Administration
NOTICES
Disaster loan areas:
11003 Washington
Meetings; regional advisory councils:
11003 California
11003 Missouri

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
10898 Cromwell Riverfront Park Water-based Recreation Development RC&D Measure, Conn.
10899 Egypt Creek RC&D Measure, N.Y.
10899 Great Chazy River Boat Launching Facility RC&D Measure, N.Y.
10899 Spadra Creek Watershed, Ark.

State Department
NOTICES
Meetings:
11003 International Telegraph and Telephone Consultative Committee

Surface Mining Reclamation and Enforcement Office
RULES
Abandoned mine land reclamation program:
11098 Fee collection and coal production reporting
10820 Fund distribution and utilization; policy statement availability and inquiry

PROPOSED RULES
Coal exploration on non-Federal and non-Indian lands; Federal program regulation; various States:
10876 Nevada; withdrawn
NOTICES
Environmental statements; availability, etc.:
10931 Missouri abandoned mine land reclamation plan

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
11004 S–1985 Series

Separate Parts In This Issue

Part II
11032 Department of Treasury, Customs Service

Part III
11076 Department of Labor, Employment and Training Administration

Part IV
11092 Environmental Protection Agency

Part V
11098 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
900 ... 10801

7 CFR
51 ... 10801
905 ... 10804
967 ... 10805
984 ... 10806
1701 ... 10807

Proposed Rules:
227 ... 10848
1013 ... 10848

9 CFR
97 ... 10808

16 CFR
13 (3 documents) ... 10809, 10810

17 CFR
Proposed Rules:
33 ... 10857

19 CFR
Proposed Rules:
4 ... 11032
6 ... 11032
7 ... 11032
10 ... 11032
11 ... 11032
12 ... 11032
18 ... 11032
19 ... 11032
22 ... 11032
24 ... 11032
54 ... 11032
101 ... 11032
112 ... 11032
113 ... 11032
114 ... 11032
123 ... 11032
125 ... 11032
127 ... 11032
132 ... 11032
133 ... 11032
134 ... 11032
141 ... 11032
142 ... 11032
144 ... 11032
145 ... 11032
146 ... 11032
147 ... 11032
148 ... 11032
151 ... 11032
162 ... 11032
172 ... 11032
174 ... 11032

20 CFR
626 ... 11076
627 ... 11076
628 ... 11076
629 ... 11076
630 ... 11076
631 ... 11076
632 ... 11076
633 ... 11076
634 ... 11076
635 ... 11076
636 ... 11076
637 ... 11076
638 ... 11076

21 CFR
74 ... 10811
81 ... 10811
82 ... 10811
100 ... 10811
101 ... 10811
109 ... 10811
145 ... 10812
155 ... 10812
172 (2 documents) ... 10811, 10814
558 (2 documents) ... 10815

24 CFR
Proposed Rules:
205 ... 10858
207 ... 10858
213 ... 10858
221 ... 10858
232 ... 10858
241 ... 10858
242 ... 10858
244 ... 10858

26 CFR
15b ... 10816
Proposed Rules:
1 (3 documents) ... 10860–10868

29 CFR
2619 ... 10819

30 CFR
870 (2 documents) ... 10820, 11098
Proposed Rules:
928 ... 10876

32 CFR
2400 ... 10820

40 CFR
52 (4 documents) ... 10828–10834
81 (2 documents ... 10834, 10836
Proposed Rules:
52 ... 11092
261 ... 10877

44 CFR
2 ... 10836
64 ... 10842
Proposed Rules:
67 ... 10877

47 CFR
31 ... 10843
43 ... 10843
73 ... 10844
81 ... 10845
83 ... 10845
Proposed Rules:
73 (8 documents) ... 10887–10895

49 CFR
Ch. X ... 10846

50 CFR
611 ... 10846
671 ... 10846
675 ... 10846
Proposed Rules:
17 ... 10896

Rules and Regulations

Federal Register
Vol. 48, No. 51
Tuesday, March 15, 1983

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

Intergovernmental Personnel Act Programs; Standards for a Merit System of Personnel Administration

Correction

In FR Doc. 83–5584 beginning on page 9209 in the issue for Friday, March 4, 1983, make the following correction on page 9211:

In § 900.604(a)(1), the fifth line should read "these Standards satisfies any applicable".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Potatoes for Processing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the voluntary U.S. Standards for Grades of Potatoes for Processing. This action is the result of a request by the Potato Growers of Idaho, Inc., Idaho Association of Commerce and Industry (representing processors), and Ore-Ida (a multi-state processor), to update the current standards. This revision will provide industry with standards in alignment with current cultural and processing practices.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donald T. Paradis, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–2482.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "non-major" rule. It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices to consumers; individual industries; Federal, State or local govenment agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

In 1981 sixteen billion pounds of potatoes were processed by the potato industry. Of this amount, more than ten billion pounds were inspected by the Federal-State Inspection Service on the basis of complex grower-processor contract specifications which reference the standards. However, due to technological improvements on the part of processors and changes in cultural and marketing practices by growers, in recent years there have been an increasing number of exceptions to the requirements of the grade standards in grower-processor contracts. The increased flexibility incorporated in the revised standards will make them more useful in that not only do they reflect current industry practices but will readily accommodate future changes.

Potato Growers of Idaho, Inc., Idaho Association of Commerce and Industry (representing processors) and Ore-Ida (a multi-state processor), organizations representing a substantial part of the potato processing industry, requested a revision of the current U.S. Standards for Grades of Potatoes for Processing in effect since July 1963.

During 1981 a "Market Survey" was developed by program personnel in cooperation with industry. The survey outlined a proposed revision of the standards and was widely distributed to growers and processors for review and comment. Also, Department representatives attended a number of meetings with key state inspection and industry personnel in an effort to develop standards compatible with current industry practices. Comments received on the survey were generally favorable.

A proposal to revise the U.S. Standards for Grades of Potatoes for Processing was published in the **Federal Register** on October 19, 1982 (47 FR 46519). Copies of the proposal were widely distributed to interested persons for review and comment. Fifty-five responses were received during the period for comment which ended December 20, 1982. The comments were in general agreement with the proposed revision. Except for a few minor changes, mostly editorial in nature, this final rule remains essentially the same as the proposed rule.

Changes and additions to the standards include, but are not restricted to the following:

—"Usable Piece" is redefined to eliminate several trimming requirements. The number of requirements are reduced from ten to three and will eliminate most of the subjective determinations.

—In the application of these standards, tolerances are provided for lots which are graded or pre-sorted for size or quality. The current standards lack flexibility in this area in accommodating changing delivery practices.

—Tests for specific gravity and fry color are optional. The use of optional procedures, in lieu of fixed requirements, are preferable in that (1) not all processors use them, and (2) discretionary use of these procedures enables processors to provide incentives to growers to produce and deliver a better quality product.

—Test procedures for glucose determination have been eliminated.

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables and other products (inspection, certification, and standards).

Accordingly, the U.S. Standards for Grades of Potatoes for Processing (7 CFR 51.3410 through 51.3418) are revised to read as follows:

PART 51—[AMENDED]

Subpart—United States Standards for Grades of Potatoes for Processing [1]

Sec.

51.3410 Grades.
51.3411 Usable piece.
51.3412 Unusable material.
51.3413 Size.
51.3414 Application of standards.
51.3415 Definitions.
51.3416 Classification of defects.
51.3417 Optional test for specific gravity.
51.3418 Optional test for fry color.

§ 51.3410 Grades.

(a) "U.S. No. 1 Processing" consists of potatoes which meet the following requirements:

(1) Basic requirements:

(i) Similar varietal characteristics;

(ii) Moderately firm; and,

(iii) Fairly well shaped.

(2) Free from:

(i) Freezing or freezing injury;

(ii) Blackheart;

(iii) Late Blight Tuber Rot;

(iv) Southern Bacterial Wilt;

(v) Bacterial Ring Rot;

(vi) Insects, worms or larvae;

(vii) Soft rot and wet breakdown; and,

(viii) Loose sprouts, dirt and foreign material.

(3) Free from damage by any cause.

(4) *Size.* Unless otherwise specified, individual potatoes shall be not less than 2 inches in diameter or 4 ounces in weight. Percentage(s) of a larger size(s) and/or a maximum size may be specified.

(b) "U.S. No. 2 Processing" consists of potatoes or usable pieces of potatoes which meet the following requirements:

(1) Basic requirements:

(i) Similar varietal characteristics;

(ii) Moderately firm; and,

(iii) Not seriously misshapen.

(2) Free from:

(i) Freezing or freezing injury;

(ii) Blackheart;

(iii) Late Blight Tuber Rot;

(iv) Southern Bacterial Wilt;

(v) Bacterial Ring Rot;

(vi) Insects, worms or larvae;

(vii) Soft rot and wet breakdown; and,

(viii) Loose sprouts, dirt and foreign material.

(3) Free from serious damage by any cause.

(4) *Size.* Unless otherwise specified, whole potatoes shall be not less than 1½ inches in diameter, or usable pieces shall be not less than 4 ounces in weight. Percentage(s) of a larger size(s) and/or maximum size may be specified.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

§ 51.3411 Usable piece.

"Usable Piece" means that portion of the potato remaining after trimming, or as it occurs in the sample.

(a) Not have any unusable material;

(b) Unless otherwise specified, weigh at least 4 ounces; and,

(c) Must have at least 50% of peel remaining after trimming.

§ 51.3412 Unusable material.

"Unusable Material" consists of defective portions of potatoes, and potatoes which are frozen, affected by freezing injury, soft rot, wet breakdown, insects, worms, larvae, Blackheart, Late Blight Tuber Rot, Southern Bacterial Wilt, Bacterial Ring Rot, or which are seriously damaged by internal defects.

§ 51.3413 Size.

(a) The minimum size, maximum size or range in size may be specified in connection with the grade in terms of diameter or weight.

(b) Diameter means the greatest dimension in terms of inches or fractions of an inch measured at right angles to the longitudinal axis, without regard to the position of the stem-end.

(c) Weight means the minimum or maximum weight measured in terms of whole ounces. When a maximum weight is specified, the potato shall not be considered as oversize until it weighs the next higher ounce.

§ 51.3414 Application of standards.

In the application of these standards to determine the percentages of potatoes in any lot which meet the requirements of the respective grades or size categories, tolerances do not apply. However, for lots which are graded or pre-sorted for size or quality, offered for inspection and required to meet one of the grades, the following tolerances, by weight, are provided:

(a) For defects:

(1) *U.S. No. 1 Processing:* 10 percent for potatoes which fail to meet the requirements of this grade including not more than one-half of this tolerance, or 5 percent, for serious damage by any means, including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(2) *U.S. No. 2 Processing:* 10 percent for potatoes which fail to meet the requirements of this grade including not more than one-half of this tolerance, or 5 percent, for potatoes which are seriously damaged by internal defects occurring entirely within the vascular ring, including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(b) For loose sprouts, dirt and foreign material: 2 percent.

(c) For off-size:

(1) *Undersize:* 3 percent when the minimum size specified is less than 2¼ inches in diameter or less than 5 ounces in weight; and 5 percent when the minimum size specified is 2¼ inches or more in diameter or 5 ounces or more in weight.

(2) *Oversize:* 10 percent.

§ 51.3415 Definitions.

"Similar varietal characteristics" means that the potatoes in any lot have the same general shape, color, and character of skin and color of flesh.

"Fairly well shaped" means that the potato is not materially pointed, dumbbell-shaped, or otherwise deformed.[2]

"Moderately firm" means that the potato is not seriously shriveled or flabbly.[2]

"Not seriously misshapen" means that the potato is not seriously deformed and causing more than 10% waste when determining the non-peelable area directly due to shape.

"Soft rot or wet breakdown" means any soft, mushy or leaky condition of the tissue such as Leak, slimy soft rot, wet type Fusarium Tuber Rot, or wet breakdown following freezing injury or heat injury.

"Loose sprouts, dirt and foreign material" means unattached sprouts or sprouts that become detached during the grading of the sample, stems, vines, adhering dirt, loose dirt, stones, trash and other extraneous material.

"Damage" means any defect listed in § 51.3416, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which cannot be removed without a loss of more than 5 percent of the total weight of the potato.

"Serious Damage" means any defect listed in § 51.3416, or an equally objectionable variation of any of these defects, any other defect, or any combination of defects, which cannot be removed without a loss of more than 10 percent of the total weight of the potato.

"External Defects" are defects which can be detected externally. Cutting may be required to determine the extent of the injury.

[2] USDA Visual Aid, POT-L 1 Jan 81. This publication may be examined in the Fruit and Vegetable Division, Fresh Products Branch, AMS, U.S. Department of Agriculture, South Building, Washington, DC 20250, or any field office of the Fresh Fruit and Vegetable Inspection Service. Copies of this visual aid may be purchased from the John Henry Company, P.O. Box 17099, Lansing, MI 48901 or United Fresh Fruit and Vegetable Association, N. Washington at Madison, Alexandria, VA 22314.

"Internal Defects" are defects which cannot be detected without cutting the potato.

§ 51.3416 Classification of defects.

EXTERNAL DEFECTS

Defects	Maximum allowed for U.S. No. 1 processing	Maximum allowed for U.S. No. 2 processing
Air cracks	5% waste	10% waste.
Blackleg	5% waste	10% waste.
Bruises	5% waste	10% waste
Cuts	Smooth, not more than 10% of surface.	Smooth, not more than ¼ of surface.
Enlarged lenticels, discolored or sunken.	5% waste	10% waste.
Flea Beetle	5% waste	10% waste
Folded end	5% waste	10% waste.
Fusarium tuber rot	5% waste	10% waste.
Grass, wireworm	5% waste	10% waste.
Greening, light	5% waste	10% waste.
Growth cracks	See Footnote No. 2.	10% waste.
Grub	5% waste	10% waste.
Ingrown sprouts	5% waste	10% waste.
Nematodes	5% waste	10% waste.
Rhizoctonia, solid or thick mounded.	Not more than 10% of surface.	Not more than 25% of surface.
Rodent, bird damage.	5% waste	10% waste.
Scrab, pitted	5% waste	10% waste.
Scab, russet	25% of surface or 5% waste.	50% of surface or 10% waste.
Scab, surface	25% of surface or 5% waste.	50% of surface or 10% waste.
Scab, surface (elephant hide)	10% of surface or 5% waste.	25% of surface or 10% waste.
Second growth	5% waste	10% waste.
Scaling, surface cracks—when cracked, thick and has depth.	10% of surface or 5% waste.	25% of surface or 10% waste.
Sunburn	5% waste	10% waste.
Sunken discolored areas.	5% waste	10% waste.

INTERNAL DEFECTS

Defects	Maximum allowed for U.S. No. 1 processing	Maximum allowed for U.S. No. 2 processing
Occurring outside of or not entirely confined to the vascular ring		
Internal Black Spot, Internal Discoloration, Vascular Browning, Fusarium Wilt, Net Necrosis, Other Necrosis, Stem End Browning.	5% waste	10% waste.
Occurring entirely within the vascular ring		
Hollow Heart or Hollow Heart with Discoloration.	Area affected not to exceed that of a circle ⅞ inch in diameter in a 10 ounce potato.[1]	Area affected not to exceed that of a circle 1⅛ inches in diameter in a 10 ounce potato.[1]
Light Brown Discoloration (Brown Center).	Area affected not to exceed that of a circle ⅞ inch in diameter in a 10 ounce potato.[1]	Area affected not to exceed that of a circle 1⅛ inches in diameter in a 10 ounce potato.[1]
Internal Brown Spot and similar discoloration (Heat Necrosis).	Not more than the equivalent of 3 scattered spots ⅜ inch in diameter in a potato 6 ounces in weight or 2⅝ inches in diameter, or correspondingly lesser or greater number of spots in smaller or larger potatoes.	Not more than the equivalent of 6 scattered spots ⅜ inch in diameter in a potato 6 ounces in weight or 2⅝ inches in diameter or correspondingly lesser or greater number of spots in smaller or larger potatoes.

[1]Note: Or correspondingly lesser or greater areas in smaller or larger potatoes.

§ 51.3417 Optional test for specific gravity.

Tests to determine specific gravity shall be made in accordance with the procedures set forth in this section.

(a) The potatoes used for such determinations shall be:

(1) Taken at random from a composite sample drawn from containers representative of the lot.

(2) A comparable sample from a bulk load or storage bin.

(3) From a portion of the divided sample initially drawn or submitted for determination of grade or contract compliance.

(4) Representative of the lot with respect to size and quality.

The specific gravity for any lot of potatoes shall be the average of at least 3 corrected readings on separate tests from the composite sample. Specific gravity may also be determined, if requested, in accordance with size classifications or weighted value in proportion to size and/or grade separations in the lot.

(b) Specific gravity shall be determined by either;

(1) Calculation from the weights of the sample in air and in water made with USDA approved equipment. The reading obtained from each test shall be corrected for temperature variations using Table I.

(2) A hydrometer specifically designed for determining the specific gravity of potatoes.[3]

The pulp temperature of the potatoes and the temperature of water shall be recorded immediately before testing and the specific gravity reading corrected using Table I.

[3]The hydrometer is available from the Potato Chip/Snack Food Association, Crystal Square-3, Suite 903, 1735 Jefferson Davis Highway, Arlington, VA 22202.

TABLE I.—CORRECTION FACTORS FOR SPECIFIC GRAVITY OF POTATOES [4]

[Corrected to zero at 50° F potato temperature and 50° F water temperature]

	Water temperature (degrees Fahrenheit)									
	38°	40°	45°	50°	55°	60°	65°	70°	75°	80°
Potato temperature:										
38°	−0.0021	−0.0020	−0.0018	−0.0018	−0.0020	−0.0023	−0.0029	−0.0038	−0.0047	−0.0056
40°	−.0017	−.0016	−.0014	−.0014	−.0016	−.0019	−.0025	−.0034	−.0043	−.0052
45°	−.0009	−.0008	−.0006	−.0006	−.0008	−.0011	−.0017	−.0026	−.0035	−.0044
50°	−.0003	−.0002	0000	0000	−.0002	−.0005	−.0011	−.0020	−.0029	−.0038
55°	+.0001	+.0002	+.0004	+.0004	+.0002	−.0001	−.0007	−.0016	−.0025	−.0034
60°	+.0004	+.0005	+.0007	+.0007	+.0005	+.0002	−.0004	−.0013	−.0022	−.0031
65°	+.0005	+.0006	+.0008	+.0008	+.0006	+.0003	−.0003	−.0012	−.0021	−.0030
70°	+.0006	+.0007	+.0009	+.0009	+.0007	+.0004	−.0002	−.0011	−.0020	−.0029
75°	+.0007	+.0008	+.0010	+.0010	+.0008	+.0005	−.0001	−.0010	−.0019	−.0028
80°	+.0008	+.0009	+.0011	+.0011	+.0009	+.0006	0000	−.0009	−.0018	−.0027
85°	+.0009	+.0010	+.0012	+.0012	+.0010	+.0007	+.0001	−.0008	−.0017	−.0026
90°	+.0010	+.0011	+.0013	+.0013	+.0011	+.0008	+.0002	−.0007	−.0016	−.0025
95°	+.0011	+.0012	+.0014	+.0014	+.0012	+.0009	+.0003	−.0006	−.0015	−.0024
100°	+.0012	+.0013	+.0015	+.0015	+.0013	+.0010	+.0004	−.0005	−.0014	−.0023

[4]To apply correction factor, change actual specific gravity reading by adding or subtracting the appropriate factor according to the plus or minus sign.

When requested to convert the weight in water of 5000 gram samples used in the weight in air versus weight in water method of specific gravity determinations, the conversion to total solids shall be based on Table II.

TABLE II.—SPECIFIC GRAVITY CONVERSION CHART FOR 5,000 GRAMS OF POTATOES

Water weight	Specific gravity	Total solids
300	1.0638	17.2
310	1.0661	17.7
320	1.0684	18.2
322	1.0688	18.3
324	1.0693	18.4
326	1.0697	18.5
328	1.0702	18.6
330	1.0707	18.7
332	1.0711	18.8
334	1.0716	18.9
336	1.0720	19.0
338	1.0725	19.1
340	1.0730	19.2
342	1.0734	19.3
344	1.0739	19.4
346	1.0743	19.5
348	1.0748	19.6
350	1.0753	19.7
352	1.0757	19.8
354	1.0762	19.9
356	1.0766	20.0
358	1.0771	20.1
360	1.0776	20.2
362	1.0780	20.3
364	1.0785	20.4
366	1.0790	20.5
368	1.0794	20.6
370	1.0799	20.7
372	1.0804	20.8
374	1.0808	20.9
376	1.0813	21.0
378	1.0818	21.1
380	1.0822	21.2
382	1.0827	21.3
384	1.0832	21.4
386	1.0836	21.5
388	1.0841	21.6
390	1.0846	21.7
392	1.0851	21.8
394	1.0855	21.9
396	1.0860	22.0
398	1.0865	22.1
400	1.0870	22.2
402	1.0874	22.3
404	1.0879	22.4
406	1.0884	22.5
408	1.0888	22.6
410	1.0893	22.7
412	1.0898	22.8
414	1.0903	22.9
416	1.0908	23.0
418	1.0912	23.1
420	1.0917	23.2
422	1.0922	23.4
424	1.0926	23.5
426	1.0931	23.6
428	1.0936	23.7
430	1.0941	23.8
432	1.0946	23.9
440	1.0965	24.4
450	1.0989	24.9
460	1.1013	25.4
470	1.1040	26.0

Whenever the recorded water weight for an individual reading falls between two sets of numbers as indicated in Table II, the next higher reading shall be used.

§ 51.3418 Optional test for fry color.

Fry color may be determined in accordance with contract specifications by using the Munsell Color Standards for Frozen French Fried Potatoes, Third Edition, 1972, 64–1.[5] Select a minimum of twenty (20) potatoes at random from the official sample. Slice each potato from stem to blossom-end into ½ square inch strips. Unless otherwise specified, fry center cut strips in oil for a minimum of 3 minutes at 350°F or 2½ minutes at 375°F.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended ([7 U.S.C. 1622, 1624]))

Done at Washington, D.C. on: March 8, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-6439 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-02-M

[5] Munsell Color Standards for Frozen French Fried Potatoes, Third Edition, 1972, 64–1, may be purchased from the Munsell Color Co., 2441 North Calvert St., Baltimore, MD 21218.

---

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 6, Amdt. 21]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter requirement applicable to fresh domestic and export shipments of Honey tangerines from 2$^{9}/_{16}$ inches to 2$^{5}/_{16}$ inches. This action lowers the minimum diameter requirement for domestic shipments of Florida white seedless grapefruit and imports of white seedless grapefruit from 3$^{5}/_{16}$ inches to 3$^{1}/_{16}$ inches. This action also lowers the minimum diameter requirement for domestic shipments of Florida Temple oranges from 2$^{9}/_{16}$ inches to 2$^{5}/_{16}$ inches. The amendment is effective for the period March 14, 1983 through August 21, 1983. This action allows an increase in the supply of Honey tangerines, white seedless grapefruit, and Temple oranges in recognition of demand conditions and the size composition of the available supply in the interest of growers and consumers.

EFFECTIVE DATE: March 14, 1983.

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 action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Honey tangerine, white seedless grapefruit, and Temple orange crops for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

The amendment with respect to Florida Honey tangerines, Temple oranges, and grapefruit is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines, Temple oranges, and white seedless grapefruit as hereinafter provided, will tend to effectuate the declared policy of the Act.

The minimum size requirements, specified herein, reflect the Committee's and Department's appraisal of the need to revise the size requirements applicable to Florida white seedless grapefruit, Honey tangerines, and Temple oranges. Such revision will augment the total available supply of Honey tangerines, Temple oranges, and white seedless grapefruit available for shipment to market by handlers.

Under section 8e of the Act (U.S.C. 608e–1), whenever specified commodities, including grapefruit, 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. Thus size requirements for imported white seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida white seedless grapefruit.

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 amendment is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Honey tangerines,

Florida Temple Oranges, Florida white seedless grapefruit, and imports of white seedless grapefruit. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragraph (a) applicable to domestic shipments, and Table II, paragraph (b) applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

(1) Variety	(2) Regulation period	(3) Minimum grade	(4) Minimum diameter (inch)
* *	* *	* * *	
Oranges:			
Temple	3/14/83–8/21/83	U.S. No. 1	2 1/16
	On and after 8/22/83	U.S. No. 1	2 6/16
Grapefruit:			
Seedless, except pink	3/14/83–8/21/83	Improved No. 2 (External) U.S. No. 1 (Internal).	3 5/16
	On and after 8/22/83	Improved No. 2 (External) U.S. No. 1 (Internal).	3 6/16
Tangerines:			
Honey	3/14/83–8/21/83	Florida No. 1 Golden	2 1/16
	On and after 8/22/83	Florida No. 1	2 6/16
* *	* *	* * *	

(b) * * *

TABLE II

(1) Variety	(2) Regulation period	(3) Minimum grade	(4) Minimum diameter (inch)
* *	* *	* * *	
Tangerines:			
Honey	3/14/83–8/21/83	Florida No. 1 Golden	2 5/64
	On and after 8/22/83	Florida No. 1	2 6/64
* *	* *	* * *	

* * * * * * * * * * * *

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

Dated: March 9, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-6585 Filed 3-14-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 967

Celery Grown in Florida; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amends the Federal marketing agreement and order for celery grown in Florida. All of the celery growers voting in the February 8–22 referendum favored the amendment. The amendment authorizes changes in the number of industry members serving on the Florida Celery Committee.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: Prior documents in this proceding: Notice of Hearing—Issued October 5, 1982, and published October 13, 1982 (47 FR 45020). Notice of Recommended Decision—Issued December 2, 1982, and published December 7, 1982 (47 FR 54975). Secretary's Decision—Issued January 18, 1983, and published January 24, 1983 (48 FR 2981).

This formal rulemaking action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action relates to industry representation on the marketing order administrative committee and to the voting procedure of that committee, and will not significantly affect costs for the handlers regulated under the program.

Preliminary Statement

This proposed amendment was formulated on the record of a public hearing held in Orlando, Florida, on November 1, 1982. Notice of the hearing was published in the October 13, 1982, issue of the **Federal Register**. The notice set forth a proposed amendment submitted by the Florida Celery Committee on behalf of celery producers and handlers in the production area.

On the basis of the evidence introduced at the hearing and placed in the record, on December 2, 1982, the Deputy Administrator filed a recommended decision with the U.S. Department of Agriculture Hearing Clerk. The recommended decision was published in the December 7, 1982, issue of the **Federal Register** (47 FR 54975), and allowed 30 days (or until January 6, 1983) for the filing of exceptions to it. No exceptions were received.

Findings and Determinations. The findings and determinations hereinafter set forth are supplementary, and in addition to, the findings and determinations previously made in

connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of Marketing Order No. 967 (7 CFR Part 967), regulating the handling of celery grown in Florida.

Upon the basis of the record, it is found that:

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

(2) The order, as hereby amended, regulates the handling of celery grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial activity specified in the marketing order upon which hearings have been held;

(3) The order, as hereby amended, is limited in its application to the smallest regional production area which is practicable consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as hereby amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area as defined in the order, as hereby amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

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

(1) The "Marketing Agreement, as Further Amended, Regulating the Handling of Celery Grown in Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping, covered by this order, as further amended) who during the period August 1, 1981, through July 31, 1982, handled not less than 50 percent of the volume of such celery covered by the said order, as hereby further amended, and

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period August 1, 1981, through July 31, 1982 (which has been determined to be a representative period) have been engaged within the production area in the production of celery for fresh market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of celery grown in Florida shall be in conformity to and in compliance with the terms and conditions of the said order, as hereby amended.

The provisions of the proposed marketing order, amending the order, contained in the recommended decision issued by the Deputy Administrator on December 2, 1982, and published in the **Federal Register** on December 7, 1982 (47 FR 54975), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

1. Section 967.25 is amended by adding paragraph (b) to read:

§ 967.25 Establishment and membership.

* * * * *

(b) The Secretary, upon the recommendation of the committee, may reestablish the number of producer or handler members on the committee. In recommending any such change, the committee shall give consideration to the total number of growers and handlers in the production area during the current or previous season, and other relevant factors. A change in the number of committee members can become effective at any time, provided, the effective date is more than 30 days prior to the date on which nominations are held.

2. Section 967.27 is amended by revising paragraph (a), and adding (g) to read:

§ 967.27 Nominations.

(a) Growers in each group, as established in paragraph (d) or as reestablished pursuant to paragraph (g) of this section, may nominate persons for each member and alternate position in their respective group.

* * * * *

(g) The Secretary, upon recommendation of the committee, may reestablish groups and may reapportion committee membership among the various groups. In recommending such changes, the committee shall give consideration to: (1) Changes in the relative positions of existing groups with respect to celery production and shipments; (2) changes in the numbers of producers and handlers in each group; and (3) other relevant factors. A change in the establishment of groups or in apportionment of members among groups can become effective at any time, provided, the effective date is more than 30 days prior to the date on which nominations are held.

3. In § 967.29, paragraph (a) is revised to read:

§ 967.29 Procedure.

(a) At an assembled meeting, all votes shall be cast in person, and a simple majority of committee members (including alternates acting for absent members) shall constitute a quorum. Decisions of the committee shall require the concurring vote of a majority of the members and alternates in attendance and entitled to vote.

* * * * *

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

Signed at Washington, D.C., on March 10, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-6679 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 984

Walnuts Grown in California; Decrease in Assessment Rate Approved for 1982–83 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation decreases from 0.4 cent per kernelweight pound to 0.35 cent per kernelweight pound, the assessment rate fixed to generate funds to cover authorized expenses of the Walnut Marketing Board for the 1982–83 marketing year. The funds are derived from handlers regulated under the Federal marketing order covering California walnuts. The Board works with the USDA in admininstering that order.

EFFECTIVE DATES: August 1, 1982, through July 31, 1983.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 477–5697.

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

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

The Walnut Marketing Board's 1982–83 marketing year budget of $606,000 and 0.4 cent per kernelweight pound assessment rate payable by the walnut handlers was approved on October 13, 1982, and was published in the **Federal Register** on October 19, 1982 (47 FR 46490). This was done in accordance with the provisions of the marketing agreement and Order No. 984, both as amended (7 CFR 984), regulating the handling of walnuts grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Board requested that the rate of assessment be reduced to reflect a substantial increase in assessable tonnage which if assessed at the 0.4 cent rate, will provide funds in excess of those needed to meet the expenses approved for 1982–83. The increase in assessable tonnage is the result of the larger than expected 1982 walnut production. Last September, the 1982 production of walnuts was estimated at 220 thousand tons. That production now is expected to be almost 233 thousand tons.

This action is based on the recommendation and information submitted by the Board, established under the order, and upon other information. It is found that the decreased rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). This action reduces handlers' 1982–83 assessment obligations. Moreover, the order requires the rate of assessment for the marketing year to apply to all assessable walnuts handled from the beginning of such period.

List of Subjects in 7 CFR Part 984

Marketing agreements and orders, Walnuts, California.

PART 984—[AMENDED]

Therefore, § 984.334 "Expenses and assessment rate" is revised by changing "0.4 cent" in the first sentence to "0.35" cent. (The revision prescribes a decreased assessment rate for the 1982–83 marketing year and therefore will not be published in the Code of Federal Regulations).

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

Dated: March 9, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-6584 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Financing of Headquarters Facilities; REA Bulletins 320–1, 320–4 and 320–14

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by revising REA Bulletin 320–1, "Preloan Procedures for Rural Telephone Cooperatives", and REA Bulletin 320–4, "Preloan Procedures for Telephone Loan Applicants", and REA Bulletin 320–14, "Loans for Telephone System Improvements and Extensions".

The revision to each of these bulletins concerns the financing of headquarters facilities other than warehouse and garage facilities, furniture and office equipment, vehicles and other work equipment, and station apparatus and associated inside wiring. These items will be financed by the borrower from general funds or non-REA loans. For these purposes, REA includes the Rural Telephone Bank and guarantees of loans.

This change insures that all REA telephone borrowers will be treated equitably in the financing of facilities to furnish or improve telephone service in rural areas and will enable REA to make optimum use of available loan funds.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Joel M. Babb, Chief, Loans and Management Branch, Telecommunications Management Division, Room 2913-South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 382–8549. The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-name individual.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends Appendix A—REA Bulletins by revising REA Bulletin 320–1, "Preloan Procedures for Rural Telephone Cooperatives", REA Bulletin 320–4, "Preloan Procedures for Telephone Loan Applicants", and REA Bulletin 320–14, "Loans for Telephone System Improvements and Extensions". This final action has been issued in conformance with Executive Order 12291, Federal Regulation. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined to be "not major". This action is not subject to the Regulatory Flexibility Act or OMB Circular A–95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans.

A notice of Proposed Rulemaking was published in the **Federal Register** on May 18, 1982, Volume 47, Number 96, page 21268.

The primary objective of this rule is to ensure optimum use of available loan funds. Additionally, it ensures that all borrowers will be treated consistently in

the financing of facilities most essential to providing telephone service.

The only available option to this rule was to take no action. This option would perpetuate the continued financing of headquarters facilities other than warehouse and garage facilities, furniture and office equipment, vehicles and other work equipment, and station apparatus and associated inside wiring at the expense of more important switching and transmission facilities. The Administrator has determined that all of the items involved are more appropriately financed from general funds or non-REA loans or are soon to be purchased directly by the consumer.

The Administrator considered the close relationship between adequate warehouse and garage facilities and efficient construction and maintenance of revenue producing plant and determined that warehouse and garage facilities would not be included as part of "headquarters facilities". Where there is a demonstrated need, REA will continue to provide financing for warehouse and garage facilities.

Public comment responses were received from several REA borrowers and the National Telephone Cooperative Association. The concerns expressed by the majority of those responding were that REA's first lien on the borrower's property and REA policy limitations on the appropriate level of general funds made the financing of headquarters facilities and the other items involved extremely difficult.

In response to the commenters' concerns, the Administrator noted the long-term trend of borrowers to accumulate cash. This trend has resulted in the present high borrower general funds level. As a result of this review of the situation, the Administrator determined that no additional exemptions were necessary. The vast majority of REA borrowers will be able to finance the items covered by the amended policy with no adverse impact on the rural consumer. In cases where some exceptional circumstances exist, present policy provides that the Administrator may make exemptions on a case-by-case basis.

REA has revised its policy concerning financing of the following items: headquarters facilities other than warehouse and garage facilities, furniture and office equipment, vehicles and other work equipment, and station apparatus and associated inside wiring. Except as otherwise determined by the Administrator, these items will be financed by borrowers from general funds or non-REA loans. For these purposes REA includes the Rural Telephone Bank and guarantees of loans.

In view of the above, the Administrator hereby amends 7 CFR Part 1701, Appendis A—REA Bulletins, by revising REA Bulletin 320–1, "Preloan Procedures for Rural Telephone Cooperatives", REA Bulletin 320–4, "Preloan Procedures for Telephone Loan Applicants", and REA Bulletin 320–14, "Loans for Telephone System Improvements and Extensions.

Indexing Terms: As required by 1 CFR 18.20, the following are the indexed terms and list of subjects for this regulation:

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: February 15, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-6692 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket 82-081]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Office, VS, APHIS, USDA, Room 857, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, make this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1982 ed.), as amended May 28, 1982, (FR 23429–23431), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

(in hours)

Locations covered	Served from	Metropolitan area	
		Within	Outside
* * * * *			
Remove:			
Michigan:			
Port Huron			1
* * * * *			
Add: * * * * *			
Michigan:			
Detroit	Bissifield and Port Huron		3
Port Huron	Detroit		3
Do	Saginaw		4
* * * * *			

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 9th day of March 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-6586 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9093]

American Dental Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies the Commission order issued on September 6, 1979 (44 FR 64803), *modified* August 3, 1982 (47 FR 36184), by relieving the association of its obligation under Paragraph III(A) of the order, to send by first-class mail a copy of Appendix A to the Final Order to each of its current members, and by reducing the number of years that Paragraphs III(A), IV(C), and IV(D) require the association to provide new members with notice of the order; make particular records available to the Commission; and file compliance reports.

DATES: Final Order issued September 6, 1979. Modifying Order issued February 7, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CS-8, Arthur N. Lerner, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: In the Matter of American Dental Association, a corporation. Codification under 16 CFR Part 13, appearing at 44 FR 64803, remains unchanged.

List of Subjects in 16 CFR Part 13

Dentists, Dental services.

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

The Modification of Decision and Order, including further order requiring report of compliance therewith, is as follows:

In the Matter of American Dental Association, a corporation; Docket No. 9093.

Modification of Decision and Order

The American Dental Association ("ADA") has requested that the Commission modify its Final Order in Docket No. 9093 to (1) relieve ADA of its obligation under Paragraph III(A) of the order to send by first-class mail a copy of a letter, Appendix A to the Final Order, to each of its present members, and (2) reduce the number of years ADA is required by Paragraphs III(B), IV(C), and IV(D) to provide new members with notice of the Final Order, make certain records available to Commission staff, and file reports of compliance.

As an alternative to the requirement of Paragraph III(A) that it send separate notice of the Final Order to each of its present members, ADA has proposed that it include an explanatory article when, as required by Paragraph IV(A) of the Final Order, it publishes a copy of the Final Order in the *Journal of the American Dental Association* and *ADA News*. Because under a temporary order ADA provided separate notice to each of its members that it was subject to a Commission order that, except under certain circumstances, prohibited ADA from restricting the advertising of dentists' services, and because with respect to individual members of ADA the Final Order prohibits essentially the same conduct, the Commission has determined that the alternative to separate notice ADA has proposed is in the public interest. The Commission has also determined that it is in the public interest to modify the Final Order to reduce the number of years ADA is required to provide new members with notice of the Final Order, make records available to the Commission, and file compliance reports. Accordingly,

It is ordered that the proceeding be, and it hereby is, reopened.

It is further ordered that the Final Order be, and it hereby is, modified by substituting for Paragraphs III(A), III(B), IV(C), and IV(D) of the Final Order, the following:

III.

It is further ordered that respondent American Dental Association:

A. Send by first class mail a copy of a letter in the form shown in Appendix A to this Order to each constituent and component organization of respondent, within sixty (60) days after this Order becomes final.

B. For a period of two years, provide each new member of respondent and each constituent and component organization of respondent with a copy of this Order at the time the member is accepted into membership.

IV.

It is further ordered that respondent American Dental Association:

C. For a period of two years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, recorded adequate to describe in detail any action taken in connection with the activities covered by Part I of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any of its members.

D. Within one year after this Order becomes final, and annually thereafter, for a period of one year, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Part I of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any of its members.

By the Commission, Commissioner Pertschuk dissenting.

Issued: February 7, 1983.

Benjamin I. Berman,

Acting Secretary.

Separate Statement of Chairman Miller Concerning Modification of Order in American Dental Association

The petition of the ADA to modify the compliance burdens in its order boils down to two issues, both of which lead me to clear and obvious answers. The first issue arises from the settlement the ADA reached with the Commission in 1979. The Commission agreed with the ADA that it would be treated on equal terms with the order ultimately reached with the AMA. Then for three years, the ADA operated under a temporary order that imposed essentially the same burdens as the final order. But the final order does not recognize the three years of compliance that the ADA performed while the *AMA* case was pending. I have no trouble deciding that the ADA should not incur three extra years of expensive compliance because it settled with the Commission.

The second issue concerns the purpose of reporting and record-keeping under Commission orders. Unlike the provisions relating to lawful conduct, which are perpetual in this order, the compliance requirements run for a term of several years. The ADA was required, for example, to provide copies of the order to all new members for ten years. Such compliance procedures are typically held to a limited term for an economic reason: the balance between the costs of the procedure and the probability of harm from noncompliance. While the Commission may expect that a respondent will comply immediately, there remains a chance that it will not. As the respondent gains experience in complying with an order over time however, the

likelihood of future problems diminishes. The Commission limits the term for such expensive procedures as reporting, notifying and record-keeping because at some point the probability of a problem arising will no longer justify the extra expense of special monitoring for it.

The Commission originally determined that it would take ten years before the notice to new members had served its remedial purpose. However, the developments in the market for dental services and ADA's past compliance with its order demonstrate to my satisfaction that we can revise this assessment. The likelihood that future dental school graduates will violate the Commission order is sufficiently remote that the expense of continuing to mail it beyond five years does not appear justified. Therefore, I support the Commission's decision to reduce the notice requirement from ten years to five.

Dissenting Statement of Commissioner Pertschuk Concerning Modification of Order Against American Dental Association

February 17, 1983.

I dissent from the decision of the Commission to reduce the period for which ADA is obligated to inform new members of the order, to make compliance reports available, and to make records available to the Commission. As I understand it, ADA's principal grounds for modification are: (1) ADA is obligated to carry out these obligations longer than the AMA even though the ADA settled and the AMA litigated its case to the Supreme Court; (2) ADA has complied with the order faithfully during the interim period (before the AMA order was finalized) and should get credit for this period; and (3) there is less need to give notice to new members since the legal standard for advertising has changed and new members will, therefore, be less likely to reintroduce restrictions. While the Commission, in granting the petition, appears to place reliance on all three of these factors, none actually meet the standard of Rule 2.51—that change conditions of law or fact or the public interest "requires" the order to be modified.

ADA agreed at the time the interim order was entered to be bound by an order identical—with one exception—to any final order in the AMA case. This eventual identity of orders meant ADA would have to comply with notice and reporting requirements for the period required by the interim order *plus* the period required by the AMA order.[1] Consequently, the period required for notice and reporting can hardly be called unfair or unanticipated. As for the supposed change in advertising law, the antitrust and constitutional problems in restricting advertising were well known before the ADA order was entered and, in fact, the cases ADA cites in support of its petition—except for the AMA case itself—were decided before the interim order issued.

The Commission appears to shorten ADA's requirements principally on theory that it has made a quicker than expected transition to full compliance with the order. Chairman Miller's statement, in fact, suggests that the Commission thought in 1979 that it would take an extended period for the ADA to undergo a total transition to compliance. This idea is troubling in two respects. First, the ADA order includes at least one substantive provision concerning disciplining member societies which was not in the interim order and for which we have no compliance record. More importantly, the idea that we should shorten the period of notice and reporting obligations as a reward for a rapid *transition* to compliance does not strike me as statisfying the "changed conditions of law or fact" or "public interest" requirement within the meaning of Rule 2.51. We expect immediate compliance with orders (subject to any express grace periods) and bringing an organization into comformity with order obligations in a short period of time has, heretofore at least, not been grounds to shorten compliance requirements. While the low probability of ADA violating the order is all to the good, that is precisely what we expected when the order was issued. Consequently, I would have agreed with the Bureau of Competition that the period for notice and reporting be left unchanged.

[FR Doc. 83-6604 Filed 3-14-83; 8:45 am]

BILLING CODE 6750-01-M

[1] The ADA not only wants to cut back the period for giving notice to take into account the three year period of the interim order but also to cut back the total notice period to five years, instead of the ten now required in both the AMA and the ADA orders.

---

16 CFR Part 13

[Docket C-1161]

Foremost Dairies, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on January 23, 1967 (32 FR 2884), by deleting Paragraph V from the order, so as to relieve respondent of the obligation of obtaining Commission approval prior to making certain acquisitions.

DATES: Consent Order issued January 23, 1967. Modifying Order issued February 17, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliott Feinberg, Washington, D.C. 20580. (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Foremost Dairies, Inc., a corporation. Codification appearing at 32 FR 2884 remains unchanged.

List of Subjects in 16 CFR Part 13

Drugs, Pharmaceutical preparations.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Order Modifying Cease and Desist Order Issued January 23, 1967 is as follows:

In the Matter of Foremost Dairies, Inc., a corporation; Docket No. C-1161.

Order Modifying Cease and Desist Order Issued January 23, 1967

By a petition dated July 9, 1982, and supplements thereto dated October 14, 1982, November 16, 1982, and January 11, 1983, respondent Foremost-McKesson, Inc. (successor to Foremost Dairies, Inc.) ("Foremost") requests that the Commission reopen the proceeding in Docket No. C-1161 and delete Paragraph V of the order issued by the Commission on January 23, 1967. Pursuant to Section 2.51 of the Commission's Rules of Practice, the petition was placed on the public record for comments. No comments were received.

Upon consideration of Foremost's petition and supporting materials, and other relevant information, the Commission now finds that the public interest warrants reopening and modification of the order. The Commission has determined that absent special circumstances an order provision that requires prior Commission approval of acquisitions by the respondent should not exceed ten years in duration. The order in this case has been in effect for 16 years and the record does not demonstrate that continued prior approval of respondent's acquisitions is necessary.

Accordingly,

It is ordered that this matter be, and it hereby is reopened and that Paragraph V of the Commission's order be and it is hereby deleted.

By direction of the Commission.

Issued: February 17, 1983.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-6606 Filed 3-14-83; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[Docket No. C-3104]

Plaskolite, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Columbus, Ohio manufacturer and seller of interior-mounted plastic storm windows, among other things, to cease misrepresenting the performance capabilities of storm windows; the amount of savings that will result from installation of storm windows on a house already equipped with prime and storm windows; and the purpose, content or conclusions of tests or surveys used by the company to substantiate energy-related claims. The order further bars the firm from using

the words "up to" or similar terms in energy-related claims, unless the maximum level of performance can be achieved by a significant number of consumers under normal circumstances, and the class of persons who can achieve this level of performance is disclosed. Additionally, the company is required to retain documentation for energy-related claims for a period of three years.

DATE: Complaint and Order issued February 23, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Marilyn J. Holmes, Washington, D.C. 20580. (202) 724–0727.

SUPPLEMENTARY INFORMATION: On Friday, December 3, 1982, there was published in the **Federal Register**, 47 FR 54452, a proposed consent agreement with analysis In the Matter of Plaskolite, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been filed, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.160 Qualities or properties of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Energy conservation, Plastic storm windows, Trade practices.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-6605 Filed 3-14-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 82N-0378]

D&C Red No. 6 and D&C Red No. 7; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that "permanently" listed D&C Red No. 6 and D&C Red No. 7 except for use in the area of the eye.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 82–35102 appearing at page 57681 in the issue for Tuesday, December 28, 1982, the following correction is made: On page 57688 in the third column, fourth line, the word "teflon" is changed to read "polytetrafluoroethylene".

Dated: March 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6410 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 100, 101, 109, and 172

Food for Human Consumption; Editorial Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending various food standard and food additive regulations to correct editorial errors.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: L. Robert Lake, Bureau of Foods (HFF–302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1254.

SUPPLEMENTARY INFORMATION: Section 182.5634 was removed, and the material was incorporated in new § 184.1634 by an amendment at 43 FR 11698 (March 21, 1978). The reference in § 100.155 was not changed to reflect the amendment.

Section 105.3(b) was removed by an amendment at 44 FR 16006 (March 16, 1979), and the reference in § 101.3(e)(4)(ii) was not changed to reflect the amendment.

The "date" error in § 109.30(b) first appeared in FR Doc. 81–2812 in the **Federal Register** of January 27, 1981 (46 FR 8454).

The entry in § 172.515(b) is an erroneous, out-of-sequence entry that repeats the correct entry, "2-methoxy-4-vinylphenol; *p*-vinyl guaiacol," which is already listed correctly in proper alphabetical sequence. The entry "2-Methylallyl butyrate; 2-Methyl-2-propen-1-yl butyrate" is being restored. This entry appeared in the list as it was first published in the **Federal Register** of December 23, 1965 (30 FR 15845) under § 121.1164 *Synthetic flavoring substances and adjuvants.* (The section was redesignated as § 172.515 in the **Federal Register** of March 15, 1977 (42 FR 14491)). The entry was inadvertently dropped. This document restores the entry and corrects the other errors cited above.

List of Subjects

21 CFR Part 100

Administrative practice and procedure, Food labeling, Foods.

21 CFR Part 101

Food labeling, Misbranding, Nutrition labeling, Warning statement.

21 CFR Part 109

Contaminants, Polychlorinated biphenyls.

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated the Commissioner of Food and Drugs (21 CFR 5.10), 21 CFR, Subchapter B, is amended as follows:

PART 100—GENERAL

§ 100.155 [Amended]

1. In § 100.155 *Salt and iodized salt,* paragraph (a), in the first sentence by changing "§ 182.5634" to "§ 184.1634".

PART 101—FOOD LABELING

§ 101.3 [Amended]

2. In § 101.3 *Identity labeling of food in packaged form,* paragraph (e)(4)(ii),

by changing "§ 105.3(b)" to "§ 101.9(c)(7)(iv)".

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

§ 109.30 [Amended]

3. In § 109.30 *Tolerances for polychlorinated biphenyls*, paragraph (b), by changing "Analytical Methodology for Polychlorinated Biphenyls, February 1973" to "Analytical Methodology for Polychlorinated Biphenyls, June 1979."

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

4. In § 172.515 *Synthetic flavoring substances and adjuvants*, paragraph (b), by removing the entry "2-Methoxy-4-vinylphenol; *p*-vinylguaiacol-1-yl butyrate" and by adding the entry "2-Methylallyl butyrate; 2-methyl-2-propen-1-yl butyrate" in alphabetical sequence.

Effective date. March 15, 1983.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: March 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6413 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 145

[Docket No. 82N-0160]

Canned Fruits; Repeal of Standards of Identity for Canned Fruits With Rum

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing the standards of identity for canned apricots with rum, canned cherries with rum, canned peaches with rum, and canned pears with rum. This action is taken in conjunction with FDA's review of existing regulations to minimize unnecessary regulatory burdens.

DATES: Effective April 15, 1983, unless stayed by the filing of proper objections; objections by April 14, 1983.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: FDA published a notice in the **Federal Register** of July 14, 1981 (46 FR 36333) announcing the undertaking of a systematic review of its regulations to minimize regulatory burden while maintaining an acceptable level of consumer protection.

Among the regulations scheduled for review by FDA during the retrospective review process are the four standards of identity for canned fruits with rum. FDA was, and is, unaware of any manufacturer that produces these foods. Therefore, in the **Federal Register** of September 21, 1982 (47 FR 41579), the agency proposed to remove the standards of identity for canned apricots with rum (21 CFR 145.118), canned cherries with rum (21 CFR 145.128), canned peaches with rum (21 CFR 145.173), and canned pears with rum (21 CFR 145.178) because they were no longer necessary to protect the interest of consumers. Comments were invited on whether a need exists for these standards. FDA stated that if the comments received did not indicate a need for these standards, the agency would repeal them. No comments were received on the proposal. FDA has concluded that the standards should, as proposed, be repealed.

List of Subjects in 21 CFR Part 145

Canned fruits, Food standards, Fruits.

PART 145—CANNED FRUITS

§§ 145.118, 145.128, 145.173, 145.178 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 145 is amended by removing § 145.118 *Canned apricots with rum*, § 145.128 *Canned cherries with rum*, § 145.173 *Canned peaches with rum*, and § 145.178 *Canned pears with rum*.

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 14, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Effective, April 15, 1983, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: March 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6574 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 155

[Docket No. 81P-0049]

Canned Vegetables; Mushrooms; Standards of Identity and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the U.S. standard of identity for canned mushrooms based on consideration of the Recommended International Standard for Canned Mushrooms developed by the Codex Alimentarius Commission (Codex standard) to define the mushroom as conforming to the characteristics of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, to provide for quarters and random sliced as optional styles, and to provide for the use of calcium disodium ethylenediaminetetraacetate (calcium disodium EDTA) to promote color retention. FDA also is amending the drained weight requirements in the U.S. standard of fill of container based on consideration of the Codex standard and of a petition by the National Food

Processors Association (NFPA). These actions will promote honesty and fair dealing in the interest of consumers and facilitate international trade. In a final rule published elsewhere in this issue of the **Federal Register**, the agency also is amending the food additive regulation on calcium disodium EDTA.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin May 16, 1983. Objections by April 14, 1983.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 22, 1982 (47 FR 26843), FDA published a proposal to revise the standard of identity for canned mushrooms in § 155.201(a) (21 CFR 155.201(a)) and to amend those provisions of the standard of identity for "Certain other canned vegetables" in § 155.200 (21 CFR 155.200) applicable to canned mushrooms based on consideration of the identity provisions of the Codex standard developed by the Codex Alimentarius Commission. FDA proposed to amend the standard of identity to define canned mushrooms as being of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, provide for mushrooms to be so processed by heat to prevent spoilage either before or after being sealed in a container, define optional styles and provide for "quarters" and "random sliced" as additional styles, provide for optionally packing canned mushrooms in either water or other suitable liquid medium, and provide for the use of calcium disodium EDTA to promote color retention. The agency also proposed to amend the standard of fill of container for canned mushrooms in § 155.201(c) based on the Codex standard and a petition by NFPA to amend the minimum drained weight requirements. The agency also proposed to amend the food additive regulation in § 172.120(b)(1) (21 CFR 172.120(b)(1)) regarding the use of calcium disodium EDTA in canned mushrooms.

Three comments were received in response to the proposal. All three comments supported the proposal. One of the comments also requested inclusion of a provision for the use of microcrystalline cellulose and carboxymethylcellulose, substances that are generally recognized as safe (GRAS), as optional ingredients in canned mushrooms to retard discoloration and preserve texture. The information submitted in support of the request stated that mushrooms are immersed in a water solution containing 4 percent of a combined mixture of 85 percent microcrystalline cellulose and 15 percent carboxymethylcellulose, subjected to high vacuum, then drained and washed. The comment stated that not more than 2 percent by weight of the microcrystalline cellulose-carboxymethylcellulose mixture is retained by the mushrooms and that low quality mushrooms are not improved.

FDA concludes that the request is beyond the scope of the proposal and would require a petition in conformance with 21 CFR 10.30 to amend the standard of identity for mushrooms, with data and information demonstrating that such use would promote honesty and fair dealing in the interest of consumers and would not result in adulteration under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342).

FDA proposed to retain the provision for the optional style "slices" or "sliced" as currently set out in § 155.200(b), but inadvertently published the provision as "slice" or "sliced". This final rule corrects that error. In addition, the agency is making an editorial change in the numbering of § 155.200(c) to reflect an amendment published in the **Federal Register** of November 17, 1981 (46 FR 56409).

In consideration of the identity and fill of container aspects of the Codex standard and the petition submitted by NFPA, together with comments received in response to the proposal, FDA concludes that it will promote honesty and fair dealing in the interest of consumers and facilitate international trade to amend the standards of identity and fill of container for canned mushrooms as set forth below. A final regulation to amend the food additive regulation to permit the use of calcium disodium EDTA appears elsewhere in this issue of the **Federal Register**.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this action to amend the food standards (21 CFR Part 155) is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 155 is amended as follows:

PART 155—CANNED VEGETABLES

Section 155.200 is amended by removing the entry "Mushrooms" from the table in paragraph (b), by removing the words "except canned mushrooms and" from paragraph (c)(3), by removing the words "except canned mushrooms" from paragraph (c)(5), by removing paragraph (c)(7) and redesignating the subsequent paragraphs as (c)(7), (8), (9), (10), (11), and (12), and by revising redesignated (c)(12), to read as follows:

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(12) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section) in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

2. By revising § 155.201, to read as follows:

§ 155.201 Canned mushrooms.

(a) *Identity*—(1) *Definition.* Canned mushrooms is the food properly prepared from the caps and stems of succulent mushrooms conforming to the characteristics of the species *Agaricus (Psalliato) bisporus* or *A. bitorquis*, in one of the optional styles specified in paragraph (a)(2) of this section, packed with a suitable liquid medium which

may include water; and may contain one or more safe and suitable optional ingredients specified in paragraph (a)(3) of this section. The food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Styles.* The optional styles of the mushroom ingredient referred to in paragraph (a)(1) of this section are:

(i) *Buttons*—consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil.

(ii) *Whole*—consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

(iii) *Quarters*—consisting of buttons or whole style cut into four approximately equal parts.

(iv) *Slices or sliced*—consisting of buttons or whole style of which not less than 50 percent are cut parallel to the longitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(v) *Random sliced*—consisting of buttons or whole style sliced in a random manner.

(vi) *Pieces and stems*—consisting of pieces of caps and stems of irregular shapes and sizes.

(3) *Optional ingredients.* One or any combination of two or more of the following safe and suitable optional ingredients as provided for in paragraph (a)(1) of this section may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Ascorbic acid (vitamin C) in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

(viii) Organic acids (except no vinegar is permitted), only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps. Ascorbic acid as provided for in paragraph (a)(3)(vii) of this section.

(ix) Calcium disodium ethylenediaminetetraacetate ($CaNa_2$ EDTA) in a quantity not to exceed 200 parts per million for use to promote color retention.

(4) *Labeling requirements.* (i) The name of the food is mushrooms. The style as provided for in paragraph (a)(2) of this section shall be included as part of the name or in close proximity to the name of the food.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

(c) *Fill of container.* (1) The standard of fill of container for canned mushrooms is:

(i) The fill of the mushroom ingredient and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of the mushroom ingredient is not less than 56 percent of the water capacity of the container.

(iii) Determine drained weight as specified in § 155.3(a).

(2) Determine compliance for minimum fill and drained weight as specified in § 155.3(b).

(3) If the canned mushrooms fall below the standard of fill prescribed in paragraph (c)(1)(i) and/or (ii) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 14, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin May 16, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: March 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6572 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 172

[Docket No. 81P-0049]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Calcium Disodium EDTA

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the use of calcium disodium ethylenediaminetetraacetate (calcium disodium EDTA) in canned mushrooms and to eliminate the current requirement for a temporary marketing permit. This amendment is issued to conform with actions taken in response to a petition by the National Food Processors Association.

DATES: Effective March 15, 1983; objections by April 14, 1983.

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

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 22, 1982 (47 FR 26843), FDA published a proposal to amend § 172.120 (21 CFR 172.120) of the food additive regulations regarding the use of calcium disodium EDTA in canned mushrooms. The agency also proposed to amend the standard of identity for canned mushrooms in § 155.201(a) (21 CFR 155.201(a)) to, among other things, allow the use of calcium disodium EDTA in canned mushrooms. The final rule concerning

canned mushrooms is published elsewhere in this issue of the **Federal Register.**

Three comments were received in support of the proposal. None of the comments opposed the use of calcium disodium EDTA in canned mushrooms. These comments are discussed in the final rule amending the standard of identity for canned mushrooms.

FDA concludes that the proposed use of the food additive to promote color retention in cooked, canned mushrooms is safe, and that the regulations should be amended as set forth below.

The documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Dockets Management Branch (address above).

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

Lists of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 172 is amended in § 172.120 in the table in paragraph (b)(1) by revising the entry for "Mushrooms (cooked canned)" to read as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.120 Calcium disodium EDTA.

* * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
* * *	* * *	* *
Mushrooms (cooked canned).	200	Promote color retention.
* * *	* * *	* *

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 14, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 15, 1983.

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

Dated: March 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6573 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a sponsor number in an animal drug regulation it published in the **Federal Register** of April 30, 1982 (47 FR 18592).

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–11751 appearing at page 18592 in the issue for Friday, April 30, 1982, the following correction is made: On page 18592 under § 558.274 *Hygromycin B* in paragraph (e)(1)(ii) in the "Sponsor" column, the sponsor number "026188" is corrected to read "026186".

Dated: March 9, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-6570 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid; Conforming Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making a conforming amendment to the regulation for lasalocid. The agency revised portions of that regulation in the **Federal Register** of October 15, 1982, but inadvertently failed to revise a cross reference. This document corrects that cross reference.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 15, 1982 (47 FR 46078), FDA amended 21 CFR 558.311 by, among other things, redesignating paragraph (e) as paragraph (f) and by redesignating paragraph (f) as paragraph (e). The agency failed to change the cross reference to paragraph (e) in § 558.311(b). This document corrects that error.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.311 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.311 *Lasalocid* in paragraph (b)(1) by changing the reference "(e)(1)" to read "(f)(1)", in paragraph (b)(2) by changing the reference "(e)(5)" to read "(f)(5)", and in paragraph (b)(3) by changing the reference "(e)(6) and (7)" to read "(f)(6) and (7)".

Dated: March 9, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-6571 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 15b

[T. D. 7875]

Amortization of Reforestation Expenditures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations for an election under which taxpayers may amortize up to $10,000 of qualified reforestation expenditures over a seven-year period. Changes to the applicable tax law were made by the Recreational Boating Safety and Facilities Improvement Act of 1980. These regulations affect taxpayers who make expenditures to pay for planting or seeding areas for forestation or reforestation purposes. In addition, the text of the temporary regulations set forth in this document also serves as part of the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: The regulations are effective for qualifying reforestation expenditures added to capital accounts after December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention:CC:LR:T) 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to an election to amortize certain reforestation expenditures under section 194 of the Internal Revenue Code of 1954, as added or amended by section 301 of the Recreational Boating Safety and Facilities Improvement Act of 1980 (Pub. L. 96-451, 94 Stat. 1983). Further, a new Part 15b, Temporary Regulations under Title III of the Recreational Boating Safety and Facilities Improvement Act of 1980, is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject. By a separate document appearing elsewhere in this issue of the **Federal Register,** the regulations promulgated in this document are also proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 194 of the Code.

In General

This document contains temporary regulations under which a taxpayer may elect to amortize, over a seven-year period, up to $10,000 of qualifying reforestation expenditures incurred during a taxable year. The expenditures must have been made in connection with qualified timber property. Only reforestation expenditures which result in additions to capital account after December 31, 1979 are eligible for amortization under section 194. Section 15b.194-1(b) provides that the amortization period must begin on the first day of the first month of the last half of the taxable year in which the taxpayer incurs the amortizable expenditures.

Amount of Deduction Allowable

Paragraph (a) of § 15b.194-2 sets forth the general rule for determining the allowable monthly amortization deduction. A taxpayer may amortize a maximum of $10,000 of reforestation expenditures ($5,000 in the case of a married taxpayer filing a separate return) in any year under § 15b.194-2(b)(1). Paragraph (b)(2) of § 15b.194-2 permits a taxpayer who incurs more than $10,000 in qualifying expenditures in connection with more than one timber property to select the manner in which the $10,000 limit on amortizable basis is to be allocated among those properties.

Controlled Groups

Rules for allocating the $10,000 limit on amortizable basis among component members of a controlled group are set forth in § 15b.194-2(b)(4). Generally, component members of a controlled group on December 31 are treated as one taxpayer in applying the $10,000 limit. In addition, the $10,000 amount may be allocated among the members of the group by the common parent corporation if a consolidated return is filed, or if separate returns are filed, the amount is to be allocated in accordance with an agreement made by the members. The definition of the term "controlled group of corporations" in section 1563(a) is modified for purposes of section 194 by substituting "more than 50 percent" for the phrase "at least 80 percent" wherever it appears. See § 15b.194-3(d).

Partnerships

The election to amortize reforestation expenditures must be made by a partnership and the $10,000 limit on expenditures applies to the partnership as well as to each partner. In general, under § 15b.194-2(b)(5)(iii), a partner's share of the partnership's amortizable reforestation expenditures is to be determined in accordance with section 704 and the regulations thereunder.

Estates

An estate may elect to amortize up to $10,000 of reforestation expenditures under § 15b.194-2(b)(6). Any amortizable expenditures by an estate must be apportioned between the estate and the income beneficiary on the basis of the income allocable to each.

Adjustment to Basis

Section 15b.194-2(b)(3)(i) provides that when a taxpayer elects to amortize reforestation expenditures under section 194, such taxpayer's basis in the qualified timber property to which the expenditures relate must be adjusted to reflect the amount of the section 194 deduction allowable to the taxpayer. However, no adjustment is required for that portion of a deduction which is apportioned to a trust which may not deduct its share of a section 194 deduction.

Time and Manner of Making Election

Section 15b.194-4(a) provides that the election under section 194 is generally made by entering the amount of the deduction at the appropriate place on the taxpayer's return for the year the expenditures were made, and by attaching a statement to the return. The regulations set forth the information to be included in the statement. A special rule is contained in § 15b.194-4(b) which allows a taxpayer who was eligible to, but did not elect section 194 amortization on a return filed before June 13, 1983 to amend that return and elect to amortize reforestation expenditures.

Drafting Information

The principal author of these temporary regulations is Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. For the reasons set forth in the following paragraphs no general notice of proposed rulemaking is required by 5 U.S.C. 553(b). Accordingly no Regulatory Flexibility Analysis is required for this rule.

The Treasury decision adds a temporary regulation to enable eligible taxpayers to make an election to amortize reforestation expenditures. Because this regulation is necessary to provide immediate guidance to taxpayers, it is impractical to issue this Treasury decision with notice and public procedure.

List of Subjects in 26 CFR 15b.194-1—15b.194-4

Income taxes, Title III of the Recreational Boating Safety and Facilities Improvement Act of 1980.

Adoption of Regulations

Accordingly, a new part 15b, Temporary Regulations under Title III of the Recreational Boating Safety and Facilities Improvement Act of 1980, is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are hereby adopted:

PART 15b—TEMPORARY REGULATIONS UNDER TITLE III OF THE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT ACT OF 1980

Sec.

15b.194-1 Amortization of reforestation expenditures.
15b.194-2 Amount of deduction allowable.
15b.194-3 Definitions.
15b.194-4 Time and manner of making election.

Authority: Secs. 194 and 7805, Internal Revenue Code of 1954 (94 Stat. 1983, 68A Stat. 917, 26 U.S.C. 194, 7805).

§ 15b.194-1 Amortization of reforestation expenditures.

(a) *In general.* Section 194 allows a taxpayer to elect to amortize over an 84-month period, up to $10,000 of reforestation expenditures (as defined in § 15b.194-3(c)) incurred by the taxpayer in a taxable year in connection with qualified timber property (as defined in § 15b.194-3(a)). The election is not available to trusts. Only those reforestation expenditures which result in additions to capital accounts after December 31, 1979 are eligible for this special amortization.

(b) *Determination of amortization period.* The amortization period must begin on the first day of the first month of the last half of the taxable year during which the taxpayer incurs the reforestation expenditures. For example, the 84-month amortization period begins on July 1 of a taxable year for a calendar year taxpayer, regardless of whether the reforestation expenditures are incurred in January or December of that taxable year. Therefore, a taxpayer will be allowed to claim amortization deductions for only six months of each of the first and eighth taxable years of the period over which the reforestation expenditures will be amortized.

(c) *Recapture.* If a taxpayer disposes of qualified timber property within ten years of the year in which the amortizable basis was created and the taxpayer has claimed amortization deductions under section 194, part or all of any gain on the disposition may be recaptured as ordinary income. See section 1245.

§ 15b.194-2 Amount of deduction allowable.

(a) *General rule.* The allowable monthly deduction with respect to reforestation expenditures made in a taxable year is determined by dividing the amount of reforestation expenditures made in such taxable year (after applying the limitations of paragraph (b) of this section) by 84. In order to determine the total allowable amortization deduction for a given month, a taxpayer should add the monthly amortization deductions computed under the preceding sentence for qualifying expenditures made by the taxpayer in the taxable year and the preceding seven taxable years.

(b) *Dollar limitation*—(1) *Maximum amount subject to election.* A taxpayer may elect to amortize up to $10,000 of qualifying reforestation expenditures each year under section 194. However, the maximum amortizable amount is $5,000 in the case of a married individual (as defined in section 143) filing a separate return. No carryover or carryback of expenditures in excess of $10,000 is permitted. The maximum annual amortization deduction for expenditures incurred in any taxable year is $1,428.57 ($10,000/7). The maximum deduction in the first and eighth taxable years of the amortization period is one-half that amount, or $714.29, because of the half-year convention provided in § 15b.194-1(b). Total deductions for any one year under this section will reach $10,000 only if a taxpayer incurs and elects to amortize the maximum $10,000 of expenditures each year over an 8-year period.

(2) *Allocation of amortizable basis among taxpayer's timber properties.* The limit of $10,000 on amortizable reforestation expenditures applies to expenditures paid or incurred during a taxable year on all of the taxpayer's timber properties. A taxpayer who incurs more than one $10,000 in qualifying expenditures in connection with more than one qualified timber property during a taxable year may select the properties for which section 194 amortization will be elected as well as the manner in which the $10,000 limitation on amortizable basis is allocated among such properties. For example, A incurred $10,000 of qualifying reforestation expenditures on each of four properties in 1981. A may elect under section 194 to amortize $2,500 of the amount spent on each property, $5,000 of the amount spent on any two properties, the entire $10,000 spent on any one property, or A may allocate the $10,000 maximum amortizable basis among some or all of the properties in any other manner.

(3) *Basis*—(i) *In general.* Except as provided in paragraph (b)(3)(ii) of this section, the basis of a taxpayer's interest in qualified timber property for which an election is made under section 194 shall be adjusted to reflect the amount of the section 194 amortization deduction allowable to the taxpayer.

(ii) *Special rule for trusts.* Although a trust may be a partner of a partnership or an income beneficiary of an estate, it may not deduct its allocable share of a section 194 amortization deduction allowable to such partnership or estate. In addition, the basis of the interest held by the partnership or estate in the qualified timber property shall not be adjusted to reflect the portion of the section 194 amortization deduction that is allocable to the trust.

(4) *Allocation of amortizable basis among component members of a controlled group.* Component members of a controlled group (as defined in § 15b.194-3(d)) on a December 31 shall be treated as one taxpayer in applying the $10,000 limitation of paragraph (b)(1) of this section. The amortizable basis may be allocated to any one such member or allocated (for the taxable year of each such member which includes such December 31) among the several members in any manner, provided that the amount of amortizable basis allocated to any member does not exceed the amount of amortizable basis actually acquired by the member in the taxable year. The allocation is to be made (1) by the common parent

corporation if a consolidated return is filed for all component members of the group, or (2) in accordance with an agreeement entered into by the members of the group if separate returns are filed. If a consolidated return is filed by some component members of the group and separate returns are filed by other component members, then the common parent of the group filing the consolidated return shall enter into an agreement with those members who do not join in filing the consolidated return allocating the amount between the group filing the return and the other component members of the controlled group who do not join in filing the consolidated return. If a consolidated return is filed, the common parent corporation shall file a separate statement attached to the income tax return on which an election is made to amortize reforestation costs under section 194. See § 15b.194–4. If separate returns are filed by some or all component members of the group, each component member to which is allocated any part of the deduction under section 194 shall file a separate statement attached to the income tax return in which an election is made to amortize reforestation expenditures. See § 15b.194–4. Such statement shall include the name, address, employer indentification number, and the taxable year of each component member of the controlled group, a copy of the allocation agreement signed by persons duly authorized to act on behalf of those members who file separate returns, and a description of the manner in which the deduction under section 194 has been divided among them.

(5) *Partnerships*—(i) *Election to be made by partnership.* A partnership makes the election to amortize qualified reforestation expenditures of the partnership. See section 703(b).

(ii) *Dollar limitations applicable to partnerships.* The dollar limitations of section 194 apply to the partnership as well as to each partner. Thus, a partnership may not elect to amortize more than $10,000 of reforestation expenditures under section 194 in any taxable year.

(iii) *Partner's share of amortizable basis.* Section 704 and the regulations thereunder shall govern the determination of a partner's share of a partnership's amortizable reforestation expenditures for any taxable year.

(iv) *Dollar limitation applicable to partners.* A partner shall in no event be entitled in any taxable year to claim a deduction for amortization based on more than $10,000 ($5,000 in the case of a married taxpayer who files a separate return) of amortizable basis acquired in such taxable year regardless of the source of the amortizable basis. In the case of a partner who is a member of two or more partnerships that elect under section 194, the partner's aggregate share of partnership amortizable basis may not exceed $10,000 or $5,000, whichever is applicable. In the case of a member of a partnership that elects under section 194 who also has separately acquired qualified timber property, the aggregate of the member's partnership and non-partnership amortizable basis may not exceed $10,000 or $5,000, whichever is applicable.

(6) *Estates.* Estates may elect to amortize in each taxable year up to a maximum of $10,000 of qualifying reforestation expenditures under section 194. Any amortizable basis acquired by an estate shall be apportioned between the estate and the income beneficiary on the basis of the income of the estate allocable to each. The amount of amortizable basis apportioned from an estate to a beneficiary shall be taken into account in determining the $10,000 (or $5,000) amount of amortizable basis allowable to such beneficiary under this section.

(c) *Life tenant and remainderman.* If property is held by one person for life with remainder to another person, the life tenant is entitled to the full benefit of any amortization allowable under section 194 on qualifying expenditures he or she makes. Any remainder interest in the property is ignored for this purpose.

§ 15b.194–3 Definitions.

(a) *Qualified timber property.* The term "qualified timber property" means property located in the United States which will contain trees in significant commercial quantities. The property may be a woodlot or other site but must consist of at least one acre which is planted with tree seedlings in the manner normally used in forestation or reforestation. The property must be held by the taxpayer for the growing and cutting of timber which will either be sold for use in, or used by the taxpayer in, the commercial production of timber products. A taxpayer does not have to own the property in order to be eligible to elect to amortize costs attributable to it under section 194. Thus, a taxpayer may elect to amortize qualifying reforestation expenditures incurred by such taxpayer on leased qualified timber property. Qualified timber property does not include property on which the taxpayer has planted shelter belts (for which current deductions are allowed under section 175) or ornamental trees, such as Christmas trees.

(b) *Amortizable basis.* The term "amortizable basis" means that portion of the basis of qualified timber property which is attributable to reforestation expenditures.

(c) *Reforestation expenditures*—(1) *In general.* The term "reforestation expenditures" means direct costs incurred to plant or seed for forestation or reforestation purposes. Qualifying expenditures include amounts spent for site preparation, seed or seedlings, and labor and tool costs, including depreciation on equipment used in planting or seeding. Only those costs which must be capitalized and are included in the adjusted basis of the property qualify as reforestation expenditures. Costs which are currently deductible do not qualify.

(2) *Cost-sharing programs.* Any expenditures for which the taxpayer has been reimbursed under any governmental reforestation cost-sharing program do not qualify as reforestation expenditures unless the amounts reimbursed have been included in the gross income of the taxpayer.

(d) *Definitions of controlled group of corporations and component member of controlled group.* For purposes of section 194, the terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563(a) and (b), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1).

§ 15b. 194–4 Time and manner of making election.

(a) *In general.* Except as provided in paragraph (b) of this section, an election to amortize reforestation expenditures under section 194 shall be made by entering the amortization deduction claimed at the appropriate place on the taxpayer's income tax return for the year in which the expenditures were incurred, and by attaching a statement to such return. The statement should state the amounts of the expenditures, describe the nature of the expenditures, and give the date on which each was incurred. The statement should also state the type of timber being grown and the purpose for which it is being grown. A separate statement must be included for each property for which reforestation expenditures are being amortized under section 194. The election may only be made on a timely return (taking into

account extensions of the time for filing) for the taxable year in which the amortizable expenditures were made.

(b) *Special rule.* With respect to any return filed before June 13, 1983, on which a taxpayer was eligible to, but did not make an election under section 194, the election to amortize reforestation expenditures under section 194 may be made by a statement on, or attached to, the income tax return (or an amended return) for the taxable year, indicating that an election is being made under section 194 and setting forth the information required under paragraph (a) of this section. An election made under the provisions of this paragraph (b) must be made not later than,

(1) The time prescribed by law (including extensions thereof) for filing the income tax return for the year in which the reforestation expenditures were made, or

(2) June 13, 1983, whichever is later. Nothing in this paragraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(c) *Revocation.* An application for consent to revoke an election under section 194 shall be in writing and shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall set forth the name and address of the taxpayer, state the taxable years for which the election was in effect, and state the reason for revoking the election. The application shall be signed by the taxpayer or a duly authorized representative of the taxpayer and shall be filed at least 90 days prior to the time prescribed by law (without regard to extensions thereof) for filing the income tax return for the first taxable year for which the election is to terminate. Ordinarily, the request for consent to revoke the election will not be granted if it appears from all the facts and circumstances that the only reason for the desired change is to obtain a tax advantage.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of this section.

This Treasury decision is issued under the authority contained in sections 194 (94 Stat. 1983; 26 U.S.C. 194) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 28, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-6721 Filed 3-14-83; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning April 1, 1983. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after April 1, 1983, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). Appendix B to the regulation, which contains formulas for valuing different types of benefits, sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before February 1, 1983 (46 FR 28765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273, 47 FR 51393, 47 FR 56134).

On January 14, 1983, the PBGC published rates for plans that terminate on or after February 1, 1983 (48 FR 1715). That rate has remained in effect until now and will remain in effect for plan terminations through the end of March, 1983. At this time, however, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after April 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market

conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after February 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 40 of Appendix B is revised and Rate Set 41 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_r" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	
40	2-1-83	4-1-83	9.75	1.0900	1.0775	1.0400	7	8
41	4-1-83		9.50	1.0875	1.0750	1.0400	7	8

Charles C. Tharp,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-6602 Filed 3-14-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Availability of Final Abandoned Mine Land Policy Statement; Request for Comments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Availability of Final Abandoned Mine Land (AML) Policy Statement With Request for Comment.

SUMMARY: OSM is soliciting comments on a final policy governing the distribution and utilization of monies deposited in the Abandoned Mine Land Reclamation Fund.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1253, establishes the Abandoned Mine Land Reclamation Fund. OSM believes achievement of the reclamation goals of SMCRA is dependent on distribution and utilization of Fund revenues in a manner which ensures all States and Tribes have an equitable opportunity to correct their most severe problems. Establishment and issuance of this Final Abandoned Mine Land Policy defines how this will be accomplished and permits States and Tribes to better plan their reclamation programs to maximize the effective use of the limited resources.

DATES: Comments must be submitted on or before April 14, 1983.

ADDRESSES: Copies of the final AML Policy statement are available for inspection at the following office: Administrative Record, Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C.

Written comments and requests for copies of the final AML policy should be sent to: Administrative Record, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Thompson, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, Department the of Interior, 1951 Constitution Avenue, N.W., Washington, D.C. (202) 343–7937.

SUPPLEMENTARY INFORMATION: The Surface Mining Control and Reclamation Act (Act) establishes the authority of States/Tribes to administer reclamation programs using monies available as a result of the deposit of reclamation fees into the Abandoned Mine Land Reclamation (AML) Fund. It is the policy of the Director of the Office of Surface Mining (OSM) that, within the constraint of total revenues projected to be collected over the life of the Fund, monies from the Fund be applied to render benign both those conditions most hazardous to the welfare of the public and those representing most severe sources of environmental damage from past mining. The significance of this position becomes apparent when one compares the resources to be provided by the Fund with the magnitude of the Nation's reclamation problem. It is estimated that approximately $3 billion will be collected over the legislated 15-year life of the reclamation fee. However, the total cost of correcting the damage associated with past mining has been estimated at up to $30 billion.

Dated: March 10, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-6718 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-05-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

32 CFR Part 2400

Regulations To Implement E.O. 12356—Office of Science and Technology Information Security Program

AGENCY: Office of Science and Technology Policy.

ACTION: Implementing Regulations; Final Rule.

SUMMARY: This Office of Science and Technology Policy regulation is issued to

govern the OSTP Information Security Program. It is issued under the authority of, and pursuant to, Executive Order 12356 and Information Security Oversight Office Directive No. 1. This regulation sets forth guidance to OSTP in classifying, downgrading, declassifying, and safeguarding national security information and provides procedures to the public for obtaining information that may be declassified.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry D. Jennings, Executive Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20506, (202–395–4692).

SUPPLEMENTARY INFORMATION: These regulations are issued pursuant to the provisions of 5.3(b) of Executive Order 12356. These regulations involve national security information and are exempt from the procedures of 5 U.S.C. 553.

List of Subjects in 32 CFR Part 2400

Classified information.

Jerry D. Jennings,

Executive Director.

32 CFR Chapter XXIV Part 2400 is revised to read as follows:

PART 2400—REGULATIONS TO IMPLEMENT E.O. 12356; OFFICE OF SCIENCE AND TECHNOLOGY POLICY INFORMATION SECURITY PROGRAM

Subpart A—General Provisions

Sec.
2400.1 Authority.
2400.2 Purpose.
2400.3 Applicability.
2400.4 Atomic Energy material.

Subpart B—Original Classification

2400.5 Basic policy.
2400.6 Classification levels.
2400.7 Original classification authority.
2400.8 Limitations on delegation of original classification authority.
2400.9 Classification requirements.
2400.10 Presumption of damage.
2400.11 Duration of classification.
2400.12 Identification and markings.
2400.13 Limitations on classification.

Subpart C—Derivative Classification

2400.14 Use of derivative classification.
2400.15 Classification guides.
2400.16 Derivative classification markings.

Subpart D—Declassification and Downgrading

2400.17 Policy.
2400.18 Declassification and downgrading authority.
2400.19 Declassification by the Director of the Information Security Oversight Office.
2400.20 Systematic review for declassification.
Sec.
2400.21 Mandatory review for declassification.
2400.22 Freedom of Information Act and Privacy Act requests.
2400.23 Prohibition.
2400.24 Downgrading.

Subpart E—Safeguarding

2400.25 Access.
2400.26 Access by historical researchers and former Presidential appointees.
2400.27 Storage of classified information.
2400.28 Dissemination of classified information.
2400.29 Accountability and control.
2400.30 Reproduction of classified information.
2400.31 Destruction of classified information.
2400.32 Transmittal of classified information.
2400.33 Loss or possible compromise.

Subpart F—Foreign Government Information

2400.34 Classification.
2400.35 Duration of classification.
2400.36 Declassification.
2400.37 Mandatory review.
2400.38 Protection of foreign government information.

Subpart G—Security Education

2400.39 Responsibility and objectives.

Subpart H—Office of Science and Technology Policy Information Security Program Management

2400.40 Responsibility.
2400.41 Office Review Committee.
2400.42 Security Officer.
2400.43 Heads of offices.
2400.44 Custodians.
2400.45 Information Security Program Review.
2400.46 Suggestions or complaints.

Authority: E.O. 12356 and Information Security Oversight Office Directive No. 1.

Subpart A—General Provisions

§ 2400.1 Authority.

(a) Executive Order 12356 "National Security Information," dated April 2, 1982, 47 FR 14874 (Apr. 6, 1982); 47 FR 15557 (Apr. 12, 1982) and Order of Designation of May 7, 1982, 47 FR 20105 (May 11,1982).

(b) Information Security Oversight Office, Directive No. 1, "National Security Information," dated June 23, 1982, 47 FR 27836 (June 25, 1982) (Directive No. 1).

§ 2400.2 Purpose.

The purpose of this Regulation is to ensure, consistent with the authorities of § 2400.1 that information of the Office of Science and Technology Policy (OSTP) relating to national security is protected from unauthorized disclosure, but only to the extent and for such period as is necessary to safeguard the national security.

§ 2400.3 Applicability.

This Regulation governs the Office of Science and Technology Policy Information Security Program. In accordance with the provisions of Executive Order 12356 and Directive No. 1 it establishes, for uniform application throughout the Office of Science and Technology Policy, the policies and procedures for the security classification, downgrading, declassification and safeguarding of information that is owned by, produced for or by, or under the control of the office of Science and Technology Policy.

§ 2400.4 Atomic Energy Material.

Nothing in this Regulation supersedes any requirement made by or under the Atomic Energy act of 1954, as amended. "Restricted Data" and information designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Department of Energy.

Subpart B—Original Classification

§ 2400.5 Basic policy.

Except as provided in the Atomic Energy Act of 1954, as amended, Executive Order 12356, as implemented by Directive No. 1 and this Regulation, provides the only basis for classifying information. The policy of the Office of Science and Technology Policy is to make available to the public as much information concerning its activities as is possible, consistent with its responsibility to protect the national security. Information may not be classified unless its disclosure reasonably could be expected to cause damage to the national security.

§ 2400.6 Classification levels.

(a) National security information (hereinafter "classified information") shall be classified at one of the following three levels:

(1) "Top Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) Except as otherwise provided by statute, no other terms shall be used to identify classified information. Markings other than "Top Secret," "Secret," and "Confidential," such as "For Official Use Only," shall not be used to identify national security information. In addition, no other term or phrase shall be used in conjunction with one of the three authorized classification levels, such as "Secret Sensitive" or "Agency Confidential." The terms "Top Secret", "Secret", and "Confidential" should not be used to identify nonclassified executive branch information.

(c) Unnecessary classification, and classification at a level higher than is necessary shall be scrupulously avoided.

(d) If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified "Confidential" pending a determination by an original classification authority, who shall make this determination within thirty (30) days. If there is reasonable doubt about the appropriate level of classification the originator of the information shall safeguard it at the higher level of classification pending a determination by an original classification authority, who shall make this determination within thirty (30) days. Upon the determination of a need for classification and/or the proper classification level, the information that is classified shall be marked as provided in § 2400.12 of this Part.

§ 2400.7 Original classification authority.

(a) Authority for original classification of information as Top Secret shall be exercised within OSTP only by the Director and by such principal subordinate officials having frequent need to exercise such authority as the Director shall designate in writing.

(b) The authority to classify information originally as Secret shall be exercised within OSTP only by the Director, other officials delegated in writing to have original Top Secret classification authority, and any other officials delegated in writing to have original Secret classification authority.

(c) The authority to classify information originally as Confidential shall be exercised within OSTP only by officials with original Top Secret or Secret classification authority and any officials delegated in writing to have original Confidential classification authority.

§ 2400.8 Limitations on delegation of original classification authority.

(a) The Director, OSTP is the only official authorized to delegate original classification authority.

(b) Delegations of original classification authority shall be held to an absolute minimum.

(c) Delegations of original classification authority shall be limited to the level of classification required.

(d) Original classification authority shall not be delegated to OSTP personnel who only quote, restate, extract or paraphrase, or summarize classified information or who only apply classification markings derived from source material or as directed by a classification guide.

(e) The Executive Director, OSTP, shall maintain a current listing of persons or positions receiving any delegation of original classification authority. If possible, this listing shall be unclassified.

(f) Original classification authority may not be redelegated.

(g) *Exceptional Cases.* When an employee, contractor, licensee, or grantee of OSTP that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with these Regulations as provided in § 2400.6(d) of this Part. The information shall be transmitted promptly as provided in these Regulations to the official in OSTP who has appropriate subject matter interest and classification authority with respect to this information. That official shall decide within thirty (30) days whether to classify this information. If the information is not within OSTP's area of classification responsibility, OSTP shall promptly transmit the information to the responsible agency. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

§ 2400.9 Classification requirements.

(a) Information may be classified only if it concerns one or more of the categories cited in Executive Order 12356, as subcategorized below, *and* an official having original classification authority determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(1) Military plans, weapons or operations;

(2) The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;

(3) Foreign government information;

(4) Intelligence activities (including special activities), or intelligence sources or methods;

(5) Foreign relations or foreign activities of the United States;

(6) Scientific, technological, or economic matters relating to the national security;

(7) United States Government programs for safe-guarding nuclear materials or facilities;

(8) Cryptology;

(9) A confidential source; or

(10) Other categories of information which are related to national security and that require protection against unauthorized disclosure as determined by the Director, Office of Science and Technology Policy. Each such determination shall be reported promptly to the Director of the Information Security Oversight Office.

(b) Foreign government information need not fall within any other classification category listed in paragraph (a) of this section to be classified.

(c) Certain information which would otherwise be unclassified may require classification when combined or associated with other unclassified or classified information. Classification on this basis shall be fully supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the record copy of the information.

(d) Information classified in accordance with this section shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information. Following an inadvertent or unauthorized publication or disclosure of information identical or similar to information that has been classified in accordance with Executive Order 12356 or predecessor orders, OSTP, if the agency of primary interest, shall determine the degree of damage to the national security, the need for continued classification, and in coordination with the agency in which the disclosure occurred, what action must be taken to prevent similar occurrences. If the agency of primary interest is other than OSTP, the matter shall be referred to that agency.

§ 2400.10 Presumption of damage.

Unauthorized disclosure of foreign government information, the identity of

a confidential foreign source, or intelligence sources or methods, is presumed to cause damage to the national security.

§ 2400.11 Duration of classification.

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor Executive Orders shall remain valid unless the classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The originating agency shall be responsible for notifying holders of the information of such extensions.

(c) Information classified under predecessor Executive Orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of Executive Order 12356.

(d) Information classified under predecessor Executive Orders that does not bear a specific date or event for declassification shall remain classified until reviewed for declassification. The authority to extend the classification of information subject to automatic declassification under predecessor Orders is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Director of the Information Security Oversight Office.

§ 2400.12 Identification and markings.

(a) At the time of original classification, the following information shall be shown on the face of all classified documents, or clearly associated with other forms of classified information in a manner appropriate to the medium involved, unless this information itself would reveal a confidential source or relationship not otherwise evident in the document or information:

(1) One of the three classification levels defined in § 2400.6 of this Part;

(2) The identity of the original classification authority if other than the person whose name appears as the approving or signing official;

(3) The agency and office of origin; and

(4) The date or event for declassification, or the notation "Originating Agency's Determination Required."

(b) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. The Director OSTP may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

(c) Marking designations implementing the provisions of Executive Order 12356, including abbreviations, shall conform to the standards prescribed in Directive No. 1 issued by the Information Security Oversight Office.

(d) Foreign government information shall either retain its original classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(e) Information assigned a level of classification under predecessor Executive Orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the officials specified in § 2400.18 of this Part.

§ 2400.13 Limitations on classification.

(a) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) The Director may reclassify information previously declassified and disclosed if it is determined in writing that (1) the information requires protection in the interest of national security; and (2) the information may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office. Before reclassifying any information, the Director shall consider the factors listed in section 2001.6 of Directive No. 1, which shall be addressed in the report to the Director of the Information Security Oversight Office.

(d) Information may be classified or reclassified after OSTP has received a request for it under the Freedom of Information Act (5 U.S.C. 552a) or the Privacy Act of 1974 (5 U.S.C. 552), or the mandatory review provisions of Executive Order 12356 (Section 3.4) if such classification meets the requirements of this Order and is accomplished personally and on a document-by-document basis by the Director.

Subpart C—Derivative Classification

§ 2400.14 Use of derivative classification.

(a) Derivative classification is (1) the determination that information is in substance the same as information currently classified, and (2) the application of the same classification markings. Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority. If a person who applies derivative classification markings believes that the paraphrasing, restating, or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult an appropriate official of the originating agency or office of origin who has the authority to declassify, downgrade or upgrade the information.

(b) Persons who apply derivative classification markings shall:

(1) Observe and respect original classification decisions; and

(2) Carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

§ 2400.15 Classification guides.

(a) OSTP shall issue and maintain classification guides to facilitate the proper and uniform derivative classification of information. These guides shall be used to direct derivative classification.

(b) The classification guides shall be approved, in writing, by the Director or by officials having Top Secret original classification authority. Such approval constitutes an original classification decision.

(c) Each classification guide shall specify the information subject to classification in sufficient detail to permit its ready and uniform

identification and categorization and shall set forth the classification level and duration in each instance. Additionally, each classification guide shall prescribe declassification instructions for each element of information in terms of (1) a period of time, (2) the occurrence of an event, or (3) a notation that the information shall not be automatically declassified without the approval of OSTP.

(d) The classification guides shall be kept current and shall be fully reviewed at least every two years. The Executive Director, OSTP shall maintain a list of all OSTP classification guides in current use.

(e) The Executive Director, OSTP shall receive and maintain the record copy of all approved classification guides and changes thereto. He will assist the originator in determining the required distribution.

(f) The Director may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers. The Director's decision to waive the requirement to issue classification guides for specific classes of documents or information will be based, at a minimum, on an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anticipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 2400.16 Derivative classification markings.

(a) Documents classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2400.12 of this Part and Directive No. 1 as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide. When markings are omitted because they may reveal a confidential source or relationship not otherwise evident, as described in § 2400.12 of this Part, the information may not be used as a basis for derivative classification.

(b) The authority for classification shall be shown as directed in Directive No. 1.

Subpart D—Declassification and Downgrading

§ 2400.17 Policy.

Declassification of information shall be given emphasis comparable to that accorded classification. Information classified pursuant to Executive Order 12356 and prior orders shall be declassified or downgraded as soon as national security considerations permit. Decisions concerning declassification shall be based on the loss of sensitivity of the information with the passage of time or on the occurrence of an event which permits declassification. When information is reviewed for declassification pursuant to this regulation, that information shall be declassified unless the designated declassification authority determines that the information continues to meet the classification requirements prescribed in § 2400.9 of this Part despite the passage of time. The Office of Science and Technology Policy officials shall coordinate their review of classified information with other agencies that have a direct interest in the subject matter.

§ 2400.18 Declassification and downgrading authority.

Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the Director, OSTP. The Executive Director, OSTP shall maintain a current listing of persons or positions receiving those delegations. If possible, these listings shall be unclassified.

§ 2400.19 Declassification by the Director of the Information Security Oversight Office.

If the Director of the Information Security Oversight Office (ISOO) determines that information is classified in violation of Executive Order 12356, the Director, ISOO may require the information to be declassified by the agency that originated the classification. Any such decision by the Director ISOO may be appealed by the Director, OSTP to the National Security Council. The information shall remain classified, pending a prompt decision on the appeal.

§ 2400.20 Systematic review for declassification.

(a) *Permanent records.* Systematic review is applicable only to those classified records, and presidential papers or records that the Archivist of the United States, acting under the Federal Records Act, has determined to be of sufficient historical or other value to warrant permanent retention.

(b) *Non-permanent records.* Non-permanent classified records shall be disposed of in accordance with schedules approved by the Administrator of General Services under the Records Disposal Act. These schedules shall provide for the continued retention of records subject to an ongoing mandatory review for declassification request.

(c) *Office of Science and Technology Policy Responsibility.* The Director, OSTP, shall:

(1) Issue guidelines for systematic declassification review and, if applicable, for downgrading. These guidelines shall be developed in consultation with the Archivist and the Director of the Information Security Oversight Office and be designated to assist the Archivist in the conduct of systematic reviews;

(2) Designate experienced personnel to provide timely assistance to the Archivist in the systematic review process;

(3) Review and update guidelines for systematic declassification review and downgrading at least every five years unless earlier review is requested by the Archivist.

(d) *Foreign Government Information.* Systematic declassification review of foreign government information shall be in accordance with guidelines issued by the Director of the Information Security Oversight Office.

(e) *Special procedures.* The Office of Science and Technology Policy shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities) or intelligence sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§ 2400.21 Mandatory review for declassification.

(a) Except as provided in paragraph (d) of this section, all information classified under Executive Order 12356 or predecessor orders shall be subject to a review for declassification by the Office of Science and Technology Policy, if:

(1) The request is made by a United States citizen or permanent resident alien, a federal agency, or a State or local government; and

(2) The request is made in writing and describes the document or material containing the information with

sufficient specificity to enable the Office of Science and Technology Policy to locate it with a reasonable amount of effort.

(b) Requests should be addressed to: Executive Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20506.

(c) If the request does not reasonably describe the information sought to allow identification of documents containing such information, the requester shall be notified that unless additional information is provided or the request is made more specific, no further action will be taken.

(d) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the mandatory review provisions of § 2400.24(a) of this part. The Archivist of the United States shall have the authority to review, downgrade and declassify information under the control of the Administrator of General Services or the Archivist pursuant to sections 2107, 2107 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matters interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective presidential papers or records. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the apppeal.

(e) Office of Science and Technology Policy officials conducting a mandatory review for declassification shall declassify information no longer requiring protection under Executive Order 12356. They shall release this information unless withholding is otherwise authorized under applicable law.

(f) Office of Science and Technology Policy responses to mandatory review requests shall be governed by the amount of search and review time required to process the request. Normally the requester shall be informed of the Office of Science and Technology Policy determination within thirty days of receipt of the original request (or within thirty days of the receipt of the required amplifying information in accordance with paragraph (c) of this section). In the event that a determination cannot be made within thirty days, the requester shall be informed of the additional time needed to process the request. However, OSTP, shall make a final determination within one year from the date of receipt of the request except in unusual circumstances.

(g) When information cannot be declassified in its entirety, OSTP will make a reasonable effort to release, consistent with other applicable law, those declassified portions of that requested information the constitute a coherent segment.

(h) If the information may not be released in whole or in part, the requester shall be given a brief statement as to the reason for denial, and notice of the right to appeal the determination in writing within sixty days of receipt of the denial to the chairperson of the Office of Science and Technology Policy Review Committee. If appealed, the requester shall be informed in writing of the appellate determination within thirty days of receipt of the appeal.

(i) When a request is received for information originated by another agency, the Executive Director, Office of Science and Technology Policy, shall:

(1) Forward the request to such agency for review together with a copy of the document containing the information requested, where practicable, and where appropriate, with the Office of Science and Technology Policy recommendation to withhold or declassify and release any of the information;

(2) Notify the requester of the referral unless the agency to which the request is referred objects to such notice on grounds that its association with the information requires protection; and

(3) Request, when appropriate, that the agency notify the Office of Science and Technology Policy of its determination.

(j) If the request requires the rendering of services for which fees may be charged under Title 5 of the Independent Offices Appropriation Act, 31 U.S.C. 483a, the Executive Director, Office of Science and Technology Policy, may calculate the anticipated amount of fees to be charged.

(1) Fees for the location and reproduction of information that is the subject of a mandatory review request shall be assessed according to the following schedule:

(i) *Search for records.* $5.00 per hour when the search is conducted by a clerical employee; $8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

(ii) *Reproduction of documents.* Documents will be reproduced at a rate of $.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents that are three pages or less, or for the first three pages of longer documents.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requestor has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. Dispatch of such a notice or request shall suspend the running of the period for response by OSTP until a reply is received from the requester.

(3) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made to the Treasury of the United States and mailed to the Executive Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20506.

(4) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(5) If a requester fails to pay within thirty days for services rendered, further action on any other requests submitted by that requestor shall be suspended.

(6) The Executive Director, Office of Science and Technology Policy may waive all or part of any fee provided for in this section when it is deemed to be in either the interest of the OSTP or the general public.

§ 2400.22 Freedom of Information Act and Privacy Act requests.

The Office of Science and Technology Policy shall process requests for declassification that are submitted under the provisions of the Freedom of Information Act, as amended, or the Privacy Act of 1974, in accordance with the provisions of those Acts.

§ 2400.23 Prohibition.

In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of Executive Order 12356 and Directive No. 1, or this regulation:

(a) The Office of Science and Technology Policy shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under Executive Order 12356.

(b) When the Office of Science and Technology Policy receives any request for documents in its custody that were classified by another agency, it shall refer copies of the request and the requested documents to the originating agency for processing, and may, after consultation with the originating agency, inform the requester of the referral. In cases which the originating agency determines in writing that a response under paragraph (a) of this section is required, the Office of Science and Technology Policy shall respond to the requester in accordance with that paragraph.

§ 2400.24 Downgrading.

(a) When it will serve a useful purpose, original classification authorities may, at the time of original classification, specify that downgrading of the assigned classification will occur on a specified date or upon the occurrence of a stated event.

(b) Classified information marked for automatic downgrading is downgraded accordingly without notification to holders.

(c) Classified information not marked for automatic downgrading may be assigned a lower classification designation by the originator or by an official authorized to declassify the same information. Prompt notice of such downgrading shall be provided to known holders of the information.

Subpart E—Safeguarding

§ 2400.25 Access.

(a) A person is eligible for access to classified information provided that a determination of trustworthiness has been made by agency heads or designated officials and provided that such access is essential to the accomplishment of lawful and authorized Government purposes. A personnel security clearance is an indication that the trustworthiness decision has been made. Procedures shall be established by the head of each office to prevent access to classified information before a personnel security clearance has been granted. The number of people cleared and granted access to classified information shall be maintained at the minimum number that is consistent with operational requirements and needs. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determinating whether an individual's official duties require possession of or access to any element or item of classified information, and whether the individual has been granted the appropriate security clearance by proper authority, rests with the individual who has authorized possession, knowledge, or control of the information and not with the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, other Federal agencies, contractors, foreign governments, and others.

(b) When access to a specific classification category is no longer required for the performance of an individual's assigned duties, the security clearance will be administratively adjusted, without prejudice to the individual, to the classification category, if any, required.

(c) The Director, Office of Science and Technology Policy may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to Executive Order 12356 or predecessor orders if:

(1) Normal management and safeguarding procedures do not limit access sufficiently;

(2) The number of persons with access is limited to the minimum necessary to meet the objective of providing extra protection for the information;

(3) The special access program is established in writing; and

(4) A system of accounting for the program is established and maintained.

§ 2400.26 Access by historical researchers and former Presidential appointees.

(a) The requirement in Section 4.1(a) of Executive Order 12356 that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes may be waived as provided in paragraph (b) of this section for persons who:

(1) Are engaged in historical research projects, or

(2) Previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under paragraph (a) of this section may be granted only if the Director, Office of Science and Technology Policy:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with Executive Order 12356;

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee; and

(4) Has received a written agreement from the researcher or former presidential appointee that his notes can be reviewed by OSTP for a determination that no classified material is contained therein.

§ 2400.27 Storage of classification information.

Whenever classified information is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container approved for the storage and protection of the appropriate level of classified information as prescribed in Section 2001.43 of Directive No. 1.

§ 2400.28 Dissemination of classified information.

Heads of OSTP offices shall establish procedures consistent with this Regulation for dissemination of classified material. The originating official may prescribe specific restrictions on dissemination of classified information when necessary.

(a) Classified information shall not be disseminated outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch.

(b) Except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. For purposes of this Section, the Department of Defense shall be considered one agency.

§ 2400.29 Accountability and control.

(a) Each item of Top Secret, Secret, and Confidential information is subject to control and accountability requirements.

(b) The Security Officer will serve as Top Secret Control Officer (TSCO) for the Office of Science and Technology Policy and will be responsible for the supervision of the Top Secret control program. He/she will be assisted by an Assistant Top Secret Control Officer (ATSCO) to effect the Controls prescribed herein for all Top Secret material.

(c) The TSCO shall receive, transmit, and maintain current access and accountability records for Top Secret information. The records shall show the number and distribution of all Top Secret documents, including any reproduced copies.

(d) Top Secret documents and material will be accounted for by a continuous chain of receipts.

(e) An inventory of Top Secret documents shall be made at least annually.

(f) Destruction of Top Secret documents shall be accomplished only by the TSCO or the ATSCO.

(g) Records shall be maintained to show the number and distribution of all classified documents covered by special access programs, and of all Secret and Confidential documents which are marked with special dissemination and reproduction limitations.

(h) The Security Officer will develop procedures for the accountability and control of Secret and Confidential information. These procedures shall require all Secret and Confidential material originated or received by OSTP to be controlled. Control shall be accomplished by the ATSCO.

§ 2400.30 Reproduction of classified information.

Documents or portions of documents and materials that contain Top Secret information shall not be reproduced without the consent of the originator or higher authority. Any stated prohibition against reproduction shall be strictly observed. Copying of documents containing classified information at any level shall be minimized. Specific reproduction equipment shall be designated for the reproduction of classified information and rules for reproduction of classified information shall be posted on or near the designated equipment. Notices prohibiting reproduction of classified information shall be posted on equipment used only for the reproduction of unclassified information. All copies of classified documents reproduced for any purpose including those incorporated in a working paper are subject to the same controls prescribed for the document from which the reproduction is made.

§ 2400.31 Destruction of classified information.

(a) Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of chapters 21 and 33 of Title 44, USC, which governs disposition of classified records. Classified information approved for destruction shall be destroyed in accordance with procedures and methods prescribed by the Director, OSTP, as implemented by the Security Officer. These procedures and methods must provide adequate protection to prevent access by unauthorized persons and must preclude recognition or reconstruction of the classified information or material.

(b) All classified information to be destroyed will be provided to the ATSCO for disposition. Controlled documents will be provided whole so that accountability records may be corrected prior to destruction by the ATSCO.

§ 2400.32 Transmittal of classified information.

The transmittal of classified information outside of the Office of Science and Technology Policy shall be in accordance with procedures of Section 2001.44 of Directive No. 1. The Security Officer shall be responsible for resolving any questions relative to such transmittal.

§ 2400.33 Loss or possible compromise.

(a) Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to the Security Officer. The Security Officer shall notify the Director and the agency that originated the information as soon as possible so that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of the compromise.

(b) The Security Officer shall initiate an inquiry to:

(1) Determine cause,

(2) Place responsibility, and

(3) Take corrective measures and appropriate administrative, disciplinary, or legal action.

(c) The Security Officer shall keep the Director advised on the details of the inquiry.

Subpart F—Foreign Government Information

§ 2400.34 Classification.

(a) Foreign government information classified by a foreign government or international organization of governments shall retain its original classification designation or be assigned a United States classification designation that will ensure a degree of protection equivalent to that required by the government or organization that furnished the information. Original classification authority is not required for this purpose.

(b) Foreign government information that was not classified by a foreign entity but was provided with the expectation, expressed or implied, that it be held in confidence must be classified because Executive Order 12356 states a presumption of damage to the national security in the event of unauthorized disclosure of such information.

§ 2400.35 Duration of classification.

Foreign government information shall not be assigned a date or event for automatic declassification unless specified or agreed to by the foreign entity.

§ 2400.36 Declassification.

Officials shall respect the intent of this Regulation to protect foreign government information and confidential foreign sources.

§ 2400.37 Mandatory review.

Except as provided in this paragraph, OSTP shall process mandatory review requests for classified records containing foreign government information in accordance with Section 2400.21. The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If OSTP receives a request for mandatory review and is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

§ 2400.38 Protection of foreign government information.

Classified foreign government information shall be protected as is prescribed by this Regulation for United States classified information of a comparable level.

Subpart G—Security Education

§ 2400.39 Responsibility and objectives.

The OSTP Security Officer shall establish a security education program for OSTP personnel. The program shall be sufficient to familiarize all OSTP personnel with the provisions of Executive Order 12356 and Directive No. 1, and this Regulation. It shall be designed to provide initial, refresher, and termination briefings to impress upon them their individual security responsibilities.

Subpart H—Office of Science and Technology Policy Information Security Program Management

§ 2400.40 Responsibility.

The Director, OSTP is the senior OSTP official having authority and responsibility to ensure effective and uniform compliance with and implementation of Executive Order 12356 and its implementing Directive No. 1. As such, the Director, OSTP, shall have primary responsibility for providing guidance, oversight and approval of policy and procedures governing the OSTP Information Security Program. The Director, OSTP, may approve waivers or exceptions to the provisions of this Regulation to the extent such action is consistent with Executive Order 12356 and Directive No. 1.

§ 2400.41 Office Review Committee.

The Office of Science and Technology Policy Review Committee (hereinafter referred to as the Office Review Committee) is hereby established and will be responsible for the continuing review of the administration of this Regulation with respect to the classification and declassification of information or material originated or held by the Office of Science and Technology Policy. The Office Review Committee shall be composed of the Executive Director who shall serve as chairperson, the Assistant Director for National Security & Space, and the Security Officer.

§ 2400.42 Security Officer.

Under the general direction of the Director, the Special Assistant to the Executive Director will serve as the Security Officer and will supervise the administration of this Regulation. He/she will develop programs, in particular a Security Education Program, to insure effective compliance with and implementation of the Information Security Program. Specifically he/she also shall:

(a) Maintain a current listing by title and name of all persons who have been designated in writing to have original Top Secret, Secret, and Confidential Classification authority. Listings will be reviewed by the Director on an annual basis.

(b) Maintain the record copy of all approved OSTP classification guides.

(c) Maintain a current listing of OSTP officials designated in writing to have declassification and downgrading authority.

(d) Develop and maintain systematic review guidelines.

§ 2400.43 Heads of offices.

The Head of each unit is responsible for the administration of this Regulation within his area. These responsibilities include:

(a) Insuring that national security information is properly classified and protected;

(b) Exercising a continuing records review to reduce classified holdings through retirement, destruction, downgrading or declassification;

(c) Insuring that reproduction of classified information is kept to the absolute minimum;

(d) Issuing appropriate internal security instructions and maintaining the prescribed control and accountability records on classified information under their jurisdiction.

§ 2400.44 Custodians.

Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

§ 2400.45 Information Security Program Review.

(a) The Director, OSTP, shall require an annual formal review of the OSTP Information Security Program to ensure compliance with the provisions of Executive Order 12356 and Directive No. 1, and this regulation.

(b) The review shall be conducted by a group of three to five persons appointed by the Director and chaired by the Executive Director. The Security Officer will provide any records and assistance required to facilitate the review.

(c) The findings and recommendations of the review will be provided to the Director for his determination.

§ 2400.46 Suggestions or complaints.

Persons desiring to submit suggestions or complaints regarding the Office of Science and Technology Policy Information Security Program should do so in writing. This correspondence should be addressed to: Executive Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20506.

[FR Doc. 83-6671 Filed 3-14-83; 8:45 am]
BILLING CODE 3170-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW028PA; A-3 FRL 2296-8]

Commonwealth of Pennsylvania; Approval of a Revision of State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving an alternative emission reduction plan (bubble) for the Fairless Hills plant of the United States Steel Corporation (USSC). This plan was developed in accordance with EPA's Emissions Trading Policy as published in the **Federal Register** on April 7, 1982, (47 FR 15076), and consists of a permit and regulations which apply to particulate emissions from two sinter plant windbox exhausts and ten sinter plant air cleaning devices. The Commonwealth of Pennsylvania has submitted this bubble as a revision to its State Implementation Plan (SIP) under the Clean Air Act.

EPA finds good cause in making this action effective immediately so the alternate control plan can proceed to achieve the emission reduction in particulate matter expeditiously.

EFFECTIVE DATE: March 15, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, ATTN: David L. Arnold (3AW11)

Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120, ATTN: Gary L. Triplett

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401

M Street, SW. (Waterside Mall), Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. David L. Arnold, U.S. Environmental Protection Agency, Region III—Air Programs and Energy Branch (3AW11), Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–7936.

SUPPLEMENTARY INFORMATION: The changes to the Pennsylvania regulations which are being approved today were originally submitted by the Pennsylvania Department of Environmental Resources (DER) on May 4, 1981 for purposes of parallel processing by EPA. This final submission was made by DER on January 6, 1983.

The changes allow for an alternative emission reduction plan (bubble) in accordance with EPA's Emissions Trading Policy published in the **Federal Register** on April 7, 1982 (47 FR 15076). The changes were proposed in the **Federal Register** on October 28, 1981 (46 FR 53196) after a public hearing was held by the State on September 3, 1981. All written comments received by EPA during the 30 day comment period were considered in today's action.

The sinter plant bubble at USSC's Fairless Works involves twelve (12) particulate emission points: ten air cleaning devices that control various sinter feed and discharge points, and two sinter machine windboxes. The previously applicable Pennsylvania SIP regulation (25 Pa. Code Section 123.13(b), of DER Air Resources Regulations) required: (1) Control of the two sinter windboxes to a level of 128 pounds per hour (64 lbs./hour each); (2) control of the remaining ten emission points to a level not to exceed a total particulate emission rate of 140 pounds per hour. The Bubble plan allows particulate emissions of 220 pounds per hour (110 lbs./hour each) from the sinter plant windboxes. These emissions will be offset by controlling the other ten emission points to a total level of 45 pounds per hour (with individual emission rates established for each point). Therefore, this bubble plan requires the control of all sinter plant sources, to a level of 265 pounds per hour, compared to 268 pounds per hour under the previous regulations. The Company estimates its savings in pollution control costs will be approximately $27 million. EPA has analyzed this plan and concluded that no adverse air quality impact will occur as a result of implementing this bubble. Therefore, EPA did not require a modeling demonstration of its effect on air quality. This conclusion is in accordance with EPA's Emission Trading Policy and is based on the following:

(1) Actual plant-wide emissions will decrease from 1812 pounds per hour to 265 pounds per hour;

(2) Allowable plant-wide emissions will decrease from 268 pounds per hour to 265 pounds per hour;

(3) Under the bubble proposal the emissions from the two windbox stacks (153 ft. and 161 ft. in height) will exceed the limitations of the existing state regulations but will be significantly less than present actual emissions. Emissions from the remaining ten stacks (ranging from 54 ft. to 118 ft. in height) will be less than those allowed by the previous State regulations;

(4) All emission points are located in the same immediate vicinity (i.e., the sinter plant, which is 121 meters long and 50 meters wide);

(5) Area terrain is flat and there are no downwash or eddy effects;

(6) The area is presently attainment for the primary and secondary National Ambient Air Quality Standards for particulate matter (monitoring has shown no violations when the plant is operating at current emission levels (1812 lbs./hr.));

(7) Through the above analyses, EPA has also concluded that, based upon no increases in actual or allowable emissions, the National Ambient Air Quality Standards and the Prevention of Significant Deterioration will not be violated. Furthermore, the PSD baseline for particulates increments for particulates has not been triggered.

The regulation implementing this plan will become "Section 128.16, United States Corporation, Fairless Hills, Pennsylvania" of the DER Air Resources Regulation, at 25 PA. Code. Subsection (a) of the Section identifies the facility and the individual sources to which this plan applies. Subsection (b) prohibits particulate matter emissions from each identified source in Subsection (a) in excess of specified emission rates. Subsection (c) relieves this facility from compliance with Section 123.13(b) and the conditions contained in the operating permit issued for this facility. In Subsection (d), a program to reduce fugitive particulate air contaminants (road dust) by 138 pounds per hour for each operating sinter line is required. This requirement was not discussed in the **Federal Register** notice proposing this bubble, since DER is using actual emissions at the time the application was submitted as the baseline and is requiring this program to provide reductions over and above those in the proposed bubble which is based on an allowable emissions baseline. These reductions are an additional State requirement and are not directly involved in the emissions trade that EPA is approving. EPA has based its approval on allowable emission rates in accordance with the emissions trading policy but further realizes that overall actual emissions will decrease (See 1 and 3 above). Subsection (3) renders Section 128.16 void on December 31, 1985, unless reenacted. Should Section 128.16 not be reenacted, USSC must meet the requirements of the original SIP, i.e., 25 Pa Code Section 123.13(b).

In order for DER to determine compliance with these regulations, monitoring and testing requirements have been developed as conditions in the operating permit. In addition, stack tests will be conducted on an annual basis. USSC must also install and maintain pressure drop indicators and water flow gauges on all fabric collectors and scrubbers which are identified in the bubble plan. Daily monitoring of these instruments will be required to determine if any air cleaning device is malfunctioning. If a malfunction occurs, all *reasonable maintenance must be exercised* to correct any operation problem. Periods of excess emissions, which occur as a result of equipment malfunctions, will be reviewed in accordance with EPA's September 28, 1982 policy on malfunctions.

Several changes were made to this bubble plan during the comment period. Two sources in Subsection (a) of Section 128.16 were deleted and replaced by two similar sources. The plant-wide emission limit was deleted (because it was repetitive in that it was a summation of the individual source emission limits). Subsection (e) was changed to include an expiration date of December 31, 1985, instead of making the bubble plan null and void upon shutdown of the involved sources. The final change was the addition of the road dust control program. This program is an additional emission reduction requirement of the State, for the reasons mentioned previously, and is not directly involved in the emissions trade that EPA is approving today. EPA has reviewed the above changes and has determined that they do not affect the approvability of this bubble.

Public Comments: The bubble plan being approved today was proposed in the **Federal Register** on October 28, 1981. During the 30-day public comment period that followed, EPA received only one letter, from the State of New Jersey. New Jersey's comments and EPA's responses follow.

Comment: New Jersey is concerned with the effect that this bubble will have on air quality in New Jersey. Response: Because of the emissions reductions resulting from this bubble plan, air quality in Pennsylvania and New Jersey should improve. Total actual emissions from the sinter plant will decrease from 1812 pounds per hours to 265 pounds per hour. Emissions from all points will be decreasing, and all points are in the same immediate vicinity. The area is currently attaining the TSP standards. Also, the road dust control program will provide an additional improvement in air quality.

Comment: New Jersey raised several issues on a modeling demonstration which was developed for the company, but which was not a part of the bubble plan.

Response: Because of the reasons cited previously in this notice, modeling was not required for this bubble.

EPA Action

The alternative emission reduction plan for the Fairless Works of the United States Steel Corporation is being approved and becomes effective immediately. EPA finds that good cause exists for making this action effective immediately so that the alternate emission control plan can proceed to achieve the reduction of particular matter emissions expeditiously and in a less costly manner. In addition, 40 CFR 52.2020 (Identification of Plan) is amended to reflect the inclusion of this bubble plan in the State Implementation Plan for Pennsylvania.

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

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Act, 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 proceeding to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: February 15, 1983.

Note.—Incorporation by reference of the Pennsylvania State Implementation Plan was approved by the Director of the **Federal Register** on July 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart NN—Pennsylvania

In § 52.2020, Identification of Plan, paragraph (c)(51) is added as follows:

§ 52.2020 Identification of plan.

(c) The plan revision listed below was submitted on the date specified.* * *

(51) Regulations and supporting documents implementing a TSP bubble plan for U.S. Steel Corporation's Fairless Works in Fairless Hills, PA. submitted by the Secretary of the Pennsylvania Department of Environmental Resources on January 6, 1983.

[FR Doc. 83-6538-Filed 3-11-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-1-FRL-2303-1]

Approval and Promulgation of Implementation Plans; New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions involve format changes, miscellaneous language changes for purposes of consistency, and renumbering of the New Hampshire SIP regulations governing the control of air pollution. Other revisions eliminate redundant definitions, amend regulations, and add new regulations to the New Hampshire SIP. These revisions are administrative and/or procedural in nature, and do not affect air quality or the ability of the State and EPA to attain and maintain the National Ambient Air Quality Standards (NAAQS) through the New Hampshire SIP. The intended effect of this action is to approve revisions made by the State of New Hampshire in accordance with Section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will be effective May 16, 1983 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2313, J.F.K. Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, J.F.K. Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and the New Hampshire Air Resources Commission, Health and Welfare Building, Hazen Drive, Concord, NH 03301. The State's submittal is also available at the Office of the Federal Register, 1100 L Street, N.W., Rm. 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (617) 223–5130, FTS 223–5130.

SUPPLEMENTARY INFORMATION: This notice is divided into two separate sections. Section I discusses the format and renumbering revisions. Section II discusses more substantive specific revisions eliminating redundant definitions, amending various regulations, and adding new regulations to the federally-approved New Hampshire SIP.

I. Format and Renumbering Revisions

On June 17, 1982 and August 31, 1982 the New Hampshire Air Resources Commission (NHARC) submitted revisions to the regulations of the New Hampshire SIP.

These revisions include a complete new format and renumbering of the SIP regulations. New Hampshire revised the SIP regulatory format for clarity and for greater consistency of the language used throughout the regulations. For example, under the old format each regulation had a definitions section. Under the new format, there is one Part entitled, *Definitions* which is applicable to all of the SIP regulations. This has eliminated the problem of the SIP having two or more slightly different definitions of the same term. Under the old format, New Hampshire's regulations were numbered 1 through 22. The new format numbers the regulations in Chapters from 100 through 1200, with Chapters divided into Parts, and Parts divided into Sections.

The New Hampshire submittal includes a chart which lists the number of each State regulation under the old format beside that regulation's number under the new format. The State's submittal discusses the language changes made to the regulations and provides justification for such changes. An EPA memorandum dated January 18,

1983 entitled, "New Hampshire SIP Format and Miscellaneous Revisions," details which of these State regulations have previously been federally approved as part of the SIP and evaluates the language changes. Both the State's submittal and the January 18, 1983 memorandum, referenced above, are available at the locations listed in the ADDRESSES section of this Notice. Today's action approves the new format, renumbering, and miscellaneous language changes, submitted to EPA on June 17, 1982 and August 31, 1982 by the State of New Hampshire, as revisions to previously EPA-approved regulations. Except for those regulations specifically identified and discussed below, this action does not approve substantive revisions to existing regulations or approve additional regulations to the New Hampshire SIP.

Action: EPA approves the new format, the renumbering, and the miscellaneous language changes submitted by the (NHARC) on June 17, 1982 and August 31, 1982 as revisions to the New Hampshire SIP regulations.

II. Other Revisions

Definitions Repealed or Eliminated: While in the process of revising the format and renumbering the regulatory portion of the SIP, the NHARC repealed or eliminated several definitions because they were redundant.

Specifically, those definitions repealed are Section Air 101.33, "existing stationary source or device," and Section Air 101.58, "New stationary source or device." These definitions have been repealed from Section Air 101 because they are not necessary with the new format of the regulations, i.e., they are only applicable to one CHAPTER and are already contained within the appropriate CHAPTER.

The following definitions were eliminated during the renumbering of the regulatory portion of the SIP because under the new format they are not used in the text of the regulations:

- Regulation 1.C., "Refuse".
- Regulation 4.II.M, 6.II.E., "M.S.A. Smokescope".
- Regulation 11.F., "Daily average".

Note.—The numbers of these definitions are from the old format.

Definitions, Charts, Graphs Revised: In the revisions submitted on June 17, 1982 and August 31, 1982 were several amendments to definitions and to various charts and graphs. These revisions do not affect air quality or the ability of the NHARC and EPA to attain and maintain the NAAQS through the New Hampshire SIP.

- Section Air 101.26, "Device"—An amendment was made so that the definition corresponds exactly to the definition of the same term in the New Hampshire Revised Statutes Annotated (RSA) 125-C:2,VI.
- Section Air 101.56, "Modification"—This exempts from the definition: (a) Maintenance, repairs, and replacements which are determined to be routine; (b) use of an alternative fuel or raw material which a stationary source was capable of using before February 1, 1973 unless prohibited by an enforceable permit condition; (c) use of an alternative fuel derived from municipal solid waste in a steam generating unit; (d) an increase in the hours of operation or in the production rate unless prohibited by an enforceable permit condition and (e) any change in ownership.
- Section Air 101.06, "Air pollutants"—This definition was revised to include aerosols and to elimiate the terms soot, cinders, ashes, etc. These eliminated terms are covered by the definition of particulate matter.
- Section Air 101.39, "Fuel"—This amendment was made in order to clarify that it does not exclude refuse.
- Section Air 101.40, "Fuel burning device"—This definition was revised to clarify the distinction between a fuel burning device and an incinerator.
- Section Air 101.49, "Incinerator"—This definition was revised for the same reason as Section Air 101.40, "Fuel burning device".
- Section Air 1201.02(j), "Municipal Sewage Sludge Incinerator"—This definition was revised to correspond with the classification of the Incinerator Institute of America standards which are used in the New Hampshire regulations.
- Section Air 1202.07, "Maximum Allowable Particulate Matter Emission"—This chart was revised for clarity and the units changed from pounds per million Btu's to equivalent pounds per hour.
- Section Air 1202.08, "Graph"—This graph was revised for the same reason as Section Air 1202.07, "Maximum Allowable Particulate Matter Emission."

Regulations Revised: In the revisions submitted on June 17, 1982 and August 31, 1982 were several minor amendments to New Hampshire regulations. These revisions do not affect air quality or the ability of the NHARC and EPA to attain and maintain the NAAQS through the New Hampshire SIP.

- Section Air 610.01(b)(5), "Applicability" (Nonattainment areas for ozone)—This revision specifies the counties which are nonattainment areas rather than a general reference to all areas of the State with the exception of Coos County.
- CHAPTER Air 800, "Testing and Monitoring Procedures"—This CHAPTER is newly titled. Additional amendments were made to include in this CHAPTER the procedures for ambient air quality monitoring as well as for testing. Testing or monitoring to quantify emissions or to determine ambient concentrations shall be performed according to EPA-approved methods with respect to criteria pollutants.
- CHAPTER Air 1000, Part Air 1001, "OPEN BURNING"—Although the revisions of this Part entail considerable rewriting of the rules, they do not represent any relaxation from the requirements of the current federally-approved regulation. Under the revisions, written authorization by the NHARC is now additionally required for certain regulated types of burning in areas designated nonattainment for the NAAQS for total suspended particulates.
- Section Air 1201.05, "Emission Standards for Incinerators Constructed, Installed or Substantially Altered After April 15, 1970", and Section Air 1201.06 "Emission Standards for Incinerator Installed Prior to or on April 15, 1970"—These two Sections were revised to make a distinction between "existing" and "new" incinerators with corresponding changes in the standards to be applied to the two types. The revision was passed by the State to establish justifiably stricter standards for new incinerators.

Note.—Although not submitted to EPA until this time, the State adopted these revisions on October 15, 1977.

New Regulations: In the revisions submitted on June 17, 1982 and August 31, 1982 were several additional regulations. These regulations are administrative and/or procedural in nature, and do not affect air quality or the ability of the NHARC and EPA to attain and maintain the NAAQS through the New Hampshire SIP.

- Part Air 205, "PERMIT NOTICE AND HEARING PROCEDURES"—The State adopted CHAPTER Air 200 "PROCEDURAL RULES." In this CHAPTER are all of the administrative procedures for actions which come before the NHARC. Part Air 205, "PERMIT NOTICE AND HEARING PROCEDURES," contains requirements, formerly found in the SIP narrative, for public participation during the preconstruction permitting process for new major stationary sources and major

modifications. Only Part Air 205 of CHAPTER Air 200 has been submitted to EPA for approval as a SIP revision.

• Part Air 603, "PERMITS REQUIRED"—This regulation establishes a permit cut-off system so that generally devices with actual emissions of 10 tons per year or less are not required to have a permit. Such devices are still subject to applicable emission standards.

• Part Air 605, "PERMIT APPLICATION PROCEDURES"— This regulation establishes the administrative procedures and requirements concerning the filing and processing of permit applications.

• Section 610.06(c), "Review Requirements for all Stationary Sources" (nonattainment areas)—This regulation adds the Reasonable Further Progress requirement, previously specified only in the SIP narrative, as an additional part of the permit review process to comply with EPA requirements and the Clean Air Act.

• Part Air 611, "ASSIGNMENT, TRANSFER, OR AMENDMENT OF PERMITS"—This regulation establishes the administrative procedures and requirements concerning the assignment, transfer or amendment of permits.

• Part Air 612, "RENEWAL OF PERMITS"—This regulation establishes the administrative procedures and requirements concerning the renewal of permits.

• Part Air 613, "INSPECTION AND COMPLIANCE"—This regulation authorizes NHARC representatives to enter the premises of an applicant or permittee at any reasonable time for the purpose of inspecting the premises and assuring compliance with permit conditions.

• Section Air 614.04, "False Statements"—This regulation gives the NHARC the authority to void any permit granted in whole or in part on false or misleading information.

• Part Air 616, "INTERSTATE AIR QUALITY IMPACTS"—This regulation gives the NHARC the authority to apply special emission limits to stationary sources on a case-by-case basis to insure that their air quality impacts will not interfere with the air pollution control efforts of other states under the Clean Air Act.

• CHAPTER Air 700, "PERMIT FEE SYSTEM"—Under § 110(a)(2)(K) of the Clean Air Act, states are required to include a permit fee system in their SIPs. On June 17, 1982 and August 31, 1982, the NHARC submitted CHAPTER Air 700, "PERMIT FEE SYSTEM," as a revision to their SIP.

EPA has reviewed the State's submittals of CHAPTER Air 700, and found its provisions consistent with the guidance provided in the *Permit Fee Guideline* document (EPA–450/2–81–003).

• Section Air 1201.01(h), "Classification of Wastes, Type 7"—This paragraph adds municipal sewage sludge waste to the classification scheme of this Section as the NHARC does regulate such waste from municipal sewage sludge incinerators.

• Section Air 1201.02(j), "Classification of Incinerators, Class VIII"—This paragraph adds municipal sludge incinerators to the classification scheme of this Section as the NHARC does regulate this type of incinerator.

• Section Air 1203.05, "Visible Emission Standard"—This regulation establishes a 20% opacity limit for process, manufacturing, and service industries not covered by other regulations.

• Section Air 1203.06, "Compliance Schedules"—This regulation establishes a general compliance schedule (including deadline dates) for process, manufacturing, and service industries not covered by other regulations.

• Section Air 1203.07, "Exemptions"—This regulation exempts stationary sources specifically regulated by other rules from the general requirements of PART Air 1203.

Action: EPA approves the revisions, discussed in Section II of this notice, which (1) eliminate or repeal redundant definitions (2) revise certain SIP regulations and (3) add new regulations to the SIP as submitted by the NHARC on June 17, 1982 and August 31, 1982.

EPA is taking no action on specific parts of the June 17, 1982 and August 31, 1982 submittals.

First, EPA is taking no action in this notice on Section Air 402.02 of Part Air 402 SULFUR LIMITATIONS FOR FUELS. EPA is currently preparing a notice for publication in the **Federal Register** proposing approval of the NHARC's revision to this Section of the regulations.

Finally, EPA is taking no action on the part of the State's submittal which lists the new numbers under the revised format of State regulations that are not included in the federally-approved SIP.

EPA is approving these SIP revisions without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. Today's actions will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, the relevant action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that each of today's actions will be effective May 16, 1983.

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

Under Section 307(b)(1) of the Clean Air Act, 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. (See Section 307(b)(1))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide and Hydrocarbons, Intergovernmental relations.

(Secs. 110(a) and 301(a), Clean Air Act, as amended, 42 U.S.C. 7410(a) and 7601(a))

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

Dated: March 8, 1983.

Anne M. Burford,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is amended as follows:

Subpart EE—New Hampshire

(1) Section 52.1520 is amended by adding paragraph (c)(22) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(22) Revisions to (i) provide a new format and renumber the SIP regulations with associated miscellaneous language changes for purposes of consistency; (ii) to delete redundant regulations and definitions; (iii) amend several regulations; and (iv) to add additional regulations submitted by the New Hampshire Air Resources Commission on June 17, 1982 and August 31, 1982. The federally-approved regulations of the New Hampshire SIP are as follows:

• CHAPTER 100, PART Air 101, Sections Air 101.04–101.26, 101.28–101.30, 101.32–101.49, 101.51, 101.53–101.56, 101.58–101.62, 101.64–101.69, 101.74–101.75, 101.77, 101.79–101.89, 101.91–101.96, 101.98.
• CHAPTER Air 200, PART Air 205.
• CHAPTER Air 300, PARTs Air 301–303.
• CHAPTER Air 400, PARTs Air 401; 402, Sections Air 402.01, 402.03, 402.04; PARTs Air 403–405.
• CHAPTER Air 600, PARTs Air 601–616.
• CHAPTER Air 700, PARTs Air 701–706.
• CHAPTER Air 800, PARTs Air 801–802.
• CHAPTER Air 900, PARTs Air 901–903.
• CHAPTER Air 1000, PART Air 1001.
• CHAPTER Air 1200, PART Air 1201, Sections 1201.01–1201.06, 1201.08–1201.11; PARTs Air 1202; 1203; 1204, Sections 1204.01–1204.16, 1204.18–1204.21; PARTs Air 1205; 1207; 1208.

(2) Section 52.1527, paragraphs (b) and (c) are revised to read as follows:

§ 52.1527 Rules and regulations.

* * * * *

(b) Non-Part D—No Action—EPA is neither approving or disapproving the following elements of the revisions:
(1) Intergovernmental consultations
(2) Stack height requirements
(3) Public notification
(4) Conflict of Interest
(5) Non-SIP regulations' numbers listed below:

• CHAPTER Air 100, PART Air 101, Sections 101.01–101.03, 101.27, 101.31, 101.50, 101.52, 101.57, 101.63, 101.70–101.73, 101.76, 101.78, 101.90, 101.97; PARTs Air 102–103.
• CHAPTER Air 200, PARTs Air 201–204; PARTs Air 206–210.
• CHAPTER Air 300, PART 304.
• CHAPTER Air 500.
• CHAPTER Air 800, PART Air 803.
• CHAPTER Air 1100.
• CHAPTER Air 1200, PART Air 1201, Section 1201.07; PART Air 1206.

(c) Part D—No Action—EPA is neither approving nor disapproving the following elements of the revisions:
(1) CHAPTER Air 1200, PART Air 1204, Section 1204.17 governing miscellaneous metal parts coaters.

[FR Doc. 83-6825 Filed 3-14-83; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Part 52

[EPA Docket Nos. AW040VA and AW041VA; A-3-FRL 2313-4]

Commonwealth of Virginia; Approval of Revisions of the Virginia State Implementation Plan

AGENCY: Evironmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia has submitted to the Evironmental Protection Agency (EPA) amendments to its air pollution control regulations and has requested that they be reviewed and processed as revisions to the Virginia State Implementation Plan (SIP). These amendments, submitted on December 27, 1982 and January 5, 1983, are minor revisions to existing regulations. This notice summarizes the SIP revisions, EPA's findings, and approves the proposed revisions.

DATE: This action will be effective on May 16, 1983 unless notice is received by April 14, 1983 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the proposed SIP revisions, as well as accompanying support documentation submitted by the Commonwealth, are available for public inspection during normal business hours at the following locations:

U.S. Evironmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, (3AW12), Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: Mrs. Patricia Gaughan

Public Information Reference Unit, EPA Library, Room 2922, U.S. Evironmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219, ATTN: John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AW13) at the EPA, Region III address above or call 215/597-8187.

All comments should be submitted to James E. Sydnor, at the EPA, Region III address listed above. Please reference the EPA Docket numbers found in the heading of this Notice in any correspondence.

SUPPLEMENTARY INFORMATION: On December 27, 1982 and January 5, 1983, the Commonwealth of Virginia submitted to the Evironmental Protection Agency amendments to its Regulations for the Control and Abatement of Air Pollution and requested that they be reviewed and processed as revisions of the Virginia State Implementation Plan (SIP).

The Commonwealth provided proof that, after adequate public notice, public hearings were held with regard to these amendments. The submittal dates of theses amendments, as well as the dates and locations of the public hearings, are summarized below:

Submittal date	Public hearing date	Locations
Dec. 27, 1982	Dec. 16, 1981	Richmond, Roanoke, Abingdon, Lynchburg, Fredericksburg, Virginia Beach, and Annandale.
Jan. 5, 1983	April 19, 1982	Richmond, Roanoke, Lynchburg, Abingdon, Fredericksburg, Virginia Beach, and Annandale.

The amendments being considered for final action at this time are shown below:

Regulation	Brief description
§ 1.02	Modification to the Definition of Malfunction.
§ 2.05(a)	Deletion of "guidance" language from § 2.05(a)(1).
§ 2.14	Added.
§ 2.32(c)	Deletion of "guidance" language.
§ 2.33(j)	Added Compliance with Local Zoning Requirements.
§ 2.34(g)	Administrative revision.
§ 4.02 (f) and (g)	Revised and clarified language.
§ 4.94	Added Test Methods and Procedures for Coke Oven Batteries.
§ 5.02(a)	Added clarifying language.
§ 5.02(f)	Revised and clarified language.
§ 5.15	Added clarifying language.
§ 6.02	Added Compliance with Local Zoning Requirements.
Appendix J	Revised CEM procedures.

EPA Evaluation

The Commonwealth has added language to clearly define malfunction as an equipment failure which is not due to negligent conduct by the owner or operator. This language was agreed to by EPA and the Commonwealth as a result of the original submittal of an unacceptable definition. EPA in the **Federal Register** notice dated January 19, 1982 (47 FR 2768), suspended further action until the revised definition was submitted. The definition of "Malfunction" as submitted on December 27, 1982 is now approved.

Section 2.05(a), as modified in December 27, 1982 submittal, deleting the reference to Sections 10–17.18 (e) and (f) of the Virginia Air Pollution Control Law, is approved. This "guidance" language is clarified and more fully incorporated into the regulations by the addition of § 2.14, in the December 27, 1982 submittal, which is also approved.

Section 2.32(c), as modified in December 27, 1982 submittal, deleting the reference to Sections 10–17.18 (e) and (f) of the Virginia Air Pollution Control Law, is approved. This "guidance" language is clarified and more fully incorporated into the regulations by the addition of § 233(j), in

the December 27 submittal, which is also approved.

Section 2.34(g)(1) is modified in the December 27 submittal to state that no violation of standards will be deemed to have taken place during a period of malfunction if the procedural requirements of § 2.34 are met and/or the source owner has submitted a request for a variance which is subsequently granted. This revision is approved.

Section 4.02(f), as modified by the December 27 submittal to delete the word "economically", is approved.

Sections 4.02(g) (1) and (7), as revised by the December 27 submittal, are approved. Section 4.02(g)(1) is modified to change "emission standards" to "the air quality standards" and a § 4.07(g)(7) is added to require that stack height or any other dispersion technique not affect compliance with emission standards.

Section 4.94, specifying test methods and procedures for determining compliance by coke ovens, is added by the December 27 submittal and is hereby approved.

Section 5.02(a) is modified by the January 5, 1983 submittal to state that, if alternative opacity test methods are to be used, they must be specified in any permit granted pursuant to Section 2.33, 8.01 or 8.02 of the Virginia regulations. This revision is approved.

Sections 5.02(f)(1) and (7), as revised by the December 27 submittal, are approved. Section 5.02(f)(1) is modified to change "standards of performance" to "the air quality standards" and a § 5.02(f)(7) is added to require that stack height or any other dispersion technique not affect compliance with the standards of performance.

Section 5.15 is modified by the January 5, 1983 submittal to require that Reference Method 9 or any alternative method, providing it is specified in any permit issued pursuant to Section 2.33, 8.01 or 8.02 of the Virginia regulations, be used to determine compliance with the visible emissions and fugitive dust standards.

Section 8.02(o) is added by the December 27 submittal to require compliance with local zoning requirements and Section 10–17.18 (e) and (f) of the Virginia Air Pollution Control Law. This addition is approved.

Appendix J, Sections II. a.2. and d.2 are modified by the December 27 submittal to define periods of excess emissions as any one-hour period during which there are two, rather than three, or more six-minute periods when the average opacity exceeds 20%. This is now consistent with other sections of the Virginia regulations and is hereby approved.

Conclusion

The Administrator's decision to approve the proposed revision was based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

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

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Dated: March 8, 1983.

Anne M. Burford,

Administrator.

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

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, Identification of Plan, paragraph (c) is revised by adding paragraphs (74) and (75) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(74) A revision submitted by the Commonwealth of Virginia on December 27, 1982 consisting of Modifications and to additions Section 1.02, (Definition of Malfunction); 2.05(a); 2.14; 2.32(c); 2.33(j); 2.34(g); 4.02(f) and (g); 4.94; 5.02(f); 8.02(o); and Appendix J, Part II, Sections a.2. and d.2.

(75) A revision submitted by the Commonwealth of Virginia on January 5, 1983 consisting of amendments and additions to Sections 5.02(a) and 5.15.

[FR Doc. 83-6618 Filed 3-14-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Parts 52 and 81

[TN-008; A-4-FRL 2297-8]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Tennessee; Approval of Changes in Visible Emission Evaluation Method; Redesignation of Johnson City, Union City, and Portions of Nashville-Davidson County as Attainment for TSP

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Tennessee has submitted changes in its Visible Emission Evaluation Method. These changes clarify conditions under which accurate visual determination of the opacity of emissions from nontraditional sources is prohibited. EPA is today announcing approval of these changes. The Agency also announces the redesignation of Johnson City, Union City, and portions of Nashville-Davidson County as attaining the

National Ambient Air Quality Standards (NAAQS) for total suspended particulate (TSP). The State of Tennessee has submitted data which shows that the ambient concentrations of TSP have not exceeded the NAAQS for the last eight calendar quarters.

EFFECTIVE DATE: This action will be effective on May 16, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C. 20005

Air Management Branch, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Tennessee Department of Public Health, Environmental Management and Quality Assurance Administration, TERRA Building, 150 Ninth Avenue North, Nashville, Tennesse 37203.

FOR FURTHER INFORMATION CONTACT: Ms. Denise Pack, Air Management Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365 at 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On September 29, 1982, the Tennessee Department of Public Health, submitted a revision in its Visible Emissions Evaluation Method 1, Section 3. These changes are non-substantive but clarify the conditions which prohibit accurate visual determination of opacity of emissions from nontraditional sources. Specifically the revision sets up guidelines for reading opacities when there is interference from passing vehicles and mixing of plume from moving vehicles. The revision also defines what constitutes a representative reading.

The September 29, 1982, submittal also contained a request for the redesignation of Union City, Johnson City, and portions of Nashville-Davidson County as attainment for the Total Suspended Particulate (TSP) Nationl Ambient Air Quality Standard (NAAQS). The State justified each redesignation by means of air quality data.

Johnson City and Union City. On June 9, 1982, the State submitted documentation that the ambient air concentration of total suspended particulate had not exceeded the primary or secondary NAAQS during the last eight calendar quarters. EPA is today announcing the redesignation of Johnson City (Washington County) and Union City (Obion County) to attainment for TSP.

Nashville-Davidson County. On September 29, 1982, the State submitted documentation that the ambient air concentrations of total suspended particulate had not exceeded the primary or secondary NAAQS during the last eight calendar quarters except for the areas listed below:

1. Primary and Secondary Nonattainment Area—includes the area bounded by I-65 on the east, I-285 on the north, I-40 on the west, and I-40/I-65 on the south.

2. Secondary Nonattainment Area—includes the area bounded by 44th Avenue North extended to the Cumberland River on the east, I-40 on the south, Morrow Road to 63rd Avenue and 63rd Avenue extended to the Cumberland River on the west, and the Cumberland River on the north.

EPA is today announcing the redesignation of all other areas in Nashville-Davidson County as attainment for TSP.

This action is being taken without prior proposal because the designations are non-controversial and EPA anticipates no comments on them. The public should be advised that this action will be effective 60 days from the date of the **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. Section 605(b), the Administrator has certified that area designations do not have a significant economic impact on a substantial number of small entities.

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit on or before [60 days from date of publication]. 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 Tennessee was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects

40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 107 and 110, Clean Air Act (42 U.S.C. 7407 and 7410)).

Dated: February 18, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

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

Subpart RR—Tennessee

Section 52.2220 is amended by adding paragraph (c) (51) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(51) Changes in visible emission evaluation technique for nontraditional sources, submitted on September 29, 1982, by the Tennessee Department of Public Health.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.343, the attainment status designation table for TSP is revised to read as follows:

§ 81.343 Tennessee.

TENNESSEE—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Those portions of Campbell County within downtown La-follette and the area surrounding the Carborundum Company's plant at Jacksonboro.	X	X		
That portion of Davidson County within a section of downtown Nashville.	X	X		
That portion of Davidson County within west Nashville		X		
That portion of Hamilton County within approximately the city limits of Chattanooga.	X	X		
That portion of Knox County within a section of downtown Knoxville.			X	
That portion of Maury County within the northern section of Columbia.			X	
That portion of Roane County within a downtown section of Rockwood.			X	
Those portions of Shelby County within two sections of downtown Memphis.	X	X		
Those portions of Sullivan County within a section of Bristol and a section of Kingsport.	X	X		
Rest of State				X

[FR Doc. 83-6538 Filed 3-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2313-1]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the designation for Montgomery County, Ohio from nonattainment to attainment with respect to the National Ambient Air Quality Standard (NAAQS) for Carbon Monoxide (CO). This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rulemaking becomes effective on April 14, 1983.

ADDRESS: Copies of the redesignation request and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

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

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On May 29, 1981, the State of Ohio submitted a request to EPA proposing a redesignation of Montgomery County, Ohio from nonattainment to attainment for CO. Additional data were submitted by the State and the Regional Air Pollution Control Agency (RAPCA) on December 18, 1981, March 31, 1982 and July 2, 1982.

In the November 30, 1982 (47 FR 53930) **Federal Register**, EPA proposed to revise the designation of Montgomery County, Ohio from nonattainment to attainment for CO. This revision was based on more than eight consecutive quarters of the most recent ambient air quality data which show no violation of the NAAQS. A detailed discussion of the basis of EPA's action can be found in the Notice of Proposed Rulemaking.

During the public comment period, no comments were submitted. Therefore, EPA takes final action revising the Montgomery County, Ohio redesignation from nonattainment to attainment for CO.

In the regulatory portion of this notice, EPA is also deleting reference to several other counties which were previously redesignated attainment. This action has no effect on the designation status of these counties but merely updates the designation table.

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

Under Section 307(b) (1) of the Act, 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. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: March 8, 1983.

Anne M. Burford,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

§ 81.336 [Amended]

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows: Section 81.336 is amended by removing reference to the following counties for CO: Jefferson, Lucas, Mahoning, Montgomery and Summit.

[FR Doc. 83-6622 Filed 3-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

Organization, Functions, and Delegations of Authority

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document revises the existing FEMA regulation on organization, functions and delegations of authority. It describes the organization of FEMA, and the general course and method by which its functions are channeled and determined. It revises delegations of authority by the Director. The revisions result from recent organizational changes within FEMA.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0377.

SUPPLEMENTARY INFORMATION: This regulation revises one promulgated March 22, 1982. There has been a

substantial reorganization of FEMA since then.

This document relates to FEMA's organization and internal practices. Further, it is not a substantive rule, and it makes no substantial changes in existing arrangements. Hence, notice and public comment have been omitted and the rule has been made effective immediately upon publication in the **Federal Register.**

This rule has no effect on the economy, competition or similar matters, no does it impact on small entities. Hence no regulatory impact analyses will be prepared under E.O. 12291 or the Regulatory Flexibility Act.

Further, this document is an administrative action and thus is categorically excluded from the requirement for environmental assessments under Part 10 of this chapter.

List of Subjects in 44 CFR Part 2

Authority delegations (government agencies), Organization and functions (government agencies).

Accordingly, Part 2, Chapter 1, Title 44, Code of Federal Regulations, is amended as follows:

PART 2—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

1. The Table of Contents and Subpart A of Part 2 of Title 44 is revised as follows:

Subpart A—Organization and Functions

General

Sec.
2.1 Purpose.
2.2 Organization of FEMA.

FEMA Offices

2.10 Office of the Director.
2.11 Office of the Deputy Director.
2.12 Office of the Executive Deputy Director.
2.13 State and Local Programs and Support Directorate (SLPS).
2.14 National Preparedness Programs Directorate (NPP).
2.15 Resource Management and Administration Directorate (RMA).
2.16 Training and Education Directorate/ National Emergency Training Center (T&E).
2.17 Federal Insurance Administration (FIA).
2.18 Emergency Operations (EO).
2.19 Office of the Inspector General (IG).
2.20 Office of the General Counsel (GC).
2.21 Office of Program Analysis and Evaluation (PAE).
2.22 Office of Executive Administration.
2.23 Office of the Comptroller.
2.24 Office of Special Programs.
2.25 Office of Regional Operations.
2.26 Regional Offices.
Sec.
2.27–2.29 [Reserved]

FEMA Locations

2.30 FEMA Headquarters.
2.31 FEMA Regions.
2.32 National Emergency Training Center.
2.33–2.49 [Reserved]

Subpart B—Delegations.

General

2.50 Purpose.
2.51 Exercise of Authority.
2.52 General limitations and reservations.
2.53 Delegations not included.
2.54 Redelegation of authority.
2.55 General delegations.
2.56 Delegation of subordinates to act.

Delegations of Specific Officers

2.60 Deputy Director [Reserved].
2.61 Associate Director, State and Local Programs and Support (SLPS).
2.62 Executive Deputy Director [Reserved].
2.63 Associate Director, National Preparedness Programs (NPP).
2.64 Federal Insurance Administrator (FIA).
2.65 Director, Emergency Operations.
2.66 Associate Director, Training and Education (T&E).
2.67 Associate Director, Resource Management and Administration (RMA).
2.68 Comptroller.
2.69 General Counsel (GC).
2.70 Inspector General (IG).
2.71 Regional Directors.

Authority: 5 U.S.C. 552; Sec. 106, Reorganization Plan No. 3 of 1978; Executive Order 12127 of March 31, 1979; Executive Order 12148 of July 20, 1979, as amended.

Subpart A—Organization and Functions

General

§ 2.1 Purpose.

This part describes the organization of the Federal Emergency Management Agency (FEMA), and the general course and method by which its functions are channeled and determined. It provides for the exercise by officials of FEMA of authorities which are vested in the Director specifically by statute, as head of an agency, or as a consequence of a law authorizing such exercise. It also provides for exercise of authorities which have been transferred to the Director by Reorganization Plan or delegated to the Director by Executive Order or other appropriate document.

§ 2.2 Organization of FEMA.

(a) The Director is the head of FEMA. All authorities of FEMA are either vested in the Director, or have been transferred to or delegated to the Director. Notwithstanding any delegation by the Director to a subordinate officer of FEMA, the Director may exercise such authority.

(b) FEMA is composed of the Administration, Directorates, and Offices, the responsibilities of which are described in §2.10 *et seq.*

§§ 2.3—2.9 [Reserved]

FEMA Offices

§ 2.10 Office of the Director

The Office of the Director consists of the immediate office of the Director.

§ 2.11 Office of the Deputy Director. [Reserved]

§ 2.12 Office of the Executive Deputy Director. [Reserved]

§ 2.13 State and Local Programs and Support Directorate (SLPS).

This directorate administers authorities under the Disaster Relief Act of 1974, the Federal Civil Defense Act of 1950, as amended (particularly those relating to assistance to State and local governments), the floodplain management functions under the National Flood Insurance Act, relocation functions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Review and approval of State and local radiological emergency response plans, and other programs of support to State and local governments, and the private sector which are designed to improve emergency planning, preparedness, mitigation, response, and recovery capabilities. The Directorate is headed by an Associate Director.

(a) The *Office of Natural and Technical Hazards Programs* develops federal plans to mitigate hazards and, when necessary, respond to natural and non-war related man-made disasters. This office also develops and administers programs that provide financial and technical help to State and local governments in emergency management of natural and technological hazards. It is responsible for floodplain management functions, fire suppression assistance, and FEMA functions under the Coastal Barrier Act.

(b) The *Office of Disaster Assistance Programs* administers the President's Disaster Relief Program which provides for supplemental federal assistance in declared major disasters and emergencies. This office develops and administers policy and guidance that ensures the effective implementation of relief programs to help individuals as well as State and local governments in recovering from the effects of peacetime major disasters and emergencies and to prevent or mitigate future losses after these disasters or emergencies.

(c) The *Office of Emergency Management Programs* assists State and local governments and the private sector

in maximizing the survival of the population and other vital resources in the event of civil emergency. It also provides for effective emergency management planning, the development of improved response capabilities, and financial and technical assistance to enhance operational capabilities of State and local governments.

§ 2.14 National Preparedness Programs Directorate (NPP).

This directorate administers certain of the authorities contained in the National Security Act, the Strategic and Critical Materials Stock Piling Act, the Federal Civil Defense Act of 1950, as amended, particularly national and federal plans and programs, the Defense Production Act of 1950, as amended, and other national programs.

This Office develops, implements and tests plans, policies, concepts and procedures related to peacetime and wartime emergencies. With respect to assigned functions, it serves as prinicpal point of contact with the Department of Defense. The directorate is headed by an Associate Director.

(a) The *Office of Resources Preparedness* identifies shortages of natural, industrial, or economic resources that could constitute a threat to national security; develops plans to mitigate the impact of resource shortages; and establishes programs to reduce our nation's vulnerability to resource shortfalls.

(b) The *Office of Civil Preparedness* is responsible for the development and conduct of research, policy development, programming and long range planning activities bearing on the protection of the population and key industrial components of the United States against the full range of domestic and national security emergencies.

(c) The *Office of Mobilization Preparedness* develops mobilization planning assumptions and priorities for FEMA and other executive branch organizations and coordinates mobilization planning, including threat/vulnerability assessments, with the national security plans of the National Security Council, Department of Defense, and the intelligence community.

(d) The *Office of Research* reviews, monitors and recommends research and development efforts and conducts a small inter-disciplinary program in areas not covered by other FEMA offices.

(e) The *Science Advisor* provides advice with respect to scientific matters and liaison to the FEMA Advisory Board.

§ 2.15 Resource Management and Administration Directorate (RMA).

This directorate develops and operates acquisition management systems, and day-to-day administrative support of agency needs. It manages agency personnel matters. It is primarily responsible for agency activities under the Paperwork Reduction Act of 1980. The directorate is headed by an Associate Director.

(a) The *Office of Personnel* develops, implements, administers, and manages FEMA's personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special programs (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Office, equal employment opportunity.

(b) The *Office of Administrative Support* directs the administrative programs and systems necessary for effective management of the agency and provides the administrative services and support essentail to day-to-day operations. Services and support include: Space and property management; mail management; administrative printing and publications storage/distribution; employee safety and health programs; graphic arts and design for visual presentation materials; records and information systems management which encompasses the internal directives system, reports and forms management, control of public information collection, and management of official records; and providing supplies, materials, equipment, furnishings, and a variety of services.

(c) The *Office of Acquisition Management* implements and manages FEMA's procurement and discretionary grant programs.

§ 2.16 Training and Education Directorate/ National Emergency Training Center (T&E).

This directorate consists of the National Emergency Training Center and the United States Fire Administration. It is headed by an Associate Director.

(a) The *National Emergency Training Center* provides training and education programs for Federal, State, and local personnel in hazard mitigation, emergency preparedness, fire prevention and control, disaster response, and long-term disaster recovery. The training is carried out both through a resident program at a central campus facility located in Emmitsburg, Maryland, and through an outreach program which makes courses available at the State and local levels throughout the country.

(1) The *Emergency Management Institute (EMI)* provides training to emergency managers in four principal areas: National security; technological hazards; natural hazards; and emergency processes. EMI hosts national conferences and seminars on current emergency management issues.

(2) *The National Fire Academy* provides training in three areas: fire protection management; fire prevention and loss control (including arson investigation); and fire service technology. This training is targeted to fire service personnel and allied professionals at the resident facility and through a field program.

(3) *The Office of Programs and Academics* reviews, analyzes, and evaluates all National Emergency Training Center curricula. Provides long-range curricula planning, coordinates academic needs, conducts research, and evaluates curricula effectiveness.

(4) The *Office of Management and Administration* oversees the daily management of the National Emergency Training Center. The Office coordinates contracts, student services, personnel, facility operations, media production, printing, and reproduction. Other responsibilities include management of the directorate's budget and other finance and contract operations, the Learning Resources Center, grants programs, and coordination between NETC and FEMA headquarters elements.

(b) *United States Fire Administration (USFA)* administers programs to reduce the nation's loss of life from fire and to achieve significant reductions in property loss and human injury from fire.

(1) *Fire Data and Analysis.* Collects, analyzes and disseminates fire data. This is for the purpose of spotting trends, delineating training, code and fire management needs. Use of the National Fire Incident Reporting System will result in standardization of the entire system.

(2) *Office of Fire Prevention and Arson Control.* Coordinates all Federal arson prevention and control programs. Identifies model problems that can be transferred to State and local fire services in fire prevention and arson control.

(3) *Fire Fighter Health & Safety Programs.* Promotes the development and use of fire protection systems, of improved firefighter protective equipment and of the various means to improve firefighter occupational health.

Assists other agencies and State and local governments in the development of fire safety regulations for firefighters and other emergency personnel.

§ 2.17 Federal Insurance Administration (FIA).

FIA administers three federal insurance programs: The National Flood Insurance Program, which insures property owners against flood loss; the Federal Crime Insurance Program; and the Riot Reinsurance Program. The Administration is headed by an Administrator.

(a) The *Office of Insurance Operations* handles the day-to-day operations of the flood, crime, and riot insurance programs and provides guidance on program issues to contractual and fiscal agents operating these programs. This includes issuing policies, processing and paying claims, billing insurance premiums, and providing information on rates.

(b) The *Office of Policy Analysis and Technical Services* is responsible for overall policy and technical guidance on insurance matters, including the resolution of insurance coverage, interpretations, claims and underwriting appeals.

(c) The *Office of Insurance Support Services* operates an FIA program planning system and provides actuarial support services.

§ 2.18 Emergency Operations (EO).

Emergency Operations is responsible for management of the Agency's emergency operations, including development of plans and policies and implementation of programs concerned with continuity of the Federal Government in times of emergency. It is responsible for central management of emergency operations information processing resources, as well as for management of the Agency's emergency facilities. It provides for coordination of internal agency planning and response to national emergencies. The office is headed by a Director, Emergency Operations.

(a) The *Office of Readiness Planning and Operations* develops, coordinates, tests, and evaluates plans and programs providing for continuity and effective operation of the Federal Government during a national emergency. The office serves as the focal point for the Agency's operational response to any such emergency.

(b) The *Office of Operating Systems Development* is responsible for development and initial deployment of systems required for effective accomplishment of the Agency's emergency operations mission. The office develops and initially deploys systems which become the operational responsibility of other Emergency Operations offices.

(c) The *Office of Information Resources Management* centrally manages agency resources used for information processing, including telecommunications, automatic data processing, and information systems. The office is also responsible for development of program guidance for the Emergency Broadcast System (EBS), and for overall management of the Agency's activities connected with that system.

(d) The *Office of Program Support* provides logistic planning support required for development and implementation of emergency operations systems. The office is also responsible for planning and coordinating the internal FEMA response to national emergencies.

(e) The *Office of Operations Analysis and Control* provides overall technical configuration and integration management for emergency operations programs, including coordination of the planning, programming and budgeting processes for those programs.

(f) The *Office of Facilities Management* is responsible for management and operational readiness of a secure facility from which the Federal Government can respond to national emergencies. It also provides technical support required for management of other agency emergency facilities.

(g) The *Emergency Information and Coordination Center and Alternate Emergency Information Coordination Center* provides facilities and other resources required for making accurate and timely emergency management decisions, including those resources necessary for rapid and reliable transmission of decisions under conditions of peace and war.

§ 2.19 Office of the Inspector General (IG).

This office plans, supervises and coordinates internal and external audit and investigation activities relating to FEMA programs and operations. It recommends policies to promote efficiency and to prevent and detect fraud and abuse. Serves as the point of contact with Federal law enforcement agencies on law enforcement matters. This office is headed by the Inspector General.

§ 2.20 Office of the General Counsel (GC).

This office provides legal advice to the Director and agency staff on FEMA duties, authorities, statutes, rules and regulations, and administrative procedure. It prepares and coordinates all Agency appearances in litigation or administrative proceedings and determines the agency legal position with respect to all matters. It reviews for legal sufficiency and transmits all regulations and other documents which are to be published in the **Federal Register.** This office is headed by the General Counsel.

§ 2.21 Office of Program Analysis and Evaluation (PAE).

This office provides information and analyses to the Director and other key officials in support of their decisionmaking and management activities.

§ 2.22 Office of Executive Administration.

(a) The Office of Executive Administration consists of the immediate office of the Executive Administrator who provides executive services to the Director and his immediate staff; and

(b) Staff offices as follows:

(1) *Office of Congressional Relations* serves as principal point of contact between FEMA and members of Congress, its committees and staffs.

(2) *Office of International Affairs* serves as principal staff advisor on policy and programs involving international civil emergency activities.

(3) *Office of Public Affairs* provides staff assistance for public information programs. Has primary responsibility for the Freedom of Information Act and Privacy Act.

(4) *Office of Equal Opportunity* advises on the scope and coverage of the FEMA equal opportunity program, develops agency affirmative action plans, and conducts reviews and evaluations of program implementation.

(5) *Office of Security* develops, administers and directs overall FEMA security program.

§ 2.23 Office of the Comptroller.

This office formulates agency policies and principles governing the establishment of budgetary and accounting systems. It coordinates agency financial programs with the Office of Management and Budget. It is responsible for establishing Agency policy and procedures in the area of financial management, planning, formulating and administering the budget, operating an Agency-wide accounting and reporting system, formulating policy and procedures for the financial management of grant and assistance agreements, and providing technical assistance and training to Agency personnel and grantees in the

areas of financial management, grant and assistance agreements, budgeting and accounting.

§ 2.24 Office of Special Programs.

This office initiates, formulates, and develops new programs of special interest to the Director.

§ 2.25 Office of Regional Operations.

This office provides liaison between the Director and Regional Directors.

§ 2.26 Regional Offices.

The ten FEMA regional offices are headed by Regional Directors who are the primary source through which the Agency's policies and programs are determined and carried out at the State and local level. The Regional Directors are the FEMA Director's principal representatives in contacts and relationships with Federal regional, State and local agencies, industry and other public and private groups. They are responsible for accomplishing, within their regions, the national program objectives established by the Agency.

§ 2.27—2.29 [Reserved]

FEMA Locations

§ 2.30 FEMA Headquarters.

The Office of the Director, FEMA, is located at Federal Center Plaza, 500 C Street, S.W., Washington, D.C. 20472.

§ 2.31 FEMA Regions.

The Offices of FEMA's Regional Directors are located as follows:

I. J. W. McCormack Post Office & Courthouse, 442 Post Office Square, Boston, MA 02109.

II. Jacob J. Javits Federal Building, 26 Federal Plaza, Room 1349, New York NY 10278.

III. Curtis Building, 7th Floor, 625 Walnut Street, Philadelphia, PA 19106.

IV. Pershing Point Plaza, Suite 664, 1375 Peachtree Street, NE., Atlanta, GA 30309.

V. 300 S. Wacker Drive, 24th Floor, Chicago, IL 60606.

VI. Federal Regional Center, Room 206, Denton, TX 76201.

VII. Old Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

VIII. Federal Regional Center, Building 710, Denver, CO 80225.

IX. Building 105, Presidio, San Francisco, CA 94129.

X. Federal Regional Center, Bothell, WA 98011.

§ 2.32 National Emergency Training Center.

The National Emergency Training Center is located at Emmitsburg, Maryland 21727.

§ 2.33—2.49 [Reserved]

Subpart B—Delegations

2. Section 2.55(b) is revised to read as follows:

§ 2.55 General delegations.

* * * * *

(b) The officers authorized to exercise authorities in paragraph (c) of this section are:

Federal Insurance Administrator
Associate Director, National Preparedness Programs
Associate Director, State and Local Programs and Support
Associate Director, Training and Education
Associate Director, Resource Management and Administration
Executive Administrator
Comptroller
Director, Emergency Operations
Inspector General
General Counsel
Director, Office of Program Analysis and Evaluation
Regional Directors

3. Section 2.61(f) is revised to read as follows:

§ 2.61 Associate Director, State and Local Programs and Support (SLPS).

* * * * *

(f) To review, approve, withdraw approval and publish notice of actions with respect to radiological emergency preparedness plans submitted to FEMA.

* * * * *

4. Section 2.61 is amended by adding paragraph (n) as follows:

§ 2.61 Associate Director, State and Local Programs and Support (SLPS).

* * * * *

(n) To carry out hazard mitigation and floodplain management assigned functions and exercise authorities under the National Flood Insurance Act of 1968 to conduct studies and research.

5. Section 2.65 is revised to read as follows:

§ 2.65 Director, Emergency Operations.

The Director, Emergency Operations, is authorized to exercise the authority of the Director to:

(a) Appoint uniformed guards at the Special Facility as special police of the Federal Emergency Management Agency pursuant to Pub. L. 80–566, as amended, 40 U.S.C 318 and a delegation from the administrator of General Services;

(b) Made provisions for transportation in connection with the continuity for government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632;

(c) Exercise, in connection with the performance of assigned functions of (i) providing telecommunications and data processing systems, and (ii) operating the Special Facility, the authorities in sections 201 and 401 of the Federal Civil Defense Act, section 202(a), (c), and (d) of the Disaster Relief Act of 1974, and sections 1–101, 4–102, 4–103, and 4–104 of Executive Order 12148;

(d) Conduct activities pursuant to section 203 of Reorganization Plan No. 3 of 1978 as further amplified in section of 1–103(b) and 1–105 of Executive Order 12127 of March 31, 1979 (Emergency Broadcast System); and

(e) Exercise the authority delegated the Director by Executive Order 12241 concerning the National Contingency Plan developed under section 304 of Pub. L. 96–295.

6. Section 2.66 is revised to read as follows:

§ 2.66 Associate Director, Training and Education (T&E).

The Associate Director of Training and Education is authorized to exercise the authority of the Director with respect to training and education and fire prevention and control matters. This includes but is not limited to:

(a) Section 201(e) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(e)) including, but not limited to, authority to approve requests for reimbursement and related documents for obligation of payment of travel and per diem expenses of students under subsection 201(e);

(b) Training under subsection 201(a)(2) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5131(a)(2)). Further, the authorities contained in paragraphs (a), (b) and (g) of section 7 of the Federal Fire Prevention and Control Act shall be exercised only with the prior approval of the Director and the authority in subsections 7(c)(2) and (c)(4) shall be conducted through the Office of personnel;

(c) Except as otherwise provided in this subpart, exercise of the authorities contained in sections 1 through 27 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 *et seq.*). This delegation does not include those under sections 18 and 23 which were not transferred to the Director by Reorganization Plan No. 3 of 1978 nor those under repealed section 25. Further the authorities contained in sections 11, 16 and 21(c) of the Federal Fire Prevention and Control Act of 1974, are excluded from this delegation and are reserved to the Director or delegated to

other officials of FEMA. See §§ 2.52(b)(1)(i), 2.68(p), and 2.70(a)(6)(i).

7. Section 2.67 is revised to read as follows:

§ 2.67 Associated Director, Resource Management and Administration (RMA)

(a) The Associate Director for Resource Management and Administration is authorized to exercise any authority of the Director to:

(1) Manage records and files within FEMA, including records creation, organization, maintenance, and disposal. Place advertisements in newspapers pursuant to 44 U.S.C. 3702;

(2) Assign and reassign real and personal property other than contributions loan property within FEMA. Exercise authority under section 201(j) of the Federal Civil Defense Act of 1950, as amended;

(3) Provide for accountability for property;

(4) Issue determinations of excess property other than contributions loan property and transfer of same as required;

(5)(i) Exercise authority under section 104(h) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 delegated the Director by section 2(f) of Executive Order 12316;

(ii) Exercise authority of the Director concerning extraordinary contractual actions under paragraph 21 of Executive Order 10789.

(6)(i) Make purchases and contracts by advertising for equipment and supplies, administrative equipment, office supplies, professional services, transportation of persons and property, and nonpersonal services, and determine that the rejection of all bids is in the public interest;

(ii) Negotiate purchases and contracts for equipment and supplies, professional services, transportation of persons and property, and nonpersonal services without advertising; and make and issue determinations related thereto pursuant to section 302(c) (1)–(10), (14) and (15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c) (1)–(10), (14) and (15) and 40 U.S.C. 541–544 with respect to contracting for the services of Architects Engineers;

(iii) Make purchases and contracts for the procurement of printing and binding services in accordance with the current Government Printing and Binding Regulations of the Joint Committee on Printing and Title 44 of the United States Code;

(iv) Enter into and administer interagency agreements under the Economy Act or any other such agreement involving obligation of funds;

(b) Notwithstanding any general delegation of authority in this part to another officer of FEMA, if the authority delegated in the general delegation contains procurement authority that authority is delegated to the Associate Director, Resource Management and Administration, with authority to redelegate to any employee of FEMA. As used in this paragraph (b) the term "procurement" includes: acquisition from a recipient, including a State or local government, of property or services for the direct benefit or use of the Federal Government. This includes authority under section 201(h) of the Federal Civil Defense Act but excludes authority under section 1362 of the National Flood Insurance Act.

(c) Notwithstanding any general delegation of authority in this part to another officer of FEMA, other than the delegation to Regional Directors under § 2.71, if the authority delegated contains authority to award discretionary grants that authority is delegated to the Associate Director, Resource Management and Administration, who is authorized to exercise the authority of the Director with respect thereto. The Associate Director, Resource Management and Administration, may redelegate this authority to any employee of FEMA. Discretionary grants include those instruments which are awarded to a selected or limited number of recipients deemed best qualified based upon criteria designed for the conduct of a specific project. This can include governments. Discretionary grants do not include those awarded to recipients for which: (1) The recipient or class of recipient is mandated by legislation or regulation; (2) the amount of the instrument or the amount of the program is established by legislation and discretion in the award process is limited; or (3) there is no choice in the purpose of the award or whether to make the award. The delegation to the Regional Directors under § 2.71 to implement various programs is not affected by this delegation to the Associate Director, Resource Management and Administration.

(d) Notwithstanding any general delegations of authority in this part to another officer of FEMA, if authority delegated in the general delegation contains personnel authorities, that authority is delegated to the Associate Director, Resource Management and Administration, with authority to redelegate to any employee of FEMA. As used in the paragraph the term "personnel" includes development, implementation, administration and management of personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special programs (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Officer, equal employment opportunity. This includes authority under the Disaster Relief Act of 1974 and other pertinent legislation.

(e) The Associate Director, Resource Management and Administration, is designated the FEMA senior official responsible under 44 U.S.C. 3506 for FEMA implementation of the Paperwork Reduction Act of 1980.

8. Section 2.68 is revised to read as follows:

§ 2.68 Comptroller.

The Comptroller is authorized to exercise any authority of the Director to:

(a) Approve requisitions for disbursing funds, reports of current accounts rendered by disbursing officers, and other financial and accounting documents involving FEMA, the General Accounting Office, and the Department of the Treasury, and Office of Management and Budget.

(b) Certify to the General Accounting Office (GAO) any charge against any officer or agent entrusted with public property, arising from any loss and accruing by his fault, to the Government as to the property so entrusted to him.

(c) Make determinations concerning performance of service, the periods of such service, and the amounts of remuneration for social security purposes.

(d) Authorize officers and employees to certify vouchers.

(e) Approve apportionment and reapportionment requests; reports on appropriation accounts; and reports on status of apportionments for corporations and enterprises.

(f) Approve reports on budget status, obligation basis, and accrual basis, as required by the Antideficiency Act.

(g) Issue primary allowances to Associate Directors, Administrators, Office Directors or equivalent, and Regional Directors.

(h) Receive and credit amounts received to the applicable appropriation of FEMA or to the miscellaneous receipts account.

(i) Request cashier designation and resolution from the Department of the Treasury, and designate persons to serve in FEMA.

(j) Maintain official FEMA payroll, retirement, leave and travel records.

(k)(1) Approve travel and expenses incurred pursuant to relocation of the duty station of a FEMA employee.

(2) Approve invitational travel.

(l) Establish and administer the National Insurance Development Fund under section 1243 of the National Housing Act (12 U.S.C. 1749bbb-13).

(m) Borrow funds from the Treasury under section 15(e) of the National Flood Insurance Act, and under section 1309 of the National Flood Insurance Act (42 U.S.C. 2414(e) and 4016).

(n) Establish and administer National Flood Insurance Fund under section 1310 of the National Flood Insurance Act, (42 U.S.C. 4017).

(o) Exercise the powers under section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749a(a)) relating to submission of a business type budget applicable under section 1247, the National Housing Act (12 U.S.C. 1749bbb-17).

(p) Exercise authorities under section 11 of the Federal Fire Prevention and Control Act.

9. Section 2.69 is amended by adding a new section (h) as follows:

§ 2.69 General Counsel (GC).

* * * * *

(h) Waive claims of the United States against a person arising out of pay and allowances to an employee of FEMA in amounts of less than $500, and in accordance with the requirements of 5 U.S.C. 5584, and the implementing regulations and standards of the Comptroller General.

10. Section 2.54(b) is amended by adding at the end the following:

§ 2.54 Redelegation of authority.

* * * * *

(b)

* * * * *

This paragraph does not apply to rules issued under Parts 64, 65, 67, or 70 of this Title, and authority to take action thereunder may be redelegated.

Dated: March 4, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-6675 Filed 3-14-83; 8:45 am]

BILLING CODE 6718-01-M

---

44 CFR Part 64

[Docket No. FEMA 6501]

Suspension of Community Eligibility Under the National Flood Insurance Program; Colorado et al.

AGENCY: Federal Emergency Management Agency, FEMA.

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 DATE: The third date ("Susp.") listed in the fourth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth 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 fifth 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. 553(b) are impracticable and unnecessary.

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

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood 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.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Colorado: Delta	Paonia, town of	080045B	June 10, 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	May 24, 1974, Oct. 31, 1975	Mar. 16, 1983.
Connecticut: New Haven.	East Haven, town of	090076	Apr. 19 1973, emergency; Feb. 1, 1978 regular; Mar. 16, 1983, suspended.		Do.
Florida: Pinellas	Largo, city of	125122D	July 31, 1970, emergency; May 28, 1971, regular; Mar. 16, 1983, suspended.	May 28, 1971, June 18, 1971	Do.
Indiana: Cedar	West Branch, city of	190058B	Dec. 15 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Mar. 1, 1974, Jan. 23, 1976	Do.
Kansas: McPherson	McPherson, city of	200217D	Mar. 20, 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Mar. 15, 1974, Apr. 11, 1975	Do.
Maryland:	Baltimore, city of	240087B	Dec. 3, 1971, emergency; Mar. 15, 1978, regular; Mar. 16, 1983, suspended.	June 25, 1974, Mar. 15, 1978	Do.
New York:					
Steuben	Bath, village of	360767E	Apr. 13, 1973, emergency; Aug. 15, 1977, regular; Mar. 16, 1983, suspended.	Aug. 15, 1977	Do.
Suffolk	East Hampton, town of	360794B	June 11, 1971, emergency; Sept. 30, 1976, regular; Mar. 16, 1983, suspended.	Aug. 29, 1975	Do.
Do	Belle Terre, village of	361532B	Mar. 23, 1976, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Dec. 27, 1974, June 18, 1976	Do.
Herkimer & Fulton	Dolgeville, village of	360301B	Mar. 27, 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Dec. 13, 1974, Sept. 26, 1974	Do.
Wayne	Lyons, village of	360891B	Oct. 6, 1975, emergency; Sept. 7, 1979, regular; Mar. 16, 1983, suspended.	May 3, 1974, Sept. 24, 1976	Do.
Niagara	Niagara Falls, city of	360506B	May 9, 1973, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Mar. 29,1974, Nov. 14, 1975	Do.
Westchester	Ossining, town of	361241B	Nov. 20, 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Oct. 25,1974, Feb. 25, 1977	Do.
Nassau	Oyster Bay, town of	360483C	Sept. 5, 1973, emergency; Aug. 1, 1978, regular; Mar. 16, 1983, suspended.	Nov. 29, 1974, Sept. 12, 1975	Do.
Suffolk	Shoreham, village of	361506B	May 30, 1975, emergency; May 25, 1978, regular; Mar. 16, 1983, suspended.	Aug. 1, 1978	Do.
Montgomery	St. Johnsville, town of	360456	Mar. 9, 1977, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Aug. 16, 1974, June 4, 1976	Do.
Tioga	Waverly, village of	361343B	June 27, 1974, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Nov. 1, 1974, June 11, 1976	Do.
New Jersey: Mercer	East Windsor, township of	340244B	Dec. 19, 1973, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Feb. 15, 1974, Sept. 12, 1975	Do.
Ohio: Lucas	Unincorporated areas	390359B	Mar. 9, 1977, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	May 20, 1977	Do.
Pennsylvania:					
York	Warrington, township of	422232B	May 31, 1979, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	ec. 27, 1974, Dec. 26, 1980	Do.
Do	West Manheim, township of	422234B	Mar. 9, 1976, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Dec. 13, 1974, Oct. 31, 1975	Do.
South Carolina: Horry	North Myrtle Beach, town of	450110C	June 23, 1975, emergency; Oct. 14, 1977, regular; Mar. 16, 1983, suspended.	Aug. 23, 1974, July 5, 1975	Do.
Vermont: Franklin	Swanton, village of	500060	Sept. 10, 1975, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Nov. 26, 1976	Do.
Virginia: Chesterfield	Unincorporated areas	510035	Jan. 28, 1973, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended.	Jan. 10, 1975, June 2, 1979	Do.
Michigan: Monroe	Milan, township of	260152B	Oct. 2, 1975, emergency; Dec. 15, 1982, regular; Mar. 16, 1983, suspended.	May 24, 1974, June 25, 1976	Do.
Minnesota: Marshall	Stephen, city of	270273B	Apr. 26, 1974, emergency; Sept. 16, 1982, regular; Mar. 16, 1983, suspended.	June 4, 1976, May 17, 1974	Do.
Michigan: Oakland	West Bloomfield, township of	260182B	Mar. 30, 1973, emergency; Mar. 2, 1983, regular; Mar. 16, 1983, suspended.	June 28, 1974, Jan. 30, 1976	Do.

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

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

Issued: March 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-6580 Filed 3-14-83; 8:45 am]

BILLING CODE 6718-13-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 31 and 43

Annual Report Form M for Telephone Companies To Reflect Changes in the Depreciation Techniques Approved in Docket No. 20188; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects four minor errors made in Appendix A of the Report and Order in this proceeding concerning Annual Report Form M. The Report and Order was published in the **Federal Register** on February 9, 1983 at 48 FR 5928.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Common Carrier Bureau, (202) 634–1861.

SUPPLEMENTARY INFORMATION:

In the matter of an amendment of Annual Report Form M for telephone companies to reflect changes in the depreciation techniques approved in Docket No. 20188; CC Docket No. 82–513; Correction.

Released: March 7, 1983.

1. On February 1, 1983, the Commission released a Report and Order, 48 FR 5928, in the above-captioned proceeding. There were four minor errors in Appendix A of this order. On Schedule 12A, Analysis of Telephone Plant Accounts, Account 211, Land, was inadvertently omitted; and on Schedule 14C, Basis of Changes for Depreciation, instruction numbers 2 and 5 identified columns with incorrect letters. These schedules should be corrected as indicated below.

2. Schedule 12A is revised to show Account 211, Land, in column a on line 4 and Depreciable Plant will be moved down one line to line 5.

3. Instruction number 2 for Schedule 14C is revised to show (d) instead of (c) after the word "column."

4. Instruction number 5 for Schedule 14C is revised to show (c) instead of (b) after the phrase "the life in column" and (d) instead of (c) after the phrase "net salvage percentage in column."

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-6706 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-145; RM-4030]

Radio Broadcast Services; FM Broadcast Station in Phillipsburg, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 237A to Phillipsburg, Kansas, in response to a pleading filed by Bengel Broadcasting, Inc. seeking review of our prior decision rejecting the assignment for failure to express the requisite commitment to apply for the channel, if assigned.

EFFECTIVE DATE: May 2, 1983.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: February 16, 1983.

Released: March 3, 1983.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Phillipsburg, Kansas); BC Docket No. 82-145, RM-4030; memorandum opinion and order (Proceeding Terminated).

1. The Commission on its own motion, pursuant to §§ 1.108 and 0.283 of the Commission's Rules, has reopened this proceeding in order to reconsider its decision denying the assignment of FM Channel 237A to Phillipsburg, Kansas. In its *Memorandum Opinion and Order* released January 19, 1983, denying reconsideration of its *Report and Order*[1] in this proceeding, the Commission declined to assign the channel stating that Bengel Broadcasting, Inc. ("Bengel") had failed to give "the requisite commitment to apply for Channel 237A, if assigned." Bengel now seeks review of our *Order* denying the reconsideration, arguing that it has continually expressed "its interest" in an FM channel at Phillipsburg since the original *Notice*[2] was issued in this proceeding. From the record before us, it had appeared that Bengel did not clearly state its intent to apply for Channel 237A, if assigned.

2. On January 21, 1983, Bengel filed its current pleading seeking review of our latest *Order* stating that its "active participation in the original rule making proceeding" in which it "submitted extensive comments and replies" and the "very filing of its petition for reconsideration" evinces "its interest" in the assignment of a Class A channel to Phillipsburg. However, prior to its January 21, 1983 filing, Bengel failed to state that it would apply for the channel, if assigned. Thus, Bengel failed to comply with a condition precedent for assignment of the channel as he was requested to do in the March 19, 1982, *Notice of Proposed Rule Making*.

3. Bengel's January 21, 1983 pleading gives "its explicit assurance that upon assignment of a Class A channel to Phillipsburg, it will promptly amend its application to specify operation of such channel, and will proceed with construction and operation of such facility." Thus, Bengel has corrected the earlier deficiency which resulted in our previous denial of assignment and we are now in a position to approve the assignment of Channel 237A to Phillipsburg, Kansas.

4. As to the merits of the proposal, Phillipsburg is presently without local FM service and Bengel's applicant status affords it an early opportunity to bring first local FM service to that community. Although there is a pending application for the Class C channel at Phillipsburg,[3] intermixture of the different classes of channels is no longer a consideration in view of the *Second Report and Order* in BC Docket No. 80-130, 90 F.C.C. 2d 88 (1982). Bengel proposes to amend its pending application to specify Channel 237A in lieu of Channel 223 eliminating itself as a mutually exclusive applicant for that channel. Channel 237A at Phillipsburg meets the minimum mileage separation requirements of § 73.207. We are, therefore, able to assign the channel, as requested.

5. One further matter remains which pertains to Bengel's previous status as an applicant for Channel 221A at Phillipsburg.[4] The Commission's *Report and Order, supra*, deleted Channel 221A because of its adjacency to Channel 223 which was assigned to Phillipsburg instead. Bengel's original application for the Class A channel had been accepted for filing, appeared on the "cut-off" list and no competing applications were filed against it. Therefore, since we are substituting Channel 237A for Channel 221A at Phillipsburg, we will retain

---

[1] *Report and Order* in BC Docket No. 82-145, 47 FR 30988, published July 16, 1982, wherein the Commission assigned Class C Channel 223 at Phillipsburg, Kansas, and deleted FM Channel 221A since its adjacency to Channel 223 was in violation of the minimum separation requirements of § 73.207 of the rules. Bengel Broadcasting, Inc. was the only applicant for Channel 221A.

[2] *Notice of Proposed Rule Making*, 47 FR 11906, published March 19, 1982, wherein the Commission in consideration of Bengel's applicant status, proposed optionally to assign both Class C Channel 223 and Channel 237A to Phillipsburg to afford Bengel an opportunity to determine whether it would apply for the proposed Class C assignment, or amend its application to specify another Class A channel. The optional assignment of Channel 237A was rejected by the *Report and Order* for lack of expressed interest.

[3] On September 8, 1982, Northwest Enterprises, Inc. filed an application (File No. BPH-820908AU) for authority to construct a new FM station on Channel 223 at Phillipsburg, Kansas. The application is presently mutually exclusive with an application submitted by Bengel Broadcasting, Inc. for the same channel (File No. BPH-810922AJ).

[4] On October 23, 1981, Bengel Broadcasting, Inc. filed an application (File No. BPH-810922AJ) for Commission authority to construct a new FM station on Channel 221A to serve the community of Phillipsburg, Kansas. On April 20, 1982, Bengel's application was accepted for filing and assigned a May 24, 1982, cut-off date. No competing applications were filed by the cut-off date. On October 26, 1982, Bengel amended its application to specify Channel 223 since Channel 221A had been deleted without a substitute Class A Channel provided by the Commission's *Report and Order, supra* in this proceeding.

Bengel's "cut-off" protection for that channel while it amends so that there will be no delay in processing its application. The retention of Bengel's "cut-off" protection is warranted since all potential applicants for a Class A channel at Phillipsburg already had the requisite notification and ample opportunity to file an application. See *Miami, Florida, et al.*, 46 R.R. 2d 1272 (1980). Further, Northwest Enterprises, Inc. ("Northwest"), the only other party to this proceeding has unequivocally stated its intention to apply for the Class C channel at Phillipsburg. In view of the above, we believe that the public interest would be served by this action since it will enable Bengel to initiate FM service to Phillipsburg at the earliest opportunity.

6. Pursuant to §§ 1.108 and 0.283 of the Commission's Rules, we have on our own motion, reopened this proceeding, reconsidered our decision and will assign Channel 237A to Phillipsburg and afford Bengel Broadcasting, Inc. the opportunity to amend its application to specify Channel 237A. We have chosen to act by delegated authority on our own motion in order to expedite the assignment of Channel 237A, which we considered to be a routine action and of the type that would normally be taken by staff action.

7. Accordingly, in view of the above commitment for the proposed channel allocation, we find that the public interest considerations warrant the assignment of Channel 237A to Phillipsburg, Kansas. Pursuant to the authority contained in sections 4(1), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204 and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 2, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules IS AMENDED for the following city:

City	Channel No.
Phillipsburg, Kans	223, 237A

8. It is further ordered, That the requirements of § 73.3573 are waived on our own motion pursuant to §§ 1.108 and 0.283 of the Rules, to permit Bengel Broadcasting, Inc. to amend its application (File No. BPH-810922AJ) to substitute Channel 237A for Channel 221A at Phillipsburg, Kansas, and retain its cut-off protection.

9. It is further ordered, That this proceeding IS TERMINATED.

10. For further information concerning the above, contact D. David Weston, Mass Media Bureau (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-6705 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Parts 81 and 83

Table of Frequencies Available for Assignment to Inland Waterways Communications Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document corrects the table of frequencies available in the 216–220 MHz band for an automated, interconnected riverwide maritime communications system in the Mississippi River and connecting waterways. This action is necessary to correct editorial errors.

EFFECTIVE DATE: March 22, 1983.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations.

47 CFR Part 83

Ship stations.

Adopted: March 4, 1983.

Released: March 7, 1983.

In the matter of an editorial amendment of Parts 81 and 83 of the Commission's rules to correct the table of frequencies available for assignment to inland waterways communications systems; order.

1. In this Order we are correcting ar error in the table of frequencies available in the 216–220 MHz band for inland waterways communications systems. In §§ 81.917 and 83.1105, the transmit and receive frequencies in Channels 103 and 143 are incorrectly listed as ending with the digits "35". The last two digits of these frequencies should be "25".

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231 (d) of the Commissions's Rules and Regulations. Since the amendments are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matters covered in his document contact Robert McNamara, (202) 632-7175.

4. Accordingly, IT IS ORDERED, That Parts 81 and 83 of the Commission's rules ARE AMENDED AS set forth in the attached Appendix, effective March 22, 1983.

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

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended to read as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

A. § 81.917 the table of frequencies is amended to read as follows:

§ 81.917 Frequencies available.

* * * * *

Channel No.	Coast		Group
	Receive (MHz)	Transmit (MHz)	
* *	*	* *	
103	218.0625	216.0625	
* *	*	* *	
143	219.0625	217.0625	
* *	*	* *	

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

B. In § 83.1105 the table of frequencies is amended to read as follows:

§ 83.1105 Frequencies available.

* * * * *

Channel No.	Coast		Group
	Receive (MHz)	Transmit (MHz)	
* *	*	* *	
103	218.0625	216.0625	
* *	*	* *	
143	219.0625	217.0625	
* *	*	* *	

[FR Doc. 83-6707 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. 311 (Sub-4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 11 to 10.5 cents per mile.

EFFECTIVE DATE: This decision will be effective on March 29, 1983.

FOR FURTHER INFORMATION CONTACT:

Lee Alexander, (202) 275–7723
Ted Kalick, (202) 275–6446
Alan Rothenberg, (202) 275–7597
Boston, MA, (617) 223–2372
Philadelphia, PA, (215) 597–4460
Atlanta, GA, (404) 881–2167
Chicago, IL, (312) 353–6204
Ft. Worth, TX, (817) 334–2794
San Francisco, CA, (415) 974–7125

SUPPLEMENTARY INFORMATION: In a decision served March 3, 1983 (48 FR 9648, March 8, 1983), the Commission established owner-operator reimbursement at 11 cents per mile for all carrier-related business miles. This change will become effective March 22, 1983. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of March 7, 1983, the current price of diesel fuel was 112.6 cents per gallon. The reimbursement figure is 10.4. Ten working days after publication of the notice in the **Federal Register** (effective March 29, 1983), carriers shall reimburse owner-operators at a minimum of 10.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washinton, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: March 8, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–6592 Filed 3–14–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 30309–35]

Foreign Fishing and Groundfish Fisheries of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Rule-related notice.

SUMMARY: This notice announces the retention of reserve amounts of fish that were eligible on February 2, 1983, for apportionment to the total allowable level of foreign fishing (TALFF) or domestic annual harvest (DAH), under provisions of the fishery management plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Area and implementing regulations. Due to uncertainty about the adequacy of initial estimates of DAH, the Secretary of Commerce is retaining all of the specified reserves for possible later apportionment. This action will ensure that fish are available for increased U.S. harvests later in 1983.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907–586–7221.

SUPPLEMENTARY INFORMATION: The Director, Alaska Region, National Marine Fisheries Service, after considering all factors specified by regulation, has determined that, although U.S. fishing effort is insignificant at this time in the management area, it is expected to increase rapidly as seasonal weather conditions improve, and that large amounts of fish are expected to be harvested by U.S. vessels in 1983. At least 10 joint ventures are expected to conduct operations in 1983, up from five in 1982. The number of U.S. catcher boats that will be employed in 1983 is unknown but is expected to be considerably more than the 32 that were employed in 1982. The Regional Director has received no comments with respect to this action, as solicited in 50 CFR 611.93(b)(2)(iii)(D) and 675.20(b)(3)(iv).

This action is taken under authority of the regulations specified at 50 CFR 611.93(b)(2) and 675.20(b) and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

Dated: March 10, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–6720 Filed 3–14–83; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 671

[Docket No. 30310–36]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closures.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service has determined that the optimum harvest levels of Tanner crab in the South Peninsula and Chignik Districts in Registration Area J will be achieved on March 10, 1983, and that early closure of the fishery is necessary to protect Tanner crab stocks from overfishing. The Secretary of Commerce therefore issues this notice of closure of the South Peninsula and Chignik Districts to fishing for Tanner crab by vessels of the United States on March 10, 1983.

DATES: This notice is effective from 12:00 noon, Alaska Standard Time (AST), March 10, 1983, until 12:00 noon Alaska Daylight Time (ADT), May 15, 1983. This notice of closure was filed for public inspection with the Office of the Federal Register on March 10, 1983, at 5:02 p.m. Public comments on this notice of closure are invited until March 25, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, Kodiak Field Office, NMFS), 907–486–4791.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery

Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level is reached. Two of these districts are the South Peninsula and Chignik Districts. Optimum yields (OY) of 6.0 million pounds and 5.0 million pounds have been established for these districts, respectively. However, results of trawl surveys conducted by the Alaska Department of Fish and Game (ADF&G) in 1982 indicate that only about 3.75 million pounds and 3.0 million pounds of Tanner crab are available for harvest in the South Peninsula and Chignik Districts, respectively. The 1983 fishing seasons for these two districts began on February 10 (the opening date was delayed by field order in Federal waters of both districts from December 15, 1982, to February 10, 1983, see 47 FR 57052).

Fishing began in the South Peninsula District on February 10 and approximately 70 vessels have delivered about 1.3 million pounds through February 27. During this time, the catch per unit of effort (CPUE) has declined significantly from 20 to 15 crabs per pot. This rapid decline in CPUE appears to indicate that stocks are not sufficiently abundant to support a fishery through the scheduled May 15 closure date. This decline suggests that the optimum harvest for the South Peninsula District should be less than the 3.75 million pounds indicated by the 1982 survey. Fishermen are expected to harvest about 3.0 million pounds by March 10.

Fishery began in the Chignik District on February 10 and approximately 70 vessels have delivered about 1.8 million pounds through February 27. During this time, the CPUE has declined from about 30 to 24 crabs per pot. This rapid decline in CPUE also indicates that these stocks are not sufficiently abundant to support a fishery through the scheduled May 15 closure date. The optimum harvest level of about 3 million pounds will be reached on March 10.

In light of this information, the Regional Director, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual conditions of Tanner crab stocks in the South Peninsula and Chignik Districts are substantially different from conditions that were previously anticipated; and

2. These differences reasonably support the need to protect those Tanner crab stocks by closing the South Peninsula and Chignik Districts of Registration Area J.

For these reasons, the South Peninsula and Chignik Districts of Registration Area J, as defined in 50 CFR 671.26(f)(1)(ii) and (iii), are closed to all fishing for Tanner crab from 12:00 noon, AST, March 10, 1983, until 12:00 noon ADT, May 15, 1983, at which time the closure of these districts prescribed in 50 CFR 671.26(f)(2) (ii) and (iii) will begin.

These closures will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closures may be submitted to the Regional Director, at the address stated above, for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of these closures will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other matters

The Tanner crab stock in the South Peninsula and Chignik Districts will be subject to damage by overfishing unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: March 10, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-6877 Filed 3-10-83; 5:02 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 51
Tuesday, March 15, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 227

Nutrition Education and Training Program; Reduced Administrative Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend 7 CFR Part 227 §§ 227.30(c) and 227.37(b)(6) of the Nutrition Education and Training (NET) Program regulations. This proposed rule reduces the administrative burden on State agencies at a time of limited resources. Under the current NET Program regulations, § 227.30(c) requires the appointment of a full-time nutrition education specialist to serve as a State Coordinator for the Program. This proposal amends the regulations to allow State flexibility in the appointment of a part-time NET Coordinator. At the present time, § 227.37(b)(6) of the current regulations requires a description of the plan, functions, and membership of a State level advisory council. This proposed rule removes these requirements and allows State agencies the option of continuing the council.

DATE: Comments must be received on or before April 14, 1983 to be assured of consideration.

ADDRESS: Comments should be sent to: Henry S. Rodriguez, Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

All written submissions will be available for public viewing in Room 602, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Rodriguez at the address listed above or call (703) 756-3585.

SUPPLEMENTARY INFORMATION: The NET Program is authorized by Section 19 of the Child Nutrition Act, as amended. Final Program regulations were published on May 15, 1979, (44 FR 28280), with amendments on March 7, 1980, (45 FR 14841) and on May 21, 1982 (47 FR 22071). This proposed rule reduces the administrative burden on State agencies at a time of limited resources. The current NET Program regulations require the appointment of a full-time nutrition education specialist to serve as a State Coordinator for the Program. This proposal allows State flexibility in the appointment of a part-time NET Coordinator. The current NET Program regulations also require a description of the plan, functions and membership of a State level advisory council. The proposed action removes these requirements and allows State agencies the option of continuing the council.

Classification

The Department does not consider this amendment to be a "major rule" under the definition established in Executive Order 12291. This amendment will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant impact on competition, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This proposal does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

List of Subjects in 7 CFR Part 227

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

PART 227—[AMENDED]

Accordingly, 7 CFR Part 227 is proposed to be amended as follows:

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

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

2. Section 227.30(c) is amended by revising the first sentence to read as follows:

§ 227.30 Responsibilities of State agencies.

* * * * *

(c) *State Coordinator.* After execution of the agreement the State agency shall appoint a nutrition education specialist to serve as a State Coordinator for the Program who may be employed on a full-time or part-time basis. * * *

* * * * *

3. Section 227.37 is amended by removing and reserving paragraph (b)(6) as follows:

§ 227.37 State Plan for nutrition education and training.

* * * * *

(b) * * *

(6) [Reserved]

* * * * *

Dated: Feburary 7, 1983.

Robert E. Leard,

Acting Administrator.

[FR Doc. 83-6610 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1013

[Docket No. AO-286-A30]

Milk in the Southeastern Florida Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a change in the Southeastern Florida milk order based on industry proposals considered at a public hearing in August 1982. The change would ensure that the Southeastern Florida Class I price for milk transferred for fluid use from a pool plant located outside Florida to a plant regulated under another Federal order would not be lower than the other order's Class I price at the location of the pool plant. The recommended change is necessary to reflect current marketing conditions and to assure orderly marketing in the Southeastern Florida and other marketing areas.

DATE: Comments are due on or before March 30, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United

States Department of Agriculture, Washington, D.C. 20250.

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

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

Suspension of rule: Issued September 27, 1982; published September 30, 1982 (47 FR 42962).

Partial decision: Issued October 13, 1982; published October 18, 1982 (47 FR 46289).

Order amending the Middle Atlantic order: Issued November 12, 1982; published November 17, 1982 (47 FR 51731).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Southeastern Florida marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication in the **Federal Register**. The exceptions should be filed in four copies. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Philadelphia, Pennsylvania, on August 24, 1982, pursuant to notice thereof issued August 4, 1982 (47 FR 34573).

The material issue on the record of the hearing that is dealt with in this decision is the location adjustments applicable to milk received at a Southeastern Florida pool plant located outside the defined marketing area and transferred to a plant regulated under another Federal order.

Note.—The hearing record also included an issue relating to the amendment of the Middle Atlantic order that was dealt with in a decision issued October 13, 1982 (47 FR 46289).

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The plant location adjustment provision should be changed to ensure that fluid milk transferred to an other order plant for Class I use from a Southeastern Florida pool plant located outside Florida would be subject to a Class I price no lower than that which would be applicable at the transferor plant if it were regulated under the other Federal order. The effect of this change would be to limit the amount of the location adjustment credit to Southeastern Florida handlers so that the Class I price for milk moved to other order plants would be comparable to the Class I price applicable to handlers competing with the transferee plants.

For plants located outside the State of Florida, the location adjustment provisions of the Southeastern Florida order presently provide that the Class I price be adjusted downward by 1.5 cents per hundredweight for each 10 miles a plant is located from West Palm Beach, Florida. The basic purpose of this provision is to provide a transportation allowance to handlers who assemble milk at plant locations outside the marketing area and move it to plants within the marketing area for use in Class I so that the handler's cost of milk so moved is more competitive with that for milk obtained locally.

Cumberland Farms, which operates distributing plants regulated under both the Southeastern Florida and the Middle Atlantic Federal orders, since October 1981 has obtained most of its milk supply for its Southeastern Florida pool distributing plant at Riviera Beach from its supply plant located at Dover, Delaware. The Dover plant, which is located within the Middle Atlantic, or Order 4, marketing area, delivers a large enough proportion of its receipts to the Riviera Beach plant to be an Order 13 pool plant. The remainder of the Dover plant's receipts are sent to the handler's fluid milk plant at Florence, New Jersey, an Order 4 pool plant, where the milk is allocated to Class I and Class II use according to the terms of the Middle Atlantic order. The hearing record indicates that over 75 percent of the milk transferred from Dover to Florence is classified in Class I use, on which there is a location adjustment credit under the Florida order.

The proponent of the pricing change adopted in this decision is the Southland Corporation, a handler operating fluid milk plants in both the Middle Atlantic and Southeastern Florida markets. Southland's concern is the erosion of uniform pricing of Class I milk used by handlers regulated under Order 4. According to proponent's witness, the principal basis of the problem is the severe misalignment of Class I prices at the Dover, Delaware, plant location between the Southeastern Florida and Middle Atlantic milk orders.

Class I price differentials under Federal milk orders generally increase 1.5 cents for each 10 miles of distance from Eau Claire, Wisconsin. Because the Northeast markets and the Florida markets are a substantial distance from Eau Claire, prices in those respective areas are approximately the same. The Class I differential at Philadelphia under the Middle Atlantic order is $2.78, to which is added a 6-cent direct delivery differential for a total differential cost of $2.84. Under the Southeastern Florida milk order, the Class I price differential is $3.15. However, when Class I price differentials in Federal order markets that are in different directions from Eau Claire are again adjusted 1.5 cents per 10 miles toward locations other than Eau Claire, substantial differences in Class I prices at a given plant location can result. When the Southeastern Florida order differential is adjusted to Dover, a location approximately 1,080 miles from West Palm Beach, the Order 13 Class I price differential there becomes $1.53. At Dover the Class I price differential under Order 4 is $2.66. Milk at Dover, therefore, is available to the Middle Atlantic pool plant at Florence for Class I use for $1.13 per hundredweight less than the same milk would cost if the Dover plant were pooled under Order 4. As a result, the Florence plant enjoys a competitive advantage in the Order 4 market of $1.13 per hundredweight on all milk moved from Dover to Florence which is assigned to Class I. Proponent's witness estimated the volume of such milk to be as much as 2.5 million pounds per month, and asserted that the increased number of producers pooled on the

Southeastern Florida market is an indication that Cumberland is pooling increasing volumes of milk at Dover under Order 13 in order to gain a greater advantage in the Order 4 market.

An apparent misalignment between Class I prices would not necessarily lead to competitive inequities in a market if the handler with a Class I price advantage must pay more than the price required under the order under which he is pooled to attract milk from producers who would normally supply another market. Southland's witness pointed out, however, that a high percentage of Class I use in Southeastern Florida combined with a large Class I price differential result in an Order 13 blend price to producers adjusted to Dover which is often above the Order 4 price to producers for deliveries of base milk to the same location. Using June 1982 as an example, the witness calculated that the handler's obligation to the same producers who were owed $13.66 per hundredweight for all their milk delivered to Dover under the Southeastern Florida order would have been $13.50 for the portion of production that was base milk and $12.19 for excess milk under the Middle Atlantic order. The handler operating the Dover plant under Order 13 is, therefore, able to attract a sufficient quantity of producer milk by paying its producers a price at least equivalent to prices paid to neighboring producers by Order 4 handlers without giving up any of the price advantage it enjoys on the portion of its receipts which are used in Class I in the Order 4 area.

The witness stated that the cost of operating the Dover plant as an Order 13 supply plant should be viewed as outside the purview of the order program and irrelevant to consideration of the price advantage in question. He also asserted that the modification of the Order 13 location adjustment provisions offered by proponent would maintain competitive equity in the Middle Atlantic area while continuing to accommodate the movement of milk from Dover to Florida.

A post-hearing brief submitted by Southland supported amendment of Order 13 as the best solution to the problem of price uniformity to handlers under Order 4. The Florida orders were described as lending themselves more readily than others to such pricing inequities largely because of their high Class I differentials and utilization. It is the Southeastern Florida location adjustment provisions which Southland sees as the source of the problem. In addition, the handler indicated that the occurrence of nonuniform prices to handlers in markets other than Middle Atlantic would be likely to spread if the location adjustment provisions are not corrected in the Southeastern Florida order. The Southland brief pointed out that handlers in other markets might not become aware of such a problem even if it did develop. It was noted that correction of the problem in a number of other markets would involve multiple hearing proceedings and time to carry them out.

Southland argued that although its proposed amendment to Order 13 may be a departure from provisons generally found in Federal milk orders, provisions must be tailored to meet marketing conditons in order to assure equitable treatment to competing handlers. The brief concluded that Order 13 is the appropriate order to amend under the particular circumstances of the present situation.

The manager of Independent Dairy Farmers' Association (IDFA), the cooperative association supplying 92 percent of the producer milk pooled under the Southeastern Florida milk order, testified in favor of the proposed amendment as assuring uniform pricing to regulated handlers distributing milk in the Middle Atlantic marketing area. He stated that uniform pricing of milk for similar uses at similar locations has been one of the most consistently adhered-to principles of the Federal order program, and that the lack of such uniformity disrupts the market and erodes confidence in the Federal milk order program. He asserted that the continued existence of a $1.13 price difference at Dover is not in the best interests of orderly milk marketing.

The cooperative spokesman cited the example of a disributing plant located in one of the Florida markets which sold enough packaged fluid milk into another Federal order market to become regulated under the other order, thereby becoming subject to a minus 16-cent location adjustment. The plant then possessed a 16-cent per hundredweight advantage in its local market. As a result of the 1972 hearing held to correct that pricing inequity, the Department established a pricing structure for all three Florida orders within which location pricing was adjusted to assure that Class I prices at a given plant location in Florida would be the same under each of the orders. The witness expressed his belief that the situation corrected by that proceeding and the marketing conditions under consideration at the present hearing are similar and that the proposal under consideration in this proceeding supports the same principle followed in that Florida decision.

In a post-hearing brief, the IDFA representative argued that the proposal would not deny equitable treatment to handlers regulated under Order 13, but would assure equitable treatment to Order 4 handlers. He also pointed out that one-third of the Federal milk orders contain provisions which limit the amount of price adjustment which may be allowed for location. In such cases the 1.5-cent per 10-mile rate is not allowed to operate fully in order that unrealistic price relationships with adjacent areas may be avoided. Milk orders cited as containing limits on location adjustments include Orders 7, 11, 30, 68, and 124 (Georgia, Tennessee Valley, Chicago Regional, Upper Midwest, and Oregon-Washington).

A witness representing two associations consisting of some 25 milk distributors which process and/or distribute more than half of the Class I milk within the State of New Jersey and the Philadelphia metropolitan area testitifed in favor of the proposal. He stated that competition for milk sales between handlers within the New Jersey-Philadelphia area is keen, and introduced evidence to show that the margin between prices paid to producers for raw milk and prices paid by consumers for processed milk is narrower in this area then in many other major U.S. metropolitan areas. He testified that winning bids by handlers for sales to supermarkets and institutions are often determined by prices per unit carried out to four or five decimal places, with the Class I cost of milk constituting by far the greatest cost element in such a bid price. The witness asserted that a competitor's regulated buying advantage affects the ability of even the association's members who are vertically integrated to compete at the retail level.

The representative of the dealers' associations voiced their position that the Federal order program requires equity of raw milk costs among competing handlers. He observed that the situation considered in this proceeding, i.e., milk being available for Class I use in the Middle Atlantic market which is regulated by an order for a market located more than 1,000 miles to the south, never could have been visualized when the appropriate Class I location adjustments for these markets were considered and adopted. The witness stated that Federal milk orders must be amended in response to changing markteting conditions to provide continuing equity among regulated handlers.

The witness testified that sales by handlers in order areas other than those in which they are regulated are quite common, but that substantial price inequities are not a problem between most orders. The large volume of sales by Order 4 handlers in the adjacent New York-New Jersey (Order 2) marketing area and by Order 2 handlers in the Order 4 area was cited as an example of inter-order sales which do not disrupt orderly marketing. The witness expressed an apprehension that inequity of pricing in the Order 4 market would be likely to have an unstablizing effect on marketing conditions in the Order 2 market, given the interrelationship between the two markets. He then referred to a provision formerly incorporated in the New York-New Jersey Federal order which required Order 2 handlers to pay the Order 2 Class I price for milk used in Class I which was received from handlers regulated under the Connecticut order. The proposal under consideration in this proceeding was characterized as a method similar to that "Connecticut differential" for dealing with inter-order price misalignment.

A witness for Dairymen, Inc. (DI), a cooperative association marketing a significant volume of producer milk in the Order 4 market, testified in favor of the proposed change. He stated that because only 50 percent of the milk received at Dover must be moved to the Order 13 distributing plant to qualify the Dover plant for pooling under Order 13, the amount of milk available at Dover for sale to Order 4 distributing plants at $1.13 under the Order 4 Class I price could represent a significant volume of sales. Such a volume at a $1.13 lower price would, he considered, lead to disorderly marketing in the Order 4 area. The witness characterized the situation as an obvious misalignment of prices between Federal milk order markets which must be corrected if the objective of orderly marketing is to be achieved.

A representative of a handler operating a pool plant in the Order 13 area and a plant in Kentucky under the Louisville order testified in favor of the proposed change to Order 13. He observed that if no action were taken to rectify the price alignment problem, it could expand to other order areas such as Louisville.

Cumberland Farms was represented by an expert witness who described the nature of Cumberland's business as complete vertical integration. He stated that Cumberland processes a limited product line which is sold only through its own stores, and asserted that not only could such an operation involve lower costs than those incurred by most conventional handlers but that it should have only a minimal impact in competition with other handlers. Since Cumberland does not compete directly for wholesale accounts with other handlers, he claimed, a lower raw product cost would not affect other handlers' ability to compete in the market. He did admit, however, that the existence of a lower-cost operator may force others to meet his price if they are to remain competitive.

The witness attributed the decision to move milk to Florida from Dover to the sizable premiums over the minimum order prices which were being charged by the predominant cooperative association in the Southeastern Florida area. He ascribed the cooperative's ability to exact such premiums to its domination of the market, and Cumberland's decision to obtain milk elsewhere to a desire to avoid an over-order price it regarded as excessive. The witness stated that the Dover plant qualifies as a pool supply plant under the terms of the Southeastern Florida milk order by shipping more than 50 percent of the milk received at the Dover plant to the Order 13 distributing plant at Riviera Beach, and characterized the milk moved from Dover to Florence as surplus to the needs of the Riviera Beach plant. The Florence plant was described as a pool plant under the Middle Atlantic milk order which receives milk from sources other than the Dover supply plant and distributes it through approximately 269 Cumberland Farms stores in New Jersey, Pennsylvania, and Delaware.

Cumberland's witness explained that when a handler disposes of fluid milk products from a pool plant into more than one Federal order marketing area, the plant generally is regulated by the order for the market into which it disposes of the greatest quantity of milk. Disposition by one plant into two or more marketing areas, he stated, has become a rather common occurrence. Milk moved into marketing areas of orders other than the one under which it is regulated customarily is priced according to the distance of the plant disposing of it from the primary consumption center of the order under which the plant is pooled.

Although he recognized that in the early days of the Federal milk order program a few orders provided for differentials on Class I sales outside the marketing area, the witness expressed his view that such a differential is neither specifically authorized by the Agricultural Marketing Agreement Act of 1937, nor is it reasonable to contend that any such pricing policy is necessary to effecutate the other provisions of the Federal order program.

The witness described the alignment of prices between orders as determined by distance from Eau Claire, Wisconsin, to permit milk to move freely between markets without creating advantages or disadvantages for handlers in the markets involved. He stated that price misalignment between markets can only occur when location differentials are substantially different from actual hauling costs, and denied that the term "price misalignment" could be applied accurately to the existing price structures of Order 4 and Order 13. Instead, he claimed, the marketing condition which proponents wish to have corrected is caused by the existence of large premiums over the Order 13 Class I price which are exacted by the principal cooperative supplying the Order 13 market. Using data published by USDA, the witness showed that the over-order price in Order 13 ranged from $1.58 per hundredweight in May 1981 to $1.89 in November 1981, dropping to approximately $1.20 for April–July 1982. He stated that the decline in over-order prices from the time Cumberland began obtaining its milk supply from Dover was probably related to Cumberland's change in supply, and argued that the Secretary of Agriculture has no authority to amend an order to strengthen the effectiveness of cooperative pricing over the minimum order level.

The witness stated that the costs of operating the Dover plant as a supply plant for Southeastern Florida, which are additional to the minimum prices required by the order, are factors which the Secretary must consider in reaching a decision on an appropriate method of pricing milk received here. He observed that although the cost of moving milk from Dover to Riviera Beach is offset by the 1.5-cent per 10-mile location adjustment on milk used in Cass I, milk assigned to Class II is not subject to location adjustments and is therefore moved entirely at Cumberland's expense. In a similar manner, the differential pricing for location between Dover and Florence under Order 4, which is 12 cents on milk used in Class I with an additional 6 cents on all milk, is not a great enough allowance to cover the costs of receiving milk at Dover and moving it to Florence. The witness pointed out that in a recent amendment to the New England order, handlers were allowed a total of 22 cent per hundredweight to cover fixed hauling costs and reload costs. Such cost, he

asserted, are of the type incurred in Cumberland's operations and serve to offset any price advantage over Order 4 handlers which Cumberland might enjoy by being polled under Order 13.

Another offseting factor pointed out by the witness was the allocation of the milk transferred to Florence. Under the allocation provisions of Order 4, receipts at Cumberland's Florence plant from the other order supply plant at Dover are assigned the Order 4 marketwide utilization (limited to the actual Class II use available in the receiving handler's plant). The witness claimed that because the Class I utilization percentage of the Middle Atlantic market is substantially lower than that at the Florence plant, a disproportionate share of the other order receipts at Florence are allocated to Class II, eliminating applicability of the 12-cent location adjustment from the Dover milk assigned to Class II at Florence.

The witness indicated that because the Order 13 Class II price ranges from 3 to 25 cents per hundredweight higher than the Order 4 Class II price, milk from Dover assigned to Class II at Florence is priced higher than if it were Order 4 pool milk. He also indicated that other costs involved in Cumberland's operation which he felt should not be ignored by the Secretary include contractual arrangements with producer cooperatives supplying the Dover plant which result in Cumberland paying more than order prices for its milk supply. When asked if the Secretary should not consider any savings to which the Cumberland operation might be subject, as well as offsetting costs, the witness agreed that savings from special hauling arrangements could be considered. He differed, however, with a conclusion that cost savings resulting from Cumberland's vertically integrated structure or from its avoidance of the Florence cooperative's over-order price should be included in any consideration of costs and savings.

The witness diferentiated between the small over-order prices imposed by cooperatives in the Middle Atlantic and New England markets and the much larger premiums in the Southeastern Florida market by describing those in the Northeast as handling charges for services of economic value performed by the cooperatives, while the cooperative prices over the Order 13 minimum prices are a reflection of the supplier's market power. He explained that in return for over-order charges cooperatives in the New England and Middle Atlantic markets maintained manufacturing facilities and balance the supply of producer milk for the market, but indicated that he was not aware of what services the Florida cooperative might provide its customers.

In answer to questions about ways in which the situation at issue could be handled without adoption of the proposed amendment, Cumberland's witness explained that milk could not be diverted directly from producer's farms to Florence for Class I use without being pooled under Order 4. Such an approach, he conceded, would eliminate any problem of nonuniform pricing to Order 4 handlers but pointed out that that approach would result in portions of some producers' milk being pooled on both orders. He stated that such a procedure could be confusing to farmers whose milk was pooled under two orders and would make difficult the administration of the Order 4 12-month base plan. The witness responded to a hypothetical case of milk transferred to pool plants of several orders from a supply plant which failed to meet pooling qualifications of any order by stating that under all Federal milk orders such milk allocated to Class I at the transferee pool plant would be subject to a compensatory charge at the difference between the Class I and blend prices of the receiving order.

Cumberland's witness also stated that if Cumberland were to be assessed more than the present Order 13 price adjusted to Dover for milk moved from Dover to Florence and used in Class I, the Order 4 pool rather than the Order 13 pool should benefit from such a charge. In a post-hearing brief, a cooperative representing a large percentage of Order 4 producers argued in this regard that it would not be equitable to give the Order 13 pool the benefit of adjustments resulting from milk used for Class I in Order 4 pool plants. The brief asserted that since Order 4 producers bear the principal responsibility for balancing milk supplies for the Middle Atlantic market it would be only equitable for any benefits to follow those burdens. It was argued that payment of a higher price under Order 13 for Class I milk transferred to an Order 4 plant would benefit Order 13 producers without those producers assuming any responsibility for servicing the Order 4 market. The cooperative urged that if the proposal were adopted, the benefits of the higher price should accure to the Middle Atlantic pool rather than to Southeastern Florida producers.

An employee of Cumberland Farms gave testimony relative to Cumberland's actual costs of operating the Dover plant. He submitted an exhibit detailing costs which offset all but 5 cents of Cumberland's $1.13 lower Class I price under Order 13 relative to Order 4 on milk moved from Dover to Florence. For Class I milk, he detailed those costs as 29.1 cents per hundredweight for hauling costs from Dover to Florence, another 29 cents for the cost of operating the Dover plant, a 9-cent contractural payment in excess of the Order 13 blend price to producer cooperatives supplying the Dover plant, and 14.2 cents per hundredweight for shrinkage at the Dover plant.

The employee indicated that costs incurred in handling Class II milk at Dover were the same as those for Class I milk except for price differences under the two Federal orders. Under the class price provisions of the Southeastern Florida order, the Class II price is the basic formula price (Minnesota-Wisconsin price at 3.5 percent butterfat) plus 15 cents, while under the Middle Atlantic order the Class II price varies seasonally from 10 cents under to 12 cents over the same basic formula price. The employee noted that this price variation results in an Order 13 Class II price for milk moved from Dover to Florence which averages 12.5 cents over the Order 4 Class II price. When offset by the 6-cent direct delivery differential which is applicable to all milk received at Florence under Order 4, the effective Class II price for milk delivered to Florence over the course of a year averages 6.5 cents per hundredweight more when the milk is pooled under Order 13 than when it is pooled under Order 4.

The costs itemized by the witness which offset the $1.13 lower price which Cumberland has on Class I milk sold in the Order 4 market amount to $.813, leaving a net price advantage of $.317. The same costs, when combined with the 6.5-cent difference in Class II prices between the two orders, result in a disadvantage to Cumberland of $.878 for milk pooled under Order 13 and allocated to Class II at the Order 4 distributing plant at Florence. Under the allocation provisions of Order 4, milk received at a pool plant from an other order plant is allocated on a marketwide utilization percentage to uses in the plant. As a result, the witness testified, 77.7 percent of the Dover milk received at Florence was allocated to Class I, and 22.3 percent to Class II, from October 1981 through June 1982. When these percentages are applied to the 31.7-cent Class I price advantage and the 87.8-cent Class II price disadvantage, the net result, the witness claimed, is a mere 5.05-cent advantage for Cumberland on all the milk moved from Dover to Florence.

The witness stated that his computations did not include the Order 4 12-cent location adjustment between the Dover and Florence locations on Class I milk or the 6-cent direct delivery differential applicable on all milk received at Florence, which would have the effect of reducing the 29.1-cent cost of hauling milk from Dover to Florence by 18 cents. He also indicated that the shrinkage costs quoted were those experienced at the Dover plant, and that additional shrinkage occurs at the Florence and Riviera Beach plants where the milk is processed.

According to Cumberland's employee, Cumberland's Class I sales out of the Middle Atlantic pool plant at Florence account for only one to two percent of Order 4 producer receipts, and probably two or three percent of Order 4 Class I sales. He also estimated that the volume of sales distributed from Florence is approximately twice the amount processed and sold from the handler's Riviera Beach plant. Considering the Order 13 requirement that a supply plant transfer at least 50 percent of its receipts to an Order 13 pool plant in order to meet pooling qualifications, the witness initially testified that no more than 25 percent of the milk processed at Florence could come from the Dover plant if the Dover plant were to remain pooled under Order 13. He agreed, however, that up to 50 percent of the milk pooled at Dover could be moved to Florence. When asked about the accuracy of the exhibit which gave estimates of the amount of milk pooled at Dover under Order 13 and moved to Florence, the witness stated that those estimates were overstated by roughly 5 to 10 percent.

Dairymen, Inc.'s post-hearing brief questioned the validity of offsetting Cumberland's Class I price advantage in the Order 4 market with the costs of operating the Dover plant. DI asserted that with the exception of moving milk from Dover to Florence, such costs are irrelevant, and have never been considered in the determination of appropriate price levels for different locations in the Federal order program.

The post-hearing brief submitted by Southland challenged the cost factors which the Cumberland employee had testified offset the $1.13 price advantage over Order 4 handlers at Dover in addition to the 18-cent price difference between Dover and Florence which should have been used to reduce the cost of hauling between those two points. Southland claimed that the 9-cent "contractual adjustment" offset should be removed from consideration because it is equivalent to service charges paid to cooperatives by other Order 4 handlers. With respect to this latter point, the exhibit introduced by Cumberland's witness shows that for January through June 1981 the cooperative price exceeded the minimum Federal order price in the cities of Baltimore, Maryland, and Washington, D.C., by 15 cents, and in Philadelphia, Pennsylvania, by 10 cents. Southland also claimed that the cost of shrinkage claimed by Cumberland should be reduced by 25 to 50 percent to allow for accounting at farm weights and tests, since that amount of shrinkage would occur no matter where the milk was first received.

Southland observed that no order requires Cumberland to operate a supply plant for Order 13 at Dover; that the costs of doing so are self-imposed and a result of actions undertaken to avoid the premium imposed by IDFA. The brief pointed out that Cumberland had supplied no analysis of costs at the Riviera Beach plant, or of advantages Cumberland may have gained in the Southeastern Florida market as a result of operating the Dover supply plant.

A representative of Eastern Milk Producers' Cooperative Association, Inc., which supplies the Cumberland plant at Dover, testified in opposition to the proposal. The members of the cooperative who supply milk to the Dover plant represent nearly 63 percent of the producers pooled on the Southeastern Florida market. Among the reasons for which Eastern advocated that the proposal not be adopted is that the Cumberland operation at Dover is a specific target of the proposal. The representative stated that other concerns, such as Order 13 Class I price misalignment with orders other than Order 4 and price misalignment for interorder transfers of milk classified as Class II, should have been included for consideration in the hearing procedure. He also pointed out that proponent addresses only the $1.13 difference in order prices, with no allowance for Cumberland's operating costs which serve to offset the advantage in order prices.

The cooperative representative claimed that price discrepancies between orders must, to warrant correction, result in substantial procurement cost differences, involve significant quantities of product, and impair competitive equity among handlers in the market. He asserted that since none of those conditions prevail in the present situation the proposal should not be adopted. Observing that a misalignment of order prices in the Middle Atlantic area should be of concern only to Order 4 handlers, the witness questioned whether proponent actually distributes milk in the same area in which Cumberland's Order 4 stores are located or if proponent's concern relates instead to its role as a competitor with Cumberland in the Southeastern Florida area. He indicated that a problem in the Middle Atlantic market should not be remedied by amending Order 13, but had no suggestion for a means of solving the problem by amendment to Order 4.

Finally, Eastern's witness objected to the proposal as representing a major departure from the manner in which milk transferred between Federal order markets is customarily priced. He asserted that adoption of the proposal would create another class of use with its own price and could have the effect of disrupting pricing provisions throughout the order program.

In the brief filed by Eastern the proposed amendment was described as predatory discrimination against the actions of a single handler to force him to abandon a procurement operation which is economically justified. Eastern charged that the proposal is designed to disrupt Cumberland's milk supply for its Riviera Beach plant and force Cumberland to obtain its supply from IDFA at a price considerably above the minimum order price. It was claimed that such action would serve to reinforce premium pricing in an area in which both minimum order Class I prices and the cooperative's premium exceed those in any other market. In addition, an increase in the price of milk moved from Dover to Florence would, according to the brief, create a clearly illegal economic barrier to the movement of milk between markets. Eastern's brief also stated that if Cumberland is forced to abandon the Dover plant as a supply of milk for its Florida operations, 140 producers and 3.5 million pounds of milk per month currently pooled on Order 13 would be shifted onto the Order 4 market, disrupting marketing conditions in the Middle Atlantic area.

The attorney representing Cumberland Farms testified against adoption of the proposal on the basis that resale price regulation by the State of Pennsylvania limits the potential of differences in raw product costs to disrupt milk marketing in the Middle Atlantic area. He introduced an exhibit that showed retail prices for milk in North Jersey and South Jersey for July 1982, and indicated that Cumberland's price is at the lowest end of the 16-cent range for stores surveyed. He also testified that Cumberland's sales in

Pennsylvania are at the minimum price allowable under Pennsylvania's retail price regulation, with some handlers' prices somewhat higher. He expressed the opinion that with such price differences already existing in the market, any raw product cost advantage Cumberland might have would result in no realistic potential for Order 4 market disruption.

The post-hearing brief filed on behalf of Cumberland Farms stressed the argument that proponent, the Southland Corporation, actually has no direct interest in the effect of Cumberland's operations on price equity in the Order 4 market. Instead, according to Cumberland, Southland has proposed this order change for the sole purpose of making Cumberland's Dover operation unprofitable and helping Independent Dairy Farmers' Association to force Cumberland back into the cooperative's superpool.

IDFA members were described as large producers who enjoy a high Class I utilization percentage and are able to exact high premiums because of their large market share. The brief denied that the IDFA members are small farmers in need of regulatory protection and speculated that due to their large estimated gross income they would not fall within the definition of small businesses with which the Regulatory Flexibility Act is concerned. Furthermore, Cumberland argued, action by the Secretary for the purpose of maintaining cooperative over-order pricing would be outside the scope of the Act.

Cumberland also argued that the nature of its business causes very little impact on competition in the Order 4 marketing area as a result of any price advantage Cumberland might have in that area. It was noted that the handler's vertically integrated structure keeps it from competing directly with other handlers for accounts. In addition, Cumberland claims that its limited-line processing operation and vertically integrated distribution system diminishes any effect on the market which a cost advantage normally would cause. According to the brief, however, extra costs incurred in operating the supply plant should be taken into account to determine whether Cumberland has any material advantage, as the costs incurred by Cumberland in shipping milk from Dover to Florence are not experienced by most Order 4 handlers.

A further argument against the adoption of the proposal is the relative insignificance of the amount of milk subject to any price advantage. According to the brief, no more than 25 percent of the milk supply at Florence can be received from the Dover plant if the Dover plant is to remain pooled under Order 13. The 25-percent limit was determined by considering the fact that route disposition from Florence is twice that from the Riveria Beach plant, and that to qualify as an Order 13 supply plant, the Dover plant must move at least 50 percent of its receipts to Southeastern Florida distributing plants. Since the quantity of milk processed at Cumberland's Florence plant represents only 1 to 2 percent of total producer receipts under Order 4 and only 25 percent of the milk received at Florence can be supplied by the Dover plant at a price advantage, the problem was described in the brief as infinitesimal.

Cumberland's brief again emphasized that the record shows no evidence of actual marketing disorder as a result of any price advantage and claimed that there was no evidence that Order 4 handlers are concerned about handler equity. The testimony of the representative for two dealers' associations was described as a general statement in favor of handlers equity, and was challenged as an inaccurate representation of the views of the associations' members.

Finally, the proposal was characterized in Cumberland's brief as a radical departure from the general Federal order policy of pricing the milk of handlers distributing in more than one regulated marketing area under the order for the area into which they distribute the largest quantity of milk.

Although opponents of the proposal deny that the price discrepancy between Orders 4 and 13 at Dover results in any substantial procurement cost advantage for Cumberland, that the advantage impairs competitive equity between handlers, or that it affects a significant amount of milk, examination of the record indicates that Cumberland has a substantial cost advantage on a significant amount of milk, and thereby has the capability of impairing competitive equity in the market.

Under the provisions of the Middle Atlantic and Southeastern Florida milk orders, there is clearly a price advantage of $1.13 at Dover for a plant pooled under Order 13. The costs of operating the Dover supply plant should not be considered as offsetting that advantage. Nearly all of the costs claimed by Cumberland would be incurred in operating the Dover plant under any Federal order. If the Dover plant were an Order 4 supply plant, milk received there and used in Class I would be subject to the Order 4 price at that location, $1.13 more than the Class I price applicable under Order 13. No allowance would be made for the extra costs of operating a supply plant. The fact that few or no other plants regulated under Order 4 are subject to the same costs as Dover is because most milk marketed in the Middle Atlantic area is delivered directly from farms to the plants where it is used. The lack of supply plants in the Order 4 market is primarily due to the proximity of producers to the locations at which milk is used. If Cumberland were not operating the Dover plant to ship milk long distance to Florida, most of the milk currently transferred to Florence could be delivered more economically by direct shipments from the farm rather than through a supply plant. The cost of operating a supply plant is one of the factors implicitly accepted by Cumberland in its decision to use that facility to supply milk to the Riviera Beach Plant, and should not be considered as offsetting the Order 13 price advantage at Dover.

The fact that Cumberland incurs the cost of moving milk that is allocated to Class II use between the Dover and Florence plants should not be considered a valid offsetting cost factor. Under the terms of Federal milk orders, handlers are purposely discouraged from moving Class II milk between plants at producers' expense. Transportation allowances under the plant location adjustment provisions of orders are limited on transfers between pool plants to the amount of Class I use available at the receiving plant after direct receipts have been deducted from Class I use. With respect to milk received from a plant regulated under another order, such milk is allocated on a marketwide utilization basis (limited to the actual use available in the receiving handler's plant). This intermarket allocation is for the purpose of discouraging the uneconomic transfer of milk for Class II use. Also, it tends to assure that other order producers carry their share of the burden of the reserve milk supply for the receiving market.

With respect to the matter of the plant location adjustment provisions of Order 4 not fully reflecting Cumberland's costs of reloading and transporting Class I milk between Dover and Florence, this is an issue that could be addressed as a possible amendment to Order 4. No such issue was included in the hearing notice with respect to Order 4. It is obvious that there are reloading and fixed transportation costs of assembling milk through supply plants. However, such costs are rarely incorporated in the transportation allowance provisions of milk orders. The 22-cent reloading and fixed transportation allowance under

the New England order that was alluded to by one of Cumberland's witnesses is unique to that order and reflects the unique relative geographic locations of supply plants and distributing plants in that market.

The milk moved from Dover to Florence may represent a small percentage of the total marketed in the Middle Atlantic area, but when Cumberland's $1.13 price advantage is considered the potential disruptive effect of the amount of milk involved is not negligible. If proponent's estimate of the volume of milk in question is reduced by the 5 to 10 percent overestimate claimed by a Cumberland witness, an average of over 35,000 pounds of milk per day has been moved from Dover to Florence since October 1981. This volume would represent the production of approximately 30 of the producers and ¼ of the production) pooled under Order 13 at Dover. Such an amount of milk available at a price substantially lower than the Middle Atlantic Federal order Class I price certainly affects the uniformity of pricing to handlers similarly located.

Contrary to a Cumberland witness's testimony, approximately half of the Florence plant's fluid milk needs could be received from the Dover plant with the Dover plant remaining pooled under Order 13. According to the witness, distribution by the Riviera Beach plant is approximately half that of the plant located in Florence and at least half of the milk reeived at Dover must be transferred to Riviera Beach if the Dover plant is to remain an Order 13 pool plant. The witness thus claimed that receipts at Florence from Dover could represent no more than 25 percent of the Florence plant's total supply. However, if all of the milk used at Riviera Beach were supplied from Dover and a nearly equal amount were moved to Florence, that amount would supply approximately half of the Florence, plant's needs. The impact of the present pricing inequities on the Middle Atlantic market could, therefore, double with the use of a supply plant pooled under Order 13.

Although Cumberland witnesses asserted that Cumberland, due to its vetically integrated structure, does not compete directly with other handlers for contracts, a handler selling through its own 260 stores is as much a competitive factor in the market as one which packages milk to be sold through grocery chains. Southland, in contracting with other handlers to supply its stores in the area in which Cumberland operates, is damaged just as much by nonuniform pricing as if it were supplying those stores from its Order 4 plant at Waldorf, Maryland. Nonuniform pricing may also affect competition even when there is no obvious undercutting in store prices. In the presence of state regulation of minimum out-of-store prices, it could scarcely be expected that even a handler with a substantial competitive advantage would be able to undersell all of its competitors. Such a handler could, however, exert downward pressure on store prices when costs of obtaining and processing milk are rising, thereby making competition ruinous for handlers paying the order price. Another possibility for a handler operating in more than one area, as Cumberland does, to use a competitive advantage is to use the proceeds from the advantage possessed in one market to subsidize prices lower than those prevailing in an area in which retail prices are not regulated.

The price difference at Dover between Orders 4 and 13 is a rather extreme example of price misalignment, nearly 10 cents per gallon. Price alignment between the Middle Atlantic and Southeastern Florida marketing areas was not considered when the appropriate Class I price levels were established for the Florida markets. In a 1970 decision (35 FR 18618) increasing the Southeastern Florida Class I differential from $2.95 to its present level of $3.15, the Secretary stated that milk was imported from the Georgia and Chattanooga, Tennessee, areas to Florida. When supplemental milk was needed because of those areas' limited supplies, it generally had to come from the Minnesota-Wisconsin region. The Atlanta, Chattanooga, and Chicago prices for July 1970 adjusted for transportation to Miami by 1.5 cents per 10 miles were computed to be $7.915, $7.945, and $7.91, respectively, while the Class I price at Miami was $7.56. Although a 20-cent increase in the Order 13 Class I differential did not result in perfect alignment between these orders, it did improve the ability of plants located in Southeastern Florida to attract needed supplies of milk. Because the Middle Atlantic market was not considered a regular or even supplemental source of supply for Southeastern Florida, alignment between those two markets has not been a factor in determining appropriate price levels for either order. Now that the Southeastern Florida market has begun to obtain a supply of milk from the Middle Atlantic area, however, price alignment between the two markets must be considered.

Price alignment betwen Federal milk orders is considered not only when deficit supply areas must obtain supplemental milk from other areas, but when handlers regulated under different marketing orders are competitive in the same region. A 1972 decision (37 FR 16953) made the Class I price at any given plant location within the State of Florida the same under each of the three Florida orders. Prices under the three orders had been aligned to reflect the cost of hauling milk from alternative sources, but a handler which shifted regulation from one Florida order to another obtained a 16-cent price advantage over competitors by doing so. The handler accomplished a change in regulation by distributing a slightly larger proportion of its sales in an order area other than the order area where its plant was located. The 1972 amendment corrected the order provisions which made inequitable pricing possible in that situation. Similarly, as was stated at the hearing and alluded to in certain post-hearing briefs, the location adjustment provisions of many orders limit or designate the amount of price adjustment applicable to plants located in other order areas to ensure that handlers are unable to use the pricing provisions of the orders to gain a competitive advantage over other handlers similarly located but regulated under another order. Such consideration is usually limited to nearby or adjacent Federal order marketing areas. In the Texas order (Order No. 126), price adjustments applicable at locations within neighboring marketing areas for handlers regulated under Order 126 are specified in fixed amounts to be equivalent to the prices applicable at the same location under the other order. If the prices at those locations were determined by mileage from a given Texas city, they would be somewhat lower than the prices applicable under the orders in which those points are located. Under such location adjustment provisions, a handler whose plant is located in an order area other than the one under which he is regulated is assured that the price he pays for milk is uniform with the prices paid by handlers similarly located. Similarly, handlers regulated under the other order are assured that a handler located in their vicinity will not be able to underprice then solely because of the difference in regulation. The handler located outside his order area may, as a result, experience some competitive disadvantage in selling Class I milk into the area under which he is regulated since hauling costs may exceed the price difference between the two areas. That

effect of such location adjustment provisions, however, is mitigated by the relatively small distances and price differences normally involved between adjacent areas.

Incorporation of the kind of location adjustment provision found in the Texas order and others into the Southeastern Florida order would cause all milk pooled at Dover to be subject to a price equivalent to the Middle Atlantic price at that location. Effectively, the Class I price differential at Dover under Order 13 for all milk pooled at Dover would be increased from $1.53 to $2.66 per hundredweight, or only $.49 less than the Order 13 price at Riviera Beach. It would reduce the present transportation allowance for moving milk from Dover to Riviera Beach from $1.62 to $.49 per hundredweight.

The record of this hearing does not reveal any problem with respect to the $1.62 per hundredweight location adjustment at the Dover plant with respect to milk moved to Florida. But a substantial price alignment problem exists with respect to the Class I milk disposed of in the Middle Atlantic market from the Dover plant. Use of the Order 13 location adjustment provision to obtain a supply of milk in another order market, such as the Order 4 market, at a price substantially less than the price applicable under the other order should not be allowed. It is unfair to handlers competing under the other order, and does not provide uniform prices to handlers similarly located.

It is common practice to incorporate provisions under Federal milk orders to ensure that handlers are faced with comparable costs for milk used in Class I irrespective of the source of such milk supply. In most Federal milk orders, including Orders 4 and 13, any volume of fluid milk received from unregulated sources and used in Class I at a pool plant is subject to a charge on such milk to be added to the receiving handler's pool obligation at the difference between the Class I price and the marketwide weighted average price to producers. This charge is based on the assumption that the handler has probably paid his producers the weighted average price for the unregulated milk. From October 1981 to July 1982, the Order 4 Class I-weighted average price difference averaged $1.46 per hundredweight. This is 33 cents more than the added cost to Cumberland under the proposal adopted.

Similar charges on receipts from other order plants generally are not incorporated in a handler's pool obligation under Federal orders on the basis that the Class I price has been paid for the milk at some location for which pricing is aligned with that at the receiving handler's plant. That assumption fails in the case of a plant regulated under Order 13 but located within the Order 4 area and selling Class I milk to an Order 4 handler. Additionally, if milk from the Dover plant were moved to any of the nearby markets where prices are aligned with Order 4, it would tend to disrupt competition in those markets also. It would be appropriate to solve the problem of nonuniform pricing by amending Order 13 if the solution would provide alignment of pricing on milk moved to other order handlers.

The proposal to correct the problem of inequitable pricing in an other order area by amending Order 13 to provide that the Class I price applicable on milk transferred to another order plant be adjusted for location to a level no lower than the price applicable at that location under the other order is a reasonable and effective method of dealing with the situation. Adoption of the proposal would result in uniform prices paid by handlers regulated by Order 4 and at the same time would not create economic barriers to the movement of milk from Dover to Florida.

Adoption of the proposal would not establish a barrier to movements of milk between Federal order marketing areas. The milk transferred from Dover to Florence does not move between Federal order marketing areas but between plants regulated under different orders but located within the same marketing area. The adopted change would assure uniform pricing of milk to handlers located within the same area and by that assurance would not inhibit milk transfers between those handlers.

Cumberland Farms is not the target of the amendment adopted in this decision inasmuch as any handler with a plant located outside Florida but pooled under Order 13 who elects to sell milk for fluid use to nearby plants would be restrained from doing so at less than the local Federally regulated price. The facility at Dover, which is rented by Cumberland could be operated instead by any other handler, even one who could establish a bottling and distributing operation there. Such opportunities for use of Federal order provisions to obtain a position of competitive advantage in the market should be eliminated.

The fact that the additional money collected under the adopted proposal would be paid into the Order 13 pool rather than into the Order 4 pool may be considered equitable even though the milk moved to Florence from Dover is considered surplus to the fluid needs of the Riviera Beach plant. The Order 13 producers are already carrying their share of the reserve supply of the Middle Atlantic market through the operation of the Order 4 allocation provisions which prorate other receipts at Florence to Classes I and II on the basis of the Order 4 marketwide utilization. In fact, since the milk of the Dover producers is not adding to the already-large surplus of milk in the Middle Atlantic pool and is absorbing a proportionate share of Class II use at Florence, producers pooled under Order 4 are already benefitting from the pooling of the Dover milk under Order 13. If the Florida plant obtained its supplemental milk supply from some other region, the milk supply now being moved to Florida from Dover would likely be added to the Order 4 pool as Class II milk.

A proposal was published in the hearing notice to consider increasing the plant location adjustment rate under the order. This proposal was abandonded at the hearing by the proponent and no testimony was offered on the matter. Thus, no findings can be made with respect to the merits of the proposal on the basis of this hearing record.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and

conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commerical activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Southeastern Florida marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

In § 1013.52(a), the text preceding the table is revised to read as follows:

§ 1013.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other soure milk at a plant located outside the State of Florida or within the State of Florida but outside of the defined marketing area shall be adjusted at the rates set forth in the following schedule: *Provided*, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

* * * * *

List of Subjects in 7 CFR Part 1013

Milk marketing orders, Milk, Diary products.

Signed at Washington, D.C., on March 10, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-6680 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-02-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Options on Futures; Margins

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and Request for Comment.

SUMMARY: In November, 1981, the Commission adopted a pilot options program. As part of its continuing evaluation of this program, the Commission is seeking comments regarding Commission requirements concerning margin on futures options contracts, and in particular comments as to whether the current margin requirements affecting floor traders who may perform certain market-making functions differ unnecessarily from the requirements pertaining to securities options marketmakers and, as such, may inhibit the liquidity of the futures options market. In order to determine whether any changes in the system for assessing and collecting such margins should be tested as part of the pilot program, the Commission has formulated a list of specific inquiries to which commenters are requested to respond. In this connection, the Commission, however, reaffirms that at this stage of the pilot program it does not intend to re-evaluate the requirement for payment in full of futures option premiums by public customers.

DATE: Comments must be received by April 14, 1983.

ADDRESS: Comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Karen Matteson, Attorney Advisor, Division of Trading and Markets at the above address, Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On November 3, 1981, the Commodity Futures Trading Commission ("Commission") adopted regulations to govern a three-year pilot program which allows options on one commodity futures contract to be traded on each commodity exchange which trades the underlying future.[1] To date, seven exchanges have been designated by the Commission as contract markets to trade futures options under the pilot program.[2] Prior to approving a contract, the Commission reviewed the margining system proposed by each such exchange for its option contract to ensure that the exchange's margining rules would provide adequate protection to the exchange clearinghouse and the public and to ensure that the system conforms with Commission rule 33.4(a)(2) which requires the collection in full of the option premiums. In addition to approving customer margins, the Commission has also approved several options contracts with somewhat different margin requirements for floor traders than for customers.[3] In particular, the Commission has approved rules for floor traders on the CME and NYFE which permit the market value of a long option adjusted by formula for the risk of one day's market move to be use to reduce the aggregate margin obligations on short option positions and on futures positions held in that trader's account. The Commission has not, however, permitted any collateral value to be given to a long options holder which may be use to purchase another long option.

Based upon the Commission's surveillance of the option markets during the five months since the first options futures contract began trading, the Commission is now evaluating whether the requirements it has imposed regarding margining of futures options contracts, and particularly the margining of floor trader member positions in such contracts have been too restrictive. In this connection, the Commission notes that it has received a petition for rulemaking from the Chicago Board of Trade ("CBT") in which the CBT has argued that because floor traders purchasing options must deposit the full amount of the option premium with an FCM, whereas floor traders selling such

[1] 46 FR 54500 (November 3, 1981).

[2] These exchanges are the Chicago Board of Trade (Treasury Bond futures); Chicago Mercantile Exchange (Standard & Poor's Stock Index futures); Coffee, Sugar & Cocoa Exchange (Sugar futures); Commodity Exchange (Gold futures); Kansas City Board of Trade (Value Line Average Stock Index futures); MACE (Gold futures); and the New York Futures Exchange (New York Stock Exchange Composite Index futures).

[3] Both CME and NYFE have such dual margining systems, and KCBT has recently proposed a separate margining system for floor traders in its option contract. CBT floor traders effectively are subject to different margin treatment on their options positions as a result of CBT's application of different margin requirements to such floor traders' futures positions.

options do not have to deposit more than the applicable futures margin, a disincentive is created for floor traders to purchase options which may impair market liquidity.[4] The Commission has previously acknowledged that the system of margining for floor brokers which it has approved is somewhat more restrictive than that accorded market makers for securities options.

The Commission is therefore soliciting comments on how the margining of future options could be altered in order to enhance market liquidity and promote competitive pricing without substantially decreasing the level of safety the currently approved margining systems provide. The Commission has determined not to consider allowing margining of option premiums at the public customer level at this time, however, because the Commission does not believe that the benefits of such margining would outweigh the risk to the security of customer funds or the risk that such customers would be misled as to the nature of the instrument they were purchasing. Further, the Commission is not now considering whether margin changes would be appropriate for the extension of the pilot program to options on physicals, for which it is just beginning to receive designation applications, or to options on the enumerated agricultural commodities with respect to which a previous congressional ban was lifted in January, 1983.

The Commission is specifically soliciting comment on the following issues:

1. The advantages and disadvantages of adopting a rule similar to 17 CFR 240.15c3–1(c) (2) (x) governing securities options which would allow inclusion of the market value of a long futures option contract minus an appropriate risk factor as part of a firm's current assests.

2. Whether the Commission should consider adopting any other aspects of the margining system which applies to securities options.

3. The advantages and disadvantages of permitting margining of option premiums paid by floor traders.

4. The advantages and disadvantages of extending the separate floor trader margining systems, like that of CME, approved by the Commission beyond active floor traders to all members of a contract market were the instrument is traded.

5. Whether a system of margining premiums for floor traders can be designed which eliminates potential pyramiding, and if so how such a system would operate.

6. What the best approach would be under the current regulatory scheme for options to assign long futures options collateral value. Commenters supporting a system which assigns collateral value to long futures options should also address what "haircuts" or "safety factor changes" should be applied to reduce the value at which such options are includable in a firm's current assets.

Commenters are also urged to fully articulate the reasons supporting their responses to the Commission's specific inquiries in order that their comments may provide the Commission maximum guidance on these complex issues.

List of Subjects in 17 CFR Part 33

Commodity options.

Issued in Washington, D.C. on March 11, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-6725 Filed 3-11-83; 10:03 am]

BILLING CODE 6351-01-M

[4] This argument is presented in the CBT's November 19, 1982 Petition for Commission Rulemaking to adopt a rule similar to the SEC's rule set forth in 17 CFR 240.15c3–1(c)(2)(x). Copies of the Petition are available from the Office of the Secretariat.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 205, 207, 213, 221, 232, 241, 242 and 244

[Docket No. R–83–1060]

Bonding Requirements; Multifamily Mortgage and Loan Insurance Programs Under the National Housing Act

AGENCY: Department of Housing and Urban Development (Office of Assistant Secretary for Housing—Federal Housing Commissioner).

ACTION: Proposed rule.

SUMMARY: The regulations governing assurance of completion in land developments, proposed construction or rehabilitation of multifamily projects are being amended to provide that where assurance shall be by corporate surety bonds for payment and performance, each bond shall be in the amount of 100 percent of the cost of improvements or 100 percent of the cost of construction, as estimated by the Commissioner. The increase in bond limits to 100 percent will bring HUD regulations in line with basic procurement policy of other Federal Agencies which engage in construction.

DATE: Comments are due on or before May 16, 1983.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 10278, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. (202) 755–7084. This is not a toll free number. Each person submitting a comment should include his/her name and address and refer to the document by the docket number indicated by the heading and date of publication and give reasons for any recommendation. Copies of all written comments will be available for examination and copying by interested persons in the Office of the Rules Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Linda D. Cheatham, Director, Technical Support Division, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426–7113. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: One of the ways in which a builder/developer or general contractor may provide assurance of completion is by providing performance and payment bonds issued by a surety company satisfactory to the Commissioner. In Title X projects, each bond presently shall be in the amount of 50 percent of the cost of improvements, as estimated by the Commissioner. For multifamily housing projects where the structure contains no elevator, or contains an elevator and is three stories or less, assurance of completion presently is by corporate surety bonds for payment and performance each in the amount of 25 percent of the amount of the construction contract. Where the structure contains an elevator and is four stories or more, assurance presently is by corporate surety bonds for payment and performance each in the amount of 50 percent of the amount of the construction contract. The increase in bond limits to 100 percent will bring HUD regulations in line with basic procurement policy of other Federal Agencies which engage in construction. The additional protection afforded HUD by 100 percent bonds should not involve significant increases in costs nor should it in any way affect a contractor's ability to furnish bonds. Therefore, the Commissioner proposes to increase the amount of each of the corporate surety bonds for payment and performance to 100 percent of the HUD estimate of improvements in Title X projects, and

100 percent of the HUD estimate of construction or rehabilitation cost in multifamily housing projects. Sections 205.82, 207.19, 213.27, 221.542, 232.56, 241.140, 242.61 and 244.95 are being revised accordingly. The requirements applicable to completion assurance agreements secured by a cash deposit remain unchanged.

Part 220 (at § 220.511), Part 231 (at § 231.8) and Part 234 (at § 234.560) incorporate by reference the amended Section of Part 207, and therefore these amendments will also affect projects insured under Sections 220, 231 and 234 of the National Housing Act. Part 233 (at § 233.505) incorporates by reference the amended Sections of Parts 207, 213, 221, 232, 241 and therefore these amendments will apply to experimental housing mortgage insurance under Section 233. Part 236 (at § 236.1) incorporates by reference the amended Section of Part 221, therefore these amendments will also affect projects insured under Section 236.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies or geographical reports; or (3) have a significant adverse effect on completion, 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.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The additional protection afforded HUD by 100 percent bonds should not involve significant increases in costs nor should it affect a contractor's ability to furnish bonds.

The rule was listed as item H-87-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.103, 14.112, 14.116, 14.124, 14.125, 14.126, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.151, 14.154.

List of Subjects

24 CFR Part 205

Community facilities, Mortgage insurance, Land development.

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

24 CFR Part 241

Energy conservation, Mortgage insurance, Solar energy, Projects.

24 CFR Part 242

Hospitals, Mortgage insurance.

24 CFR Part 244

Health facilities.

Accordingly, the Department proposes to amend Parts 205, 207, 213, 221, 232, 241, 242, and 244 as follows:

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

1. In § 205.82, paragraph (a)(1) would be revised to read as follows:

§ 205.82 Assurance of completion.

(a) Assurance of completion satisfactory to the Commissioner shall be furnished in one of the following forms:

(1) Performance and payment bonds issued by a surety company satisfactory to the Commissioner on forms approved by the Commissioner. Each bond shall be in the amount of 100 percent of the cost of improvements as estimated by the Commissioner.

* * * * *

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

2. In § 207.19, paragraphs (c)(6) (ii) and (iii) would be revised to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(c) Requirements incident to insurance of advances.

* * * * *

(6) * * *

(ii) Where the structure contains no elevator, or where the structure contains an elevator and is three stories or less, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent of the amount of HUD estimate of construction or rehabilitation cost.

(iii) Where the structure contains an elevator and is four stories or more, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 25 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

3. In § 213.27, paragraphs (e) (2) and (3) would be revised to read as follows:

§ 213.27 Assurance of completion.

* * * * *

(e) * * *

(2) Where the structure contains no elevator, or where the structure contains an elevator and is three stories or less, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent of the amount of the HUD estimate of construction or rehabilitation cost.

(3) Where the structure contains an elevator and is four stories or more, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a

completion assurance agreement secured by a cash deposit in the amount of 25 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

(4) § 221.542, paragraphs (a) (2) and (3) would be revised to read as follows:

§ 221.542 Assurance of completion.

(a) * * *

(2) Where the structure contains no elevator or where the structure contains an elevator and is three stories or less, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent of the amount of the HUD estimate of construction or rehabilitation cost.

(3) Where the structure contains an elevator and is four stories or more, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 25 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

5. In § 232.56, paragraphs (a) (2) and (3) would be revised to read as follows:

§ 232.56 Assurance of completion.

(a) * * *

(2) Where the structure contains no elevator or where the structure contains an elevator and is three stories or less, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost or a completion assurance agreement secured by a cash deposit in the amount of 15 percent of the amount of the HUD estimate of construction or rehabilitation cost.

(3) Where the structure contains an elevator and is four stories or more, assurance shall be by corporate surety bonds for payment and performance each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 25 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

PART 241—SUPPLEMENTAL FINANCING FOR INSURED PROJECT MORTGAGES

6. In § 241.140, paragraph (a)(2) would be revised to read as follows:

§ 241.140 Assurance of completion.

* * * * *

(a) * * *

(2) Where the estimated cost of construction of the improvements is more than $500,000 or where such costs is less than $500,000 and a personal indemnity agreement is not executed the assurance shall be in the form of corporate surety bonds for payment and performance, each in the minimum amount of 100 percent of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the minimum amount of 15 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

7. § 242.61, paragraph (b) would be revised to read as follows:

§ 242.61 Funds and finances—insured advances—assurance of completion.

* * * * *

(b) Where the estimated cost of construction or rehabilitation is more than $500,000 or where such cost is less than $500,000 and a personal indemnity agreement is not executed and, in all cases involving Hill Burton grants or HHS guaranteed loans, the mortgagor shall furnish assurance of completion in the form of corporate surety bonds for payment and performance, each in the minimum amount of 100 percent of the accepted bid price.

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES (TITLE XI)

8. § 244.95, paragraphs (a) (2) and (3) would be revised to read as follows:

§ 244.95 Funds and finances—insured advances—assurance of completion.

(a) * * *

(2) Where the structure contains no elevator or where the structure contains an elevator and is three stories or less, assurance shall be by corporate surety bonds for payment and performance each in the amount of 100 percent of the amount of the HUD estimate of construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent of the amount of the HUD estimate of construction or rehabilitation cost.

(3) Where the structure contains an elevator and is four stories or more, assurance shall be by corporate surety bonds for payment and performance, each in the amount of 100 percent of the amount of the HUD estimated construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 25 percent of the amount of the HUD estimate of construction or rehabilitation cost.

* * * * *

[Section 211, National Housing Act, as amended (12 U.S.C. 1715b)]

Issued: February 17, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-6630 Filed 3-14-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Amortization of Reforestation Expenditures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking and cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Treasury Department is issuing a temporary regulation regarding an election under which taxpayers may amortize up to $10,000 of qualified reforestation expenditures over a seven-year period. The temporary regulation also serves as a portion of the Notice of Proposed Rulemaking.

In addition to the text of the temporary regulations, this notice document contains other proposed amendments to Part 1 not adopted as temporary regulations. This additional material reflects amendments to other sections of the Internal Revenue Code relating to the treatment of reforestation expenditures.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 16, 1983. The amendments are proposed to be effective for qualifying reforestation expenditures added to capital accounts after December 31, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue; Attention: CC:LR:T [LR–189–80], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulation in the Rules and Regulations portion of this issue of the **Federal Register** amends 26 CFR by adding a new Part 15b (Temporary Regulations under Title III of the Recreational Boating Safety and Facilities Improvement Act of 1980). The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR by adding new §§ 1.194–1 through 1.194–4 to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). For the text of the temporary regulation, see FR Doc. 83–6721 (T.D. 7875) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Investment Tax Credit

This document contains proposed amendments to the regulations under section 48(a)(1)(F) which allows the regular investment tax credit to be claimed for reforestation costs qualifying for amortization under section 194, regardless of whether or not an election to amortize such costs is made by a taxpayer. The amount of qualifying costs eligible for the credit is limited to $10,000 each taxable year, and costs in excess of $10,000 may not be carried over to subsequent years.

Deduction Allowed in Arriving at Adjusted Gross Income

Section 1.62–1(c) is proposed to be amended to provide that amortization deductions claimed under section 194 are to be allowed as deductions in arriving at adjusted gross income.

Recapture of Amortization Deductions

Under section 1245(a), amortization deductions claimed by a taxpayer under section 194 are subject to recapture as ordinary income to the extent of any gain on the disposition of the timber property to which the amortization deductions are attributable. However, § 1.1245–4(h) of the proposed regulations provides that recapture will not apply to amortization deductions attributable to amortizable basis of the taxpayer acquired more than ten taxable years preceding the taxable year of disposition.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Robert B. Copland of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.0–1–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR 1.61–1–1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.1201–1.1252–2

Income taxes, Capital gains and losses, Recapture

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART I [AMENDED]

Paragraph 1. Section 1.46–3(e)(4) is revised to read as follows:

§ 1.46–3 Qualified investment.

* * * * *

(e) *Estimated useful life*—* * *

(4) *Useful life of property subject to amortization*—(i) *In general.* In the case of property with respect to which amortization in lieu of depreciation is allowable, the term over which amortization deductions are taken shall be considered as the estimated useful life of such property.

(ii) *Qualified timber property.* In the case of qualified timber property (within the meaning of section 194(c)(1)), the normal growing period of such property shall be considered its estimated useful life.

* * * * *

Par. 2. Section 1.48–1 is amended by revising the first sentence of paragraph (b)(1) and by adding a new paragraph (p) in the appropriate place as follows:

§ 1.48–1 Definition of section 38 property.

* * * * *

(b) *Depreciation allowable.* (1) Property (with the exception of property described in section 48(a)(1)(F) and paragraph (p) of this section) is not section 38 property unless a deduction for depreciation (or amortization in lieu of depreciation) with respect to such property is allowable to the taxpayer for the taxable year. * * *

* * * * *

(p) *Qualified timber property.* Qualified timber property (within the meaning of section 194(c) (1)) shall be treated as section 38 property to the extent of the portion of the basis of such property which is the amortizable basis (as defined in § 1.194–3 (b)) acquired during the taxable year and taken into account under section 194 (after applying the limitation of section 194(b)(1)). Such amortizable basis shall qualify as section 38 property whether or not an election is made under section 194. However, any portion of such amortizable basis which is attributable to property which otherwise qualifies as section 38 property shall not be treated as section 38 property under section 48(a)(1)(F) and this paragraph. For

example, amortizable basis attributable to depreciation on equipment would not qualify as section 38 property under this paragraph if such equipment qualifies as section 38 property under sections 48(a)(1) (A) or (B). In determining the portion of amortizable basis which qualifies as section 38 property under this paragraph, the reduction in amortizable basis to account for depreciation sustained with respect to property used in the reforestation process (which otherwise qualifies as section 38 property) shall be applied before the $10,000 limitation on eligible costs under section 194(b)(1). For example, if in a taxable year a taxpayer incurs qualifying reforestation costs resulting in $12,000 of amortizable basis with respect to property for which an election is in effect, and $2,000 of these costs are attributable to depreciation of the taxpayer's equipment, such $12,000 would first be reduced by the $2,000 of depreciation, and the $10,000 limitation under section 194(b)(1) would be applied follwing such reduction.

Par. 3. Section 1.62–1(c) is amended by changing the periods at the end of paragraphs (c) (15) and (16) to semicolons, and by adding a new paragraph (c)(17) to read as set forth below:

§ 1.62–1 Adjusted gross income.

* * * * *

(c) * * *

(17) The deduction allowed by section 194 for the amortization of reforestation expenditures.

Par. 4. Section 1.1245–4 is amended by adding new paragraphs (g) and (h) at the end thereof to read as follows:

§ 1.1245–4 Exceptions and limitations.

* * * * *

(g) [Reserved]

(h) *Timber property subject to amortization under section 194*—(1) *In general.* For purposes of section 1245(a)(2), in determining the recomputed basis of property with respect to which a deduction under section 194 was allowed for any taxable year, a taxpayer shall not take into account amortization deductions claimed under section 194 to the extent such deductions are attributable to the amortizable basis (within the meaning of section 194(c)(2)) of the taxpayer acquired before the tenth taxable year preceding the taxable year in which gain with respect to the property is recognized.

(2) *Example.* The principles of paragraph (h)(1) of this section are illustrated by the following example:

Example. Assume A owns qualified timber property (as defined in section 194(c)(1)) with a basis of $30,000. In 1981, A incurs $12,000 of qualifying reforestation expenditures and elects to amortize the maximum $10,000 of such expenses under section 194. The $10,000 of deductions are taken during the 8-year period from 1981 to 1988. If A sells the property in 1990 for $60,000 a gain of $28,000 ($60,000—adjusted basis of $32,000) is recognized on the sale. Since the sale took place within 10 years of the taxable year in which the reforestation expenditures were made, $10,000 of the gain is treated as ordinary income, and the remaining $18,000 of gain would be capital gain, if it otherwise qualifies for capital gain treatment.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–6722 Filed 3–14–83; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Part 1

[LR–277–82]

Addition to Tax for a Substantial Understatement of Liability

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the addition to tax to be imposed in the case of a substantial understatement of tax liability. The Tax Equity and Fiscal Responsibility Act of 1982 provides for the addition to tax. The proposed regulations affect all taxpayers subject to the addition to tax, and provide guidance necessary to comply with the provision.

DATES: Written comments and request for a public hearing must be delivered by May 16, 1983. The regulations are proposed to be effective for returns due after December 31, 1982.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–277–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Ewan D. Purkiss of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–277–82) (202–566–3238, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income tax Regulations (26 CFR Part 1) under section 6661 of the Internal Revenue Code of 1954. Section 6661 was added to the Code by section 323 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 613).

In general, section 6661 imposes an addition to tax in an amount equal to ten percent of a substantial understatement of income tax. A substantial understatement is an understatement of tax on a return that exceeds the greater of ten percent of the tax required to be shown on the return or $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company).

In a non-tax shelter case, the addition to tax may be avoided through the reduction of the understatement if the filing position that resulted in the understatement was supported by substantial authority or if the taxpayer disclosed in the return or an attachment thereto all the relevant facts relating to the filing position. In tax shelter cases, the addition to tax may be avoided only if there is substantial authority for the filing position and, additionally, the taxpayer reasonably believed that the position taken was more likely than not the proper tax treatment.

The addition to tax imposed by section 6661 may not be imposed on any part of an understatement attributable to items on which the valuation overstatement addition to tax under section 6659 is imposed. Additionally, the section 6661 addition to tax may be waived if the taxpayer establishes reasonable cause for the understatement, and that the taxpayer acted in good faith.

The proposed regulations provide rules for the computation of the addition to tax, the avoidance of the addition to tax, and for the waiver of such amounts. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Additional Information

The section 6661 addition to tax was enacted to impose a penalty on taxpayers who take overly aggressive positions on their tax returns without adequately disclosing the position (other than in the case of tax shelter items). The addition to tax was not intended to penalize taxpayers who make a good faith effort to assess their proper tax liability under the law. Accordingly, the Commissioner will administer the penalty, and exercise the authority to waive the penalty under § 1.6661–6, so that taxpayers who make a good faith effort to file their tax returns in accordance with the law, or advise the Internal Revenue Service by means of appropriate disclosure (other than with respect to tax shelters) when they believe their position to be subject to

question, need not be concerned that the penalty will be imposed.

The proposed regulations describe the analysis required to determine whether there is substantial authority for a position and list authorities to be considered in this analysis. Upon analysis in the manner described, the taxpayer will be considered to have substantial authority for a position taken if the weight of authorities supporting the position taken if the weight of authorities supporting the position is substantial compared with the weight of authorities contrary to the position. The proposed regulations provide that certain expressions of opinion, such as conclusions reached in legal periodicals, general counsel memoranda, and opinons rendered by tax professionals are not authority for a position. In addition, the proposed regulations make it clear that the taxpayer's residence in a particular jurisdiction is not taken into account in determining whether there is substantial authority for a position.

The proposed regulations provide that disclosure generally will be adequate if made on a specifically identified disclosure statement attached to the return. In general, the disclosure statement must identify the item for which disclosure is made, the amount of the item and provide sufficient facts to apprise the Service of the potential controversy surrounding the item. In general, information provided on the return in accordance with the forms or instructions is not of itself adequate for purpose of section 6661. For example, the reconciliation of taxable income and retained earnings with current and accumulated earnings and profits on Schedules M–1 and M–2, Form 1120, U.S. Corporation Income Tax Return, is not of itself adequate disclosure. However, the Service will publish a revenue procedure prescribing the circumstances in which information provided on the return in accordance with applicable forms and instruction will be considered adequate disclosure under section 6661. Treasury encourages comments on additional circumstances in which disclosure on the return will be considered adequate.

The proposed regulations provide that an entity, plan or arrangement is a tax shelter if the tax avodiance or tax evasion motive exceeds all other motives. In this connection, the regulations prescribe factors that will be considered in making the determination whether a motive to aviod or evade tax is present. An entity, plan or arrangement will not be considered to have a tax avoidance motive merely as a result of claiming tax benefits consistent with Congressional purpose. The proposed regulations give examples of entities, plans or arrangements that will not be considered tax shelters merely as a result of claiming such tax benefits.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed regulation is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment the Internal Revenue Service has concluded that these regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Therefore, a Regulatory Flexibility Analysis is not required under the provisions of 5 U.S.C. Chapter 6.

Drafting Information

The principal author of these proposed regulations is Ewan D. Purkiss of Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

List of Subjects in 26 CFR 1.6654–1—1.6696–1

Income taxes, Administration and procedure, Penalties, Additions to tax.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph. The following new sections shall be added in the appropriate places:

§ 1.6661–1 Addition to tax in the case of a substantial understatement of tax liability.

(a) *In general.* Section 6661 imposes an addition to tax (penalty) for an understatement of tax that constitutes a substantial understatement of tax liability. This section prescribes the effective date of the penalty. The manner of computing understatements subject to the penalty is set forth in § 1.6661–2. The definition of "substantial authority" is set forth in § 1.6661–3. Rules concerning the adequacy of disclosure are set forth in § 1.6661–4. The treatment of "tax shelters" is provided in § 1.6661–5. The circumstances in which the penalty may or will be waived by the Commissioner are set forth in § 1.6661–6.

(b) *Effective date.* The penalty under section 6661 applies to returns the due date (determined without regard to extensions of the time for filing) of which is after December 31, 1982. Thus, the penalty does not apply to amended returns if the due date for the return to which the amended return relates (determined without regard to extensions) is before January 1, 1983.

§ 1.6661–2 Computation of penalty; meaning of terms.

(a) *Amount of penalty.* If there is a substantial understatement of tax liability for a taxable year (as defined in paragraph (b)), section 6661 imposes a penalty equal to 10 percent of the understatement of tax liability.

(b) *Substantial understatement.* The term "substantial understatement" means an understatement (as defined in paragraph (c)) that exceeds the greater of—

(1) 10 percent of the tax required to be shown on the return for the taxable year (as defined in paragraph (d)(3)); or

(2) $5,000 ($10,000 in the case of a corporation other than an S corporation (as defined in section 1361(a)(1)) or a personal holding company (as defined in section 542)).

(c) *Understatement.* The term "understatement" means the total of the following amounts:

(1) The excess of the amount of tax required to be shown on the return for the taxable year (as defined in paragraph (d)(3)), over the amount of tax imposed which is shown on the return for the taxable year (as defined in paragraph (d)(2)).

(2) The amount determined under paragraph (d)(5)(ii) in the case of any carrybacks (as defined in that paragraph) to the taxable year.

(d) *Tax shown; tax required to be shown*—(1) *In general.* For purposes of the regulations under section 6661, the

amount of tax imposed which is shown on the return and the amount of tax required to be shown are determined in accordance with this paragraph.

(2) *Tax shown on return.* The amount of tax imposed which is shown on the return for the taxable year is determined with the adjustments prescribed in this subparagraph, without regard to the items described in paragraph (d)(4), and without regard to any amount of additional tax shown on an amended return, so-called, filed after the due date of the return. If no return was made for the taxable year or if the return (other than a return filed under section 6014) shows no tax due, the amount of tax shown on the return is considered zero. The amount of tax imposed which is shown on the return for the taxable year is determined by computing the tax as if the following items had received the proper tax treatment:

(i) Items (other than tax shelter items) for which there is or was substantial authority for the treatment claimed (as provided in § 1.6661–3).

(ii) Items (other than tax shelter items) with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed (as provided in § 1.6661–4) in the taxpayer's return for the taxable year, or in a statement attached thereto.

(iii) Items attributable to a tax shelter if there is or was substantial authority for the treatment claimed for the item, and the taxpayer reasonably believed that the tax treatment of the item was more likely than not the proper tax treatment (as set forth in § 1.6661–5).

(3) *Tax required to be shown.* The amount of tax required to be shown on the return for the taxable year is the amount of tax imposed on the taxpayer by subtitle A of the Code for the taxable year determined without regard to items described in paragraph (d)(4).

(4) *Items disregarded.* The amount of tax imposed which is shown on the return for the taxable year and the amount of tax required to be shown on the return for the taxable year are both determined without regard to—

(i) The credit under section 31 for tax withheld on wages, interest, dividends, and patronage dividends;

(ii) The credit under section 32 for tax withheld on nonresident aliens and foreign corporations and on tax-free covenant bonds to the extent not taken into account in the computation of a deficiency under section 6211;

(iii) Any credit resulting from the collection of amounts assessed under section 6851 as the result of a termination assessment;

(iv) Payments of tax or estimated tax by the taxpayer; and

(v) Any carryback (as defined in paragraph (d)(5)(ii)) to the taxable year.

(5) *Special rule for carryovers, carrybacks*—(i) *Carryovers.* A net operating loss carryover, tax credit carryover or capital loss carryover shall be treated for purposes of this section as a credit or deduction in the year in which taken into account.

(ii) *Carrybacks.* If, for any year, there is a net operating loss carryback, tax credit carryback, capital loss carryback or commodity futures loss carryback (a "carryback") to the taxable year, the understatement for the year shall be increased by the excess of—

(A) The tax claimed on the taxpayer's return for the taxable year, reduced to take into account the carrybacks to the year to the extent allowable, and the carrybacks to the year to the extent they consist of items described in paragraph (d)(2) (i)–(iii), over

(B) The tax claimed on the taxpayer's return for the taxable year, reduced to take into account the carrybacks to the year as claimed by the taxpayer.

The tax claimed on the taxpayer's return for the taxable year means the amount of tax imposed which is shown on the return for the taxable year (as defined in paragraph (d)(2)) determined without adjustment for the items described in paragraph (d)(2) (i)–(iii).

(e) *Examples.* The following examples illustrate the computation of an understatement:

(1) Example. In 1983, A, an individual calendar year taxpayer, files a return for 1982, which shows taxable income of $18,200 and tax liability of $3,194. Subsequent adjustments on audit for 1982 increase taxable income to $51,500 and tax liability to $17,068. A has substantial authority for an item resulting in an adjustment that increases taxable income by $5,300. The item is not a tax shelter item. In computing the amount of the understatement, the amount of tax shown on A's return is determined as if the item for which A had substantial authority had been given the proper tax treatment. Thus, the amount of tax imposed that is treated as shown on A's return is $4,837 (the tax on $23,500) ($18,200 taxable income actually shown on A's return plus $5,300, the amount of the adjustment for which A had substantial authority). The amount of the understatement is $12,231 ($17,068 (the amount required to be shown) less $4,837 (the amount treated as shown on A's return after adjustment for the item for which A has substantial authority)). Because the understatement exceeds the greater of 10 percent of the tax required to be shown on the return for the year ($1,707 ($17,068×.10)) or $5,000, A has a substantial understatement of tax liability for the year.

(2) Example. Corporation X, a calendar year corporation formed on January 1, 1982, files a return for 1982 which shows tax liability of $10,000. For 1983, X has an unused investment tax credit of $20,000, which it carries back to 1982 by filing an amended return for 1982, thereby producing a refund of $10,000. X claimed no investment tax credit in 1982. Following audit, X's tax liability for 1982 is determined to be $24,000. In addition, X's unused investment tax credit for 1983 is determined to be $8,000. X did not have substantial authority for or adequate disclosure with respect to the items comprising its 1982 adjustments. X had substantial authority for $1,000 of the investment tax credit for 1983 that was disallowed; the item was not a tax shelter item. X had neither substantial authority nor adequate disclosure for the balance of the investment tax credit disallowed for 1983. X's understatement for 1982 is computed as follows: First, under paragraph (c)(1), the amount required to be shown on the return for the taxable year, determined without regard to carrybacks, to the year, is $24,000; the amount of tax imposed which is shown on the return for the taxable year also determined without regard to carrybacks is $10,000. Accordingly, the amount determined under paragraph (c)(1) is $14,000 ($24,000−$10,000). Second, under paragraphs (c)(2) and (d)(5)(ii) the portion of the understatement for 1982 attributable to the carrybacks to the year is computed as follows: The tax claimed on the taxpayer's return for the taxable year ($10,000) is reduced to take into account the carrybacks to the year to the extent allowable ($8,000) and the carrybacks to the year to the extent attributable to an item for which there is or was substantial authority ($1,000). Thus, the amount determined under paragraph (d)(5)(ii)(A) is $1,000 ($10,000−($8,000+$1,000)). The amount determined under paragraph (d)(5)(ii)(B) is the tax claimed on the taxpayer's return for the taxable year ($10,000) reduced to take into account the carrybacks to the year as claimed by the taxpayer ($20,000). Thus, the amount determined under paragraph (d)(5)(ii)(B) is zero, and the excess of the amount determined under paragraph (d)(5)(ii)(A) over the amount determined under paragraph (d)(5)(ii)(B) is $1,000. Therefore, X's understatement for 1982 is the sum of the amounts determined under paragraph (c) (1) and (2), or $15,000 ($14,000+$1,000).

(f) *Coordination with penalty for valuation overstatements*—(1) *In general.* The amount of the penalty imposed under section 6661 shall be determined without taking into account the portion of the substantial understatement on which the penalty under section 6659 (relating to valuation overstatements) has been imposed. The portion of the understatement on which the penalty under section 6659 has been imposed is taken into account in determining whether there is a substantial understatement of tax. For purposes of section 6661 and this section, a penalty under section 6659 is not considered to have been imposed to the extent that the penalty is waived

under the authority of section 6659(e). If a penalty is imposed under section 6659, the amount to which the section 6661 penalty applies is the amount by which the understatement exceeds the amount of the underpayment attributable to a valuation overstatement as determined under section 6659.

(2) *Example.* The following example illustrates the coordination of the penalties under sections 6659 and 6661:

Example. In 1983, A, an individual calendar year taxpayer, files a return for 1982 which shows taxable income of $40,000 and tax liability of $11,408. Subsequent adjustments on audit for 1982 increase taxible income to $70,000 and tax liability to $26,318. The increase in taxable income is attributable to a $20,000 adjustment for a valuation overstatement and a $10,000 adjustment not related to a valuation overstatement. There are no adjustments under paragraph (d)(2) of this section. Since the amount of the understatement, $14,910 ($26,318−$11,408), exceeds the greater of $2,631.80 or $5,000, there is a substantial understatement. Assume that under section 6659 the $20,000 adjustment for the valuation overstatement results in a $10,000 underpayment attributable to a valuation overstatement on which the section 6659 penalty is imposed. The amount of the understatement on which the section 6661 penalty is imposed is $4,910. (The amount by which the $14,910 understatement exceeds the $10,000 underpayment to which the section 6659 penalty applies.) The amount of the section 6661 penalty is $491 ($4,910×.10).

§ 1.6661–3 Substantial authority.

(a) *In general.* If there is or was substantial authority for the tax treatment of an item (other than a tax shelter item), the item is treated as if it were shown properly on the return for the taxable year in computing the amount of tax imposed which is shown on the return. Thus, the tax attributable to the item is not included in the understatement for the year (see paragraph (d)(2) of § 1.6661–2). The standard of substantial authority is less stringent than the "more likely than not" standard applicable to tax shelters (see § 1.6661–5). However, a position for which there is substantial authority is stronger than one for which there is only a reasonable basis (the standard which, in general, will prevent imposition of the penalty under section 6653(a), relating to negligence or intentional disregard of rules and regulations). Substantial authority is required for issues of fact as well as for issues of law.

(b) *Determination of whether substantial authority is present*—(1) *Evaluation of authorities.* Whether a taxpayer's position is supported by substantial authority is determined by analyzing the relevant authorities in light of the pertinent facts and circumstances. The authorities that support the taxpayer's position must be evaluated in relation to the authorities that are contrary to the position taking into account the pertinent facts and circumstances. There is substantial authority for a position if the analysis supporting the position relates authority to the relevant facts and circumstances and concludes that the weight of the authorities supporting the position is substantial when compared to the weight of the authorities contrary to the position. The taxpayer's position must be stronger than one that is arguable but fairly unlikely to prevail in court.

(2) *Types of authority.* In determining whether there is substantial authority the following will be considered authority: Applicable provisions of the Internal Revenue Code and other statutory provisions; regulations construing such statutes; court cases and administrative pronouncements (including revenue rulings and revenue procedures); tax treaties and regulations thereunder, and Treasury Department and other official explanations of such treaties; and Congressional intent as reflected in committee reports and statements of managers. Conclusions reached in treatises, legal periodicals, legal opinions or opinions rendered by other tax professionals, general counsel memoranda, technical memoranda, and written determinations (except as provided in paragraph (b)(4)(i) are not authority. The authorities underlying such expressions of opinions where applicable to the facts of a particular case, however, may give rise to substantial authority for the taxpayer's position.

(3) *Nature of analysis.* The analysis required to determine whether substantial authority exists for a position is the same analysis that a court would be expected to follow in evaluating the proposed treatment of the item. Therefore, a case or revenue ruling having some facts in common with the situation in question will not constitute substantial authority if, for example, the authority is distinguishable on its facts, or otherwise is not applicable to the situation is question. There may be substantial authority for a position despite the absence of certain types of authority (such as case law). Thus, a taxpayer may have substantial authority for a position that is supported only by a sound construction of the applicable statutory provision.

(4) *Special rules*—(i) *Written determinations.* In determining whether there is substantial authority for a position, a taxpayer may relay on the holding of a ruling or determination letter (as defined in § 301.6110–2 (d) and (e)) issued to the taxpayer or in which the taxpayer is named unless the same has been revoked. A ruling or determination letter is not substantial authority with respect to questions not addressed therein or if the facts provided by the taxpayer in obtaining the ruling or determination letter are at variance with the actual facts and circumstances affecting the tax treatment of the item.

(ii) *Taxpayer's jurisdiction.* In determining whether there is substantial authority for the taxpayer's position, the applicability of court cases to the taxpayer by reason of the taxpayer's residence in a particular jurisdiction is not taken into account.

(iii) *When substantial authority determined.* The existence of substantial authority for the tax treatment of an item is determined as of the time for taxpayer's return was filed.

(c) *Examples.* The following examples illustrate the manner of determining whether there is substantial authority for a position:

(1) Example. The relevant authorities relating to the tax treatment of an item by taxpayer A consists of the language of the statute and two cases. The facts of both cases are identical to the facts in question. One case is a Federal district court case, which is favorable to the position taken by A and has been appealed by the government. The other case is a Court of Appeals decision, which holds for the government and which has not been appealed. Under these circumstances, A has substantial authority for the position taken.

(2) Example. The relevant authorities relating to the tax treatment of an item by taxpayer A consist of four cases. One case is a Federal district court case which is favorable to A's position. The three other cases are Court of Appeals decisions in three separate circuits which hold for the government. The facts of all four cases are identical to the facts in question. Under these circumstances, A does not have substantial authority for the position taken even if the favorable case had been decided in the jurisdiction in which A resides.

§ 1.6661–4 Disclosure of certain information.

(a) *In general.* Items (other than tax shelter items) for which there is adequate disclosure are treated as if such items were shown properly on the return for the taxable year in computing the amount of tax imposed which is shown on the return. Thus, the tax attributable to such items is not included in the understatement for the year (see paragraph (d)(2) of § 1.6661–2). Except as provided in paragraph (d), disclosure is adequate with respect to the tax treatment of an item on a return only if it is made on such return or in a

statement attached thereto. Thus, discosure with respect to a recurring item, such as the basis of recovery property, made on a return or statement attached thereto for one taxable year is not adequate disclosure with respect to the item for any other taxable year.

(b) *Disclosure in attached statement*—(1) *In general.* Disclosure generally will be adequate with respect to an item if it takes the form of a statement attached to the return that includes the following:

(i) A caption identifying the statement as disclosure under section 6661.

(ii) An identification of the item with respect to which disclosure is made.

(iii) The amount of the item.

(iv) The facts affecting the tax treatent of the item that reasonably may be expected to apprise the Internal Revenue Service (if it reviews the disclosure) of the nature of the potential controversy concerning the tax treatment of the item.

(2) *Disclosure of legal issue.* In lieu of setting forth the facts affecting the tax treatment of an item in accordance with paragraph (b)(1)(iv), the taxpayer may set forth a concise description of the legal issue presented by such facts.

(3) *Multiple items.* If the same tax treatment is claimed for a group of similar items (for example, the specific deduction of business bad debts or the reduction of amounts paid or incurred for supplies by a taxpayer engaged in business), the taxpayer may in lieu of making disclosure in accordance with paragraph (b)(1), attach a statement to the return that includes the following:

(i) A caption identifying the statement as disclosure under section 6661.

(ii) An identification of the group of items with respect to which disclosure is made.

(iii) A concise description of the taxpayer's legal position with respect to the items.

(4) *Requirement of particularity.* Disclosure is not adequate with respect to an item if it consists of undifferentiated information that is not arranged so as to apprise the Internal Revenue Service of the identity of the item, its amount, and the potential controversy concerning the item. For example, attachment to the return of an acquisition agreement generally will not constitute adequate disclosure of the issues involved in determining the basis of certain acquired assets.

(c) *Disclosure on return.* The Commissioner may by revenue procedure prescribe the circumstances in which information provided on the return in accordance with the applicable forms and instructions will be adequate disclosure for purposes of section 6661.

(d) *Carryovers and carrybacks.* In the case of a carryover or carryback attributable to the tax treatment of an item on a return to which section 6661 applies, disclosure is adequate with respect to the item only if it is made on the return for the taxable year in which the item arises or in a statement attached thereto. In such a case, disclosure with respect to the item is not required on the return for the taxable year in which the carryover or carryback attributable to the item is taken into account. In the case of a carryover attributable to the tax treatment of an item on a return to which section 6661 does not apply, disclosure is made on the return for the taxable year in which the carryover attributable to the item is taken into account or in a statement attached thereto.

(e) *Pass-through entities.* In the case of items attributable to a partnership, an S corporation, or a trust (pass-through items), disclosure regarding the tax treatment of such items is to be made on the return of the entity or on an attachment thereto. Disclosure by the taxpayer on whose return the pass-through items are taken into account does not affect the understatement of the taxpayer. However, see § 1.6661–6(b) for circumstances in which the Commissioner will waive the penalty if the taxpayer makes disclosure with respect to the pass-through items on the taxpayer's return.

§ 1.6661–5 Items relating to tax shelters.

(a) *In general.* (1) Tax shelter items (as defined in paragraph (c)) are treated as if such items were shown properly on the return for the taxable year in computing the amount of tax imposed which is shown on the return if at the time the return was filed—

(i) The taxpayer had substantial authority for the tax treatment of the items (see § 1.6661–3); and

(ii) The taxpayer reasonable believed that the tax treatment claimed was more likely than not the proper tax treatment of the items.

Thus, the tax attributable to such items is not included in the understatement for the year (se paragraph (d)(2) of § 1.6661–2).

(2) Disclosure (whether or not adequate under § 1.6661–4) with respect to tax shelter items does not affect the amount of the understatement.

(b) *Tax shelter*—(1) *In general.* For purposes of section 6661, the term "tax shelter" means—

(i) A partnership or other entity (such as a corporation or trust),

(ii) An investment plan or arrangement, or

(iii) Any other plan or arrangement, if the principal purpose of the entity, plan, or arrangement, based on objective evidence, is the avoidance or evasion of Federal income tax. The principal purpose of an entity, plan or arrangement is the avoidance or evasion of Federal income tax if that purpose exceeds any other purpose. See § 1.269–3(a). Typical of tax shelters are transactions structured with little or no motive for the realization of economic gain, which utilize the mismatching of income and deductions, overvalued assets or assets with values subject to substantial uncertainty, nonrecourse financing, financing techniques which do not conform to standard commercial business practices,or the mischaracterization of the substance of the transaction. The existence of economic substance does not of itself establish that a transaction is not a tax shelter if the transaction includes other characteristics that indicate it is a tax shelter.

(2) *Principal purpose.* The principal purpose of an entity, plan or arrangement is not the avoidance or evasion of Federal income tax if the entity, plan or arrangement has as its purpose the claiming of exclusions from income, accelerated deductions or other tax benefits in a manner consistent with the Congressional purpose. For example, an entity, plan or arrangement will not be considered to have as its principal purpose the avoidance or evasion of Federal income tax merely as a result of the following uses of tax benefits provided by the Internal Revenue Code: The claiming of the investment tax credit under section 38; the purchase or holding of an obligation bearing interest which is excluded from gross income under section 103; entering into a safe-harbor lease transaction under section 168(f)(8); taking an accelerated cost recovery system (ACRS) allowance under section 168; taking the percentage depletion allowance under section 613 or section 613A; deducting intangible drilling and development costs as expenses under section 263(c); establishing a qualified retirement plan under the provisions of sections 401–409A, claiming the possession tax credit under section 936; or claiming tax benefits available by reason of an election under section 992 to be taxed as a domestic international sales corporation (DISC) or under section 1362 to be taxed as an S corporation.

(c) *Tax shelter item.* An item of income, gain, loss, deduction or credit will be considered a "tax shelter item" if the item is directly or indirectly attributable to the principal purpose of a

tax shelter to avoid or evade Federal income tax. Thus, if a partnership is established for the principal purpose of the avoidance or evasion of Federal income tax by acquiring and overvaluing property for the purpose of claiming the investment tax credit under section 38, the investment tax credit with respect to the property would be a tax shelter item. However, a deduction claimed in connection with a separate transaction carried on by the same partnership is not a tax shelter item if the transaction does not constitute a plan or arrangement the principal purpose of which is the avoidance or evasion of tax.

(d) *More likely than not.* For purposes of section 6661, a taxpayer will be considered to have reasonably believed that the tax treatment of an item is more likely than not the proper tax treatment if the taxpayer reasonably concludes that there is a greater than 50-percent likelihood that the tax treatment will be upheld in litigation if challenged by the Internal Revenue Service. A taxpayer's reasonable conclusion that the tax treatment of an item is more likely than not the proper tax treatment may be based on good faith reliance on the opinion of a professional tax advisor if the opinion is based on the tax advisor's analysis of the pertinent facts and authorities in the manner described in § 1.6661–3(b) and unequivocally states that the tax treatment of the item is more likely than not the proper treatment. Alternatively, a taxpayer's reasonable conclusion as to such tax treatment may be based on the taxpayer's own examination of such facts and authorities in the manner described in § 1.661–3(b).

(e) *Pass-through entities.* In the case of tax shelter items attributable to a partnership, an S corporation, or a trust (pass-through items), the entity must have reasonably believed the treatment claimed was more likely than not the proper tax treatment of the item and must have substantial authority for the item. The reasonable belief of the taxpayer on whose return the pass-through items are taken into account does not affect the understatement of the taxpayer.

§ 1.6661–6 Waiver of penalty.

(a) *In general.* The Commissioner may waive all or part of the penalty imposed by section 6661 on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith. In making a determination regarding waiver of the penalty under section 6661, the most important factor in all cases will be the extent of the taxpayer's good faith effort to assess the taxpayer's proper tax liability under the law. For purposes of this section, reliance on an information return or on the advice of a professional (such as an appraiser, an attorney or accountant) will not of itself constitute a showing of a reasonable cause or good faith. Rather, circumstances which may indicate reasonable cause and good faith include, for example, an honest misunderstanding of the facts or law that is reasonable in light of the experience and education of the taxpayer. Thus, an inadvertent error as to a matter of fact that is reasonable under all the circumstances would, in general, indicate reasonable cause and good faith. In the case of an understatement that is related to an item on the return of a pass-through entity (such as a partnership), the good faith or lack of good faith of the entity generally will be imputed to the taxpayer that has the understatement. However, any good faith imputed to the taxpayer under this paragraph may be refuted by other factors indicating lack of good faith on the part of the taxpayer.

(b) *Automatic waiver; pass-through items*—(1) *In general.* If the taxpayer makes adequate disclosure in accordance with paragraph (b)(2) with respect to items attributable to a partnership, S corporation or trust or (pass-through items) for which the partnership, S corporation or trust (the entity) did not make adequate disclosure in accordance with § 1.6661–4, the Commissioner will waive any penalty that would not have been imposed on the taxpayer had the entity made adequate disclosure.

(2) *Disclosure.* For purposes of this paragraph, a taxpayer makes adequate disclosure with respect to pass-through items only if the taxpayer files a separate statement in duplicate, one copy attached to and filed with the taxpayer's return and the other copy filed with the Internal Revenue Service Center with which the return of the entity is required to be filed. Each statement filed shall relate to the pass-through items of only one entity and shall include the following:

(i) An identification of the taxpayer and the entity by name, address, and taxpayer identification number.

(ii) The taxable year of the entity to which the disclosure relates.

(iii) An identification of the items with respect to which the taxpayer has made disclosure under this paragraph.

(iv) Such additional information as would be required for adequate disclosure with respect to the items under § 1.6661–4 but without regard to § 1.6661–4(c).

(v) A notation to the effect that the statement is to be associated with the return of the entity.

(c) *Automatic waiver; qualified amended returns*—(1) *In general.* If the taxpayer shows an additional amount of tax or makes adequate disclosure with respect to an item in the manner prescribed in § 1.6661–4 or paragraph (b) on a qualified amended return, the Commissioner will waive any penalty that would not have been imposed if the additional amount of tax had been shown or the adequate disclosure had been made on the return of the taxpayer without requiring demonstration of reasonable cause or good faith by the taxpayer.

(2) *Qualified amended return.* For purposes of this paragraph, a "qualified amended return" is an amended return, so-called, or a timely request for an administrative adjustment under section 6227 filed after the due date of the return and before the earlier of—

(i) The time the taxpayer is first contacted by the Internal Revenue Service concerning an examination of the return; or

(ii) The time any person described in section 6700(a) (relating to the penalty for promoting abusive tax shelters) is first contacted by the Internal Revenue Service concerning an examination of an activity described in section 6700(a) with respect to which the taxpayer claimed any tax benefit on the return directly or indirectly through a pass-through entity such as a partnership.

(3) *Partnerships, S corporations and trusts.* For purposes of paragraph (c)(1), no account is taken of an additional amount of tax shown or disclosure made on a qualified amended return filed by a partner, shareholder, or beneficiary with respect to an item attributable to a partnership, S corporation or trust unless the qualified amended return is filed by the partner, shareholder or beneficiary before the time such partnership, S corporation or trust is first contacted by the Internal Revenue concerning an examination of the return to which the item is attributable.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-6672 Filed 3-10-83; 4:31 pm]

BILLING CODE 4830-01-M

26 CFR Part 1

[EE-140-82]

Top-Heavy Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to top-heavy pension, profit-sharing, and stock bonus plans. It also contains proposed amendments to regulations relating to retroactive plan amendments. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. These regulations affect sponsors of and participants in pension, profit-sharing, and stock bonus plans, and they provide plan sponsors with guidance necessary to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 16, 1983. The regulations would be effective for plan years beginning after December 31, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (140-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-556-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 401(a)(10)(B) and 416 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 240 of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") (96 Stat. 514). These regulations are to be issued under the authority contained in sections 401(a)(10)(B), 416, and 7805 of the Internal Revenue Code of 1954 (96 Stat. 520, 514, 68A Stat. 917; 26 U.S.C. 401(a)(10)(B), 416, and 7805).

This document also contains proposed amendments to the Income Tax regulations under section 401(b) of the Code, relating to certain retroactive plan amendments. The proposed amendments to the regulations under Code section 401(b) allow the same time for amending a plan to conform to TEFRA as had been allowed to conform to the Employee Retirement Income Security Act of 1974 ("ERISA").

The Service also intends to extend the time for amending a plan to conform with other areas of the law. The following areas will be included in this extension: (1) final regulations under section 401(j) (see Notice 82-9, 1982-1 C.B. 358), (2) section 414(m) (see Notices 82-7 and 82-8, 1982-1 C.B. 356, 357), (3) Rev. Rul. 79-90, 1979-1 C.B. 155, (4) Notice 81-2, 1981-1 C.B. 613, (5) Rev. Rul. 81-211, 1981-2 C.B. 98, and (6) Notice 82-23, 1982-52 I.R.B. 52. However, as noted in Notice 82-19, 1982-46 I.R.B. 27, amendments to comply with the TEFRA changes to section 415 may be necessary at a date earlier than the date specified in § 1.401(b)-1 if excess accruals are to be prevented.

Taxpayers may rely upon the proposed regulations until final regulations are issued on this subject. Further, the Service will now issue opinion and determination letters, both for new plans and old plans, on the basis of these proposed regulations.

Format

The proposed regulations under section 416 are presented in the form of questions and answers. The questions and answers are intended to provide guidelines which may be relied upon by plan sponsors and others in order to resolve questions specifically considered. However, no inference should be drawn regarding issues not raised which may be suggested by a particular question and answer or as to why certain questions, and not others, are included.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner has determined that this proposed regulation is not a major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.401-0 Through 1.425-1

Income taxes, Employee benefit plans, Pensions, Stock options, Employee stock ownership plans.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Income Tax Regulations

PART 1 [AMENDED]

Paragraph 1. Section 1.401(b)-1 is amended by revising paragraphs (b)(2) and (c)(1)(iii) to read as follows:

§ 1.401(b)-1 Certain retroactive changes in plan.

* * * * *

(b) *Disqualifying provisions.* For purposes of this section, with respect to a plan described in paragraph (a) of this section the term "disqualifying provision" means:

* * * * *

(2) A plan provision which results in the failure of the plan to satisfy the qualification requirements of the plan to satisfy the qualification requirements of the Code by reason of a change in such requirements effected by the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 829), hereafter referred to as "ERISA", or by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 324), hereafter referred to as "TEFRA". For purposes of this subparagraph, a disqualifying provision includes the absence from a plan of a provision required by such change if the plan was in effect on the date such change

became effective with respect to such plan.

(c) *Remedial amendment period.* (1) The remedial amendment period with respect to a disqualifying provision begins:

* * * * *

(iii) In the case of a disqualifying provision described in paragraph (b)(2) of this section, the date on which the change effected by ERISA or TEFRA, described in paragraph (b)(2) of this section, became effective with respect to such plan.

* * * * *

Par. 2. There is inserted after § 1.415–10 the following new section.

§ 1.416–1 Questions and answers on top-heavy plans.

The following questions and answers relate to special rules for top-heavy plans under section 416 of the Internal Revenue Code of 1954, as added by section 240 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) (TEFRA):

Table of Contents

G. General Provisions
T. Topheaviness Determinations
V. Vesting Rules For Top-Heavy Plans
M. Minimum Benefits Under Top-heavy Plans

G. General Provisions

G–1 Q. What retirement plans are subject to the new top-heavy rules added to the Code by the Tax Equity and Fiscal Responsibility Act?

A. All stock bonus, pension, or profit-sharing plans intended to qualify under section 401(a) are potentially subject to the new top-heavy rules added to the Code by the Tax Equity and Fiscal Responsibility Act.

G–2 Q. When must amendments be made to a plan in order to comply with the top-heavy rules?

A. Amendements required to comply with the top-heavy rules must be effective as of the first day of the first plan year which begins after 1983. See § 1.401(b)–1 for the date by which such amendments must be adopted.

T. Topheaviness Determinations

T–1 Q. What factors must be considered in determining whether a plan is top-heavy?

A. In order to determine whether a plan is top-heavy, it is necessary to determine which employers will be treated as a single employer for purposes of section 416; which plan participants are or formerly were key employees; which plans of such employers are required or permitted to be aggregated to determined top-heavy status; and the present value of the accrued benefits (including distributions made during the plan year and the four preceding plan years) of key employees, former key employees, and non-key employees. All employers that are aggregated under sections 414 (b), (c), and (m) must be taken into account as a single employer, and those participants in all plans maintained by the employers that are aggregated must be categorized as key employees, as former key employees, or as non-key employees. See Question and Answer T–7 for the determination of which participants are or were key employees. All plans maintained by the employers in which a key employee participates, and certain other plans, must then be aggregated (the required aggregation group). See Question and Answer T–3 for rules concerning required aggregation. Other plans may in some cases be aggregated with the required aggregation group. See Question and Answer T–4 for rules concerning such permissive aggregation. Once aggregated, all plans that are required to be aggregated will either be top-heavy or not top-heavy, depending upon whether the aggregation group is top-heavy. A plan or aggregation group will be considered top-heavy if the sum of the present value of the accrued benefits for key employees is more than 60 percent of the sum of the present value of accrued benefits of all employees, excluding former key employees. In all cases, the present value of accrued benefits include distributions made during the plan year and the preceding four plan years. See Questions and Answers T–17 and T–18 for rules concerning the account balances and present value of accrued benefits.

T–2 Q. Must collectively bargained plans be aggregated with other plans of the employer to determine whether some or all of the employer's plans are top-heavy?

A. Collectively-bargained plans that include a key employee of an employer must be included in the required aggregation group for that employer. See Question and Answer T–3 for rules concerning required aggregation. Collectively bargained plans that do not include a key employee may be included in a permissive aggregation group. See Question and Answer T–4 for rules concerning permissive aggregation. However, the special rules in section 416 (b), (c), or (d) applicable to top-heavy plans do not apply to collectively-bargained plans whether or not they include a key employee.

T–3 Q. What is a required aggregation group?

A. The required aggregation group of an employer includes each plan of an employer in which a key employee participates. In addition, each other plan of the employer which enables any plan in which a key employee participates to meet the requirements of Section 401(a)(4) or 410 is part of the required aggregation group. This concept may be illustrated by the following example.

Example. An employer maintains two plans. Key employees participate in one plan, but not in the other. If the plan containing key employees independently satisfies the coverage and nondiscrimination rules of sections 410 and 401(a)(4), it may be tested independently to determine whether it is top-heavy. If this were the case, the plan not covering a key employee would not be part of the required aggregation group. Thus, the plan that does not cover key employees would not need to be tested to determine whether it is top-heavy, and it would not be required to comply with the top-heavy rules. However, if the plan containing the key employee satisfies the coverage requirements of section 410(b), or the nondiscrimination requirements of section 401(a)(4), only when it is considered together with the other plan in accordance with § 1.410(b)–1(d)(3), the plan not covering key employees is part of the required aggregation group.

T–4 Q. What is a permissive aggregation group?

A. A permissive aggregation group consists of plans of the employer that are required to be aggregated, plus one or more plans that are not part of a required aggregation group but that satisfy the requirements of section 401(a)(4) and 410 when considered together with the required aggregation group. This concept may be illustrated by the following example.

Example. An employer maintains two plans:

1. Plan A covers key employees and independently satisfies the requirements of sections 410 and 401(a)(4).

2. Plan B covers no key employees. It also independently satisfies the requirements of sections 410 and 401(a)(4).

As indicated in Question and Answer T–3, Plan B is not required to be aggregated with Plan A. Further, if Plan B provided contributions or benefits that were not at least comparable to the contributions or benefits provided under Plan A, then Plan B could not be permissively aggregated with Plan A because the contributions and benefits would discriminate if the two plans were considered as a unit. However, if the benefits or contributions under Plan B were comparable to those under Plan A, the two plans would be permitted to be aggregated to determine whether or not the group consisting of both plans is top-heavy. If Plan A and Plan B are permitted to be aggregated, and if the permissive aggregation group is not top-

heavy, then neither Plan A nor Plan B would be considered top-heavy.

T–5 Q. What plans will be treated as top-heavy if they are part of a required aggregation group that is top-heavy?

A. In the case of plans that are required to be aggregated, each plan in the required aggregation group will be top-heavy if the group is top-heavy. No plan in the required aggregation group will be top-heavy if the group is not top-heavy.

T–6 Q. What plans will be treated as top-heavy if a permissive aggregation group is top-heavy?

A. If a permissive aggregation group is top-heavy, only those plans that are part of the required aggregation group will be subject to the added requirements placed on top-heavy plans. Plans that are not part of the required aggregation group will not be subject to these added requirements. Thus, if an employer wishes to demonstrate that the plans maintained by the employer are not top-heavy, the employer need consider only the required aggregation group. If, after considering the required aggregation group, it is determined that the plans are not top-heavy, the added requirements applicable to top-heavy plans will not apply to any of the plans. If, on the other hand, the plans required to be aggregated are top-heavy, the employer may wish to determine whether there are any plans that may be permissively aggregated to demonstrate that the plans are not top-heavy. Assuming that there are plans that are eligible for permissive aggregation, the employer may take these plans into consideration. If, after taking a number of all such plans into consideration the net result is that the entire group is not top-heavy, the top-heavy requirements do not apply to any plan in the group.

T–7 Q. Who is a key employee?

A. Under section 416(i)(1), a key employee is any employee or former employee who at any time during the plan year or the four preceding plan years is:

1. An officer of the employer (see Question and Answers T–9, T–10, and T–11),

2. One of the ten employees owning (or considered as owning within the meaning of section 318) the largest interests in the employer, (see Question and Answer T–12),

3. A 5 percent owner of the employer, or

4. A 1 percent owner of the employer having an annual compensation from the employer of more than $150,000 (see Question and Answer T–13).

The number of officers that is taken into account is limited. See Question and Answer T–10. This question and answer is illustrated by the following example.

Example. An individual who was a 5 percent owner of the employer in 1986 was not an owner in 1987 or thereafter. Even though the individual is no longer an owner of the employer, the individual would be a key employee for each year through the 1990 plan year.

T–8 Q. Is the beneficiary of a key employee treated as a key employee in determining whether a plan is top-heavy?

A. Yes. The beneficiary of a key employee is treated as a key employee. Further, the beneficiary of a former key employee is treated as a former key employee. The beneficiary of a former non-key employee is treated as a former non-key employee. If the beneficiary is a key employee because the beneficiary is an employee and an officer or owner of the employer, then the beneficiary will continue to be treated as a key employee under the regular rules set forth in Question and Answer T–7. In this case, both the present value of the beneficiary's inherited accrued benefit and the present value of the beneficiary's accrued benefit as a key employee will be counted as the accrued benefit of a key employee in determining whether the plan is top-heavy. This may be illustrated by the following example.

Example. B, a ten percent owner and employee of an employer, died in 1986. B's beneficiaries under the plan received his account balance in a lump sum distribution. Beneficiary C also inherited the ten percent ownership and became an employee of the employer. C resigned as an employee and sold his ownership interest in 1990. Beneficiary D had no employment or ownership interest in the employer. Both beneficiaries would be considered key employees through 1990. For purposes of section 416(g)(1)(A)(ii), the amount paid to the beneficiaries of the deceased key employee will be considered account balances of key employees for each of the plan years 1986 through 1990. In addition, the present value of C's accrued benefit, if any, as an employee of the employer will be treated as the accrued benefit of a key employee through 1994.

T–9 Q. For purposes of defining a key employee, who is an officer?

A. Whether an individual is an officer shall be determined upon the basis of all the facts, including, for example, the source of his authority, the term for which elected or appointed, and the nature and extent of his duties. Generally, in connection with corporations, the term officer means an administrative executive who is in regular and continued service. The term officer implies continuity of service and excludes those employed for a special and single transaction. Thus, an employee who merely has the title of an officer but not the authority of an officer is not considered an officer for purposes of the key employee test.

T–10 Q. How many officers must be taken into account?

A. There is no minimum number of officers that must be taken into account. Only individuals who are in fact officers within the meaning of the preceding Question and Answer must be considered. For example, a corporation with only one officer and two employees would have only one officer for purposes of section 416(i)(1)(A)(i). After aggregating all employers required to be aggregated under sections 414 (b), (c) or (m), there is a maximum limit to the number of officers that must be taken into account as officers for the entire group of employees that are so aggregated. If the number of employees of all the employers aggregated under sections 414 (b), (c) or (m) is less than 30 employees for a particular year, no more than three individuals shall be treated as key employees for that year by reason of being officers. If the number of employees of all organizations aggregated under sections 414 (b), (c) or (m) is greater than 30 but less than 500 for a particular year no more than 10% of the number of employees will be treated as key employees for that year by reason of being officers. If the number of employees of employers aggregated under sections 414 (b), (c) and (m) exceed 500 for a particular year, no more than 50 employees are considered as key employees for that year by reason of being officers. This limited number of officers is comprised of the individual officers, selected from the group of all individuals who were officers in the current year or any one of the four preceding years, who had the largest annual compensation in that five year period. An individual may be considered a key employee for several reasons in any particular year. For example, an individual may be both an officer and one of the ten largest owners. However, in testing whether the plans(s) are top-heavy an individual's present value of accrued benefits is counted only once each year.

Example. A company in 1984 and each year from 1980 through 1983 has more than 500 employees. Assume that because of rapid turnover among officers, the individuals who are officers each year are different from the individuals who are officers in any preceding year. Under the limitations, only a total of 50 individuals would be considered to be key employees by virtue of being officers. Further, the 50 individuals considered as key employees under this test would be determined by selecting the 50 out of 250 individuals (50 different officer each year)

who had the highest one-year compensation during this period (while officers).

T–11 Q. For purposes of section 416, do business organizations other than corporations have officers?

A. No.

T–12 Q. Which employees will be considered one of the top ten owners?

A. The top ten owners are the ten employees owning (or considered as owning within the meaning of section 318) the largest interest in all employers required to be aggregated under section 414 (b), (c), or (m). An employee who has some ownership interest is considered to be one of the top ten owners unless at least ten other employees own a greater interest than that employee. Thus, if 25 employees each own four percent of the employer, each of the employees will be considered one of the top ten owners, even if the compensation of some or all of these employees is less than $150,000. However, an employee will not be considered a top ten owner for a plan year if the employee earns less than the maximum dollar limitation under section 415(c)(1)(A) as in effect for the calendar year in which the determination date falls.

T–13 Q. For purposes of determining whether an employee is a key employee under sections 416(i)(1)(A)(iii) or (iv) (relating to 5 percent owners and 1 percent owners earning more than $150,000), what aggregation rules apply?

A. In the case of ownership percentages, each employer that would otherwise be aggregated under sections 414 (b), (c) and (m) is treated as a separate employer. (See section 416(i)(1)(C).) However, for purposes of determining whether an individual has compensation of $150,000, compensation from each entity required to be aggregated under sections 414 (b), (c) and (m) is taken into account. These rules may be illustrated by the following example.

Example. An individual owns two percent of a professional corporation, which in turn owns a 1/10th of 1 percent interest in a partnership. The entities must be aggregated in accordance with section 414(m). The individual performs services for the professional corporation and for the partnership. The individual receives compensation of $125,000 from the professional corporation and $26,000 from the partnership. The individual is considered to be a key employee, because he has a two percent interest in the professional corporation and because the combined compensation such individual receives from both the professional corporation and the partnership is more than $150,000.

T–14 Q. For purposes of testing whether an individual has compensation of more than $150,000, what definition of compensation must be used?

A. The definition of compensation to be used is the definition in §1.415–2(d). In the case of an individual, including a self-employed individual, §1.415–2(d)(2)(i) excludes from compensation amounts contributed to a plan of deferred compensation.

T–15 Q. In the case of an employer who maintains a single plan, when must the determination whether the plan is top-heavy be made?

A. Whether a plan is top-heavy is determined on the determination date. The determination date is defined in section 416(g)(4)(C) of the Code with respect to a plan year as (1) the last day of the preceding plan year, or (2) in the case of the first plan year, the last day of such plan year. The present value of accrued benefits and distributions made as of the determination date are generally determined as of the determination date. (See Questions and Answers T–17 and T–18 for more specific rules.) Further, an employee's status as a key employee is based on the plan year containing the determination date.

T–16 Q. In the case of more than one plan which is to be aggregated, when must the determination whether the plans are top-heavy be made?

A. When more than one plan is aggregated in accordance with section 416(g)(2) the following procedures are used to determine whether the plans are top-heavy. First, the present value of the accrued benefits (including distributions for key employees and all employees) is determined separately for each plan as of each plan's determination date. The plans are then aggregated by adding the results of each plan as of the determination dates for such plans that fall within the same calendar year. The combined results will indicate whether or not the plans so aggregated are top-heavy. These rules may be illustrated by the following example.

Example. An employer maintains Plan A and Plan B, each containing a key employee. Plan A's plan year commences July 1 and ends June 30. Plan B's plan year is the calendar year. For Plan A's plan year commencing July 1, 1984, the determination date is June 30, 1984. For plan B's plan year in 1985, the determination date is December 31, 1984. These plans are required to be aggregated. For each of these plans as of a respective determination date, the present value of the accrued benefits for key employees and all employees are separately determined. The determination dates, June 30, 1984 and December 31, 1984 fall within the same calendar year. Accordingly, the present values of accrued benefits with respect to each of these determination dates are combined for purposes of determining whether the plan is top-heavy. If, after combining the two present values, the total results show that the plans are top-heavy, Plan A will be top-heavy for the plan year commencing July 1, 1984, and Plan B will be top-heavy for the 1985 calendar year.

T–17 Q. How is the present value of accrued benefits determined in a defined contribution plan?

A. The present value of accrued benefits as of the determination date for any individual is the sum of (a) the account balance as of the most recent valuation date occurring within a 12-month period ending on the determination date, and (b) an adjustment for contributions due as of the determination date. In the case of a plan not subject to the minimum funding requirements of section 412 of the Code, the adjustment in (b) is generally the amount of any contributions actually made after the valuation date but on or before the determination date. However, in the first plan year of the plan, the adjustment in (b) should also reflect the amount of any contributions made after the determination date that are allocated as of a date in that first plan year. In the case of a plan that is subject to the minimum funding requirements, the account balance in (a) should include contributions that would be allocated as of a date not later than the determination date, even though those amounts are not yet required to be contributed. Thus, the account balance will include contributions waived in prior years as reflected in the adjusted account balance and contributions not paid that resulted in a funding deficiency. The adjusted account balance is described in Rev. Rul. 78–223, 1978–1 C.B. 125. Also, the adjustment in (b) should reflect the amount of any contribution actually made (or due to be made) after the valuation date but before the expiration of the extended payment period in section 412(c)(10).

T–18 Q. How is the present value of an accrued benefit determined in a defined benefit plan?

A. The present value of an accrued benefit as of the determination date must be determined as of the most recent valuation date which is within a 12-month period ending on the determination date. In the first plan year of a plan, the accrued benefit for a current participant must be determined either (i) as if the individual terminated service as of the determination date (i.e., the last day of that plan year) or, (ii) as if the individual terminated service as of the valuation date, but taking into account the estimated accrued benefit as of the determination date. However, for any other year, the accrued benefit

for a current participant must be determined as if the individual terminated service as of such valuation date. For this purpose, the valuation date must be the same valuation date used for computing plan costs for minimum funding, regardless of whether a valuation is performed that year.

T–19 Q. What actuarial assumptions are used for determining the present value of accrued benefits for defined benefit plans?

A. There are no specific prescribed actuarial assumptions that must be used for determining the present value of accrued benefits. The assumptions used must be reasonable and need not relate to the actual plan and investment experience. The assumptions need not be the same as those used for minimum funding purposes or for purposes of determining the actuarial equivalence of optional benefits under the plan. The accrued benefit for each current employee is computed as if the employee voluntarily terminated service as of the valuation date. The present value must be computed using an interest and a post-retirement mortality assumption. Pre-retirement mortality and future increases in cost of living (but not in the maximum dollar amount permitted by section 415) may also be assumed. However, assumptions as to future withdrawal or future salary increases may not be used. In the case of a plan providing a qualified joint and survivor annuity within the meaning of section 401(a)(11) as a normal form of benefit, for purposes of determining the present value of the accrued benefit, the spouse of the participant may be assumed to be the same age as the participant. Except in the case where the plan provides for a non-proportional subsidy, the present value should reflect a benefit payable commencing at normal retirement age (or attained age, if later). Thus, benefits not relating to retirement benefits, such as pre-retirement death and disability benefits and post-retirement medical benefits, must not be taken into account. Further, subsidized early retirement benefits and subsidized benefit options must not be taken into account unless thay are nonproportional subsidies. See Question and Answer T–20. Where the plan provides for a nonproportional subsidy, the benefit should be assumed to commence at the age at which the benefit is most valuable. In the case of two or more defined benefit plans which are being tested for determining whether an aggregation group is top-heavy, the actuarial assumptions used for all plans within the group must be the same. To provide certainty, the Internal Revenue Service will accept as reasonable any assumptions which reflect a reasonable mortality experience and an interest rate not less than five percent or greater than six percent. Plans, however, are not required to use an interest rate in this range.

T–20 Q. In determining the present value of accrued benefits in a defined benefit plan, what standards are applied toward determining whether a subsidy is nonproportional?

A. A subsidy is nonproportional unless the subsidy applies to a group of employees that would independently satisfy the requirements of section 410(b) of the Code. If two or more plans are considered as a unit for comparability purposes under § 1.410(b)–1(d)(3), subsidies may be necessary in both plans or else the subsidy may be nonproportional. Thus, for example, in the case of a plan which provides an early retirement benefit after age 55 and 20 years service equal to the normal retirement benefit without actuarial reduction and if the employees who may conceivably reach age 55 with 20 years service would, as a group, satisfy the requirements of section 410(b) of the Code, that subsidy is proportional.

However, in contrast, consider a plan that provides an early retirement benefit that is the actuarial equivalent of the normal retirement benefit. In determining the early retirement benefit, the plan imposes the section 415 limits only to the early retirement benefit (not to the normal retirement benefit before applying the early retirement reduction factors). In such a plan, a participant with a normal retirement benefit (before limitation by section 415) in excess of the section 415 limits will receive a subsidized early retirement benefit, whereas a participant with a lower normal retirement benefit will not. Thus, the subsidy in this plan is nonproportional. Thus, such a benefit would be a nonproportional subsidy if the group of individuals who are limited by the limitations under section 415 do not, by themselves, constitute a cross section of employees that could satisfy section 410(b) of the Code.

T–21 Q. For purposes of determining the present value of accrued benefits in either a defined benefit or defined contribution plan, are the accrued benefits attributable to employee contributions considered to be part of the accrued benefits?

A. The accrued benefits attributable to employee contributions are considered to be part of the accrued benefits whether such contributions are mandatory or voluntary. However, the amounts attributable to deductible employee contributions are not considered to be part of the accrued benefits.

T–22 Q. What distributions are added to the present value of accrued benefits in determining whether a plan is top-heavy?

A. Under section 416(g)(3)(A) of the Code, distributions made within the plan year that includes the determination date or within the four preceding plan years are added to the present value of accrued benefits in testing for top-heaviness. However, in the case of distributions made after the valuation date and prior to the determination date, such distributions are not included as distributions in section 416(g)(3)(A) to the extent that such distributions are included in the present value of the accrued benefits as of the valuation date. In the case of the distribution of an annuity contract, the amount of such distribution is deemed to be the current actuarial value of the contract, determined on the date of the distribution. Certain distributions that are rolled over by the employee are not included as distributions. See Question and Answer T–23. A distribution will not fail to be considered in determining the present value of accrued benefits merely because it was made before the effective date of section 416.

T–23 Q. How are rollovers and plan-to-plan transfers treated in testing whether a plan is top-heavy?

A. The rules for handling these transfers depend upon whether the rollovers and plan-to-plan transfers are unrelated (both initiated by the employee and made from a plan maintained by one employer to a plan maintained by another employer) or whether they are related (a rollover either not initiated by the employee or made to a plan maintained by the same employer). For purposes of determining whether the employer is the same employer, all employers aggregated under section 414(b), (c) or (m) are treated as the same employer. In the case of unrelated rollovers (1) the plan providing the distributions always counts the distribution as a distribution under section 416(g)(3)(B) and (2) the plan accepting the rollover does not consider the rollover part of the accrued benefit if such rollover was accepted after December 31, 1983, but considers it part of the accrued benefit if such rollover was accepted prior to December 31, 1983. In the case of related rollovers, the plan providing the rollover does not count the rollover as a distribution under section 416(g)(3)(B) and the plan accepting the rollover counts the

rollover in the present value of the accrued benefits. Rules for related rollovers do not depend on whether the rollover was accepted prior to December 31, 1983.

T–24 Q. How are the aggregate defined benefit and defined contribution limits under section 415(e) affected by the top-heavy rules?

A. Section 416(h) modifies the aggregate limits in section 415(e) for super top-heavy plans and for top-heavy plans that are not super top-heavy that do not provide for an additional minimum contribution or benefit. A super top-heavy plan is a top-heavy plan in which the present value of accrued benefits for key employees exceeds 90% of the present value of the accrued benefits for all employees. These present values are computed using the same rules as are used for determining whether the plan is top-heavy. In the case of a super top-heavy plan, in computing the denominators of the defined benefit and defined contribution fractions under section 415(e), a factor of 1.0 is used instead of 1.25. In the case of a top-heavy plan that is not super top-heavy, the same rule applies unless each nonkey employee receives an additional minimum contribution or benefit. In the case of a defined benefit plan, the additional minimum benefit is one percentage point of the participant's average compensation for the years described in Question and Answer M–2 (up to a maximum of ten percentage points). In the case of a defined contribution plan, the additional minimum contribution is one percent of the participant's compensation.

T–25. Q. What provisions must be contained in a plan to comply with the top-heavy requirements?

A. Section 401(a)(10)(B) of the Code provides that a plan will qualify only if it contains provisions which will take effect if the plan becomes top-heavy and which meet the requirements of section 416. See Questions and Answers T–26 and T–27 for rules on what provisions must be included. Under section 401(a)(1)(B)(ii), regulations may waive this requirement for some plans. See Question and Answer T–28 for a description of plans that need not include such provisions.

T–26 Q. For an employer who has no employee who has participated or is eligible to participate in both a defined benefit and defined contribution qualified plan (or SEP) of that employer, what provisions must be in the plan(s) to comply with the top-heavy requirements?

A. If the defined benefit plan has no participants who are or could be participants in a defined contribution plan of the employer (or vice versa), the defined benefit plan (or defined contribution plan) need not include provisions describing the defined benefit or defined contribution fractions for purposes of section 415, and, thus, the plan need not contain provisions to determine whether the plan is super top-heavy or to change any plan provisions if the plan is super top-heavy. Furthermore, if the plan contains a single benefit structure that satisfies the requirements of section 416 (b), (c), and (d), the plan need not include separate provisions to determine whether the plan is top-heavy or that apply when the plan is top-heavy. If the plan does not contain a single benefit structure that satisfies section 416 (b), (c), and (d), then the plan must include three types of provisions.

First, the plan must contain provisions describing how to determine whether the plan is top-heavy. These provisions must include (a) the criteria for determining which employees are key employees (or non-key employees), (b) in the case of a defined benefit plan the actuarial assumptions and benefits considered to determine the present value of accrued benefits, (c) a description of how the top-heavy ratio is computed, (d) a description of what plans (or types of plans) will be aggregated in testing whether the plan is top-heavy, and (e) a definition of the determination date and the valuation date applicable to the determination date. These determinations must be based on standards that are uniformly and consistently applied and that satisfy the rules set forth in section 416 and these questions and answers. The provisions in (a) and (c) above may be incorporated in the plan by reference to the applicable sections of the Internal Revenue Code without adversely affecting the qualification of the plan. Second, the plan must specifically contain the following provisions that will become effective if the plan becomes top-heavy: Vesting that satisfies the mimimum vesting requirements of section 416(b), benefits that will not be less than the minimum benefits set forth in section 416(c), and the compensation limitation described in section 416(d). The compensation limitation described in section 416(d) may be incorporated by reference. Third, the plan must include provisions insuring that any change in the plan's benefit structure (including vesting schedules) resulting from a change in the plan's top- heavy status will not violate section 411(a)(10) of the Code. Thus, if a plan ceases being top-heavy, certain restrictions apply with repsect to the change in applicable vesting schedule. See section 401(a)(9) for rules relating to distributions from top-heavy plans.

TR–27 Q. For an employer who maintains or has maintained both a defined benefit and a defined contribution plan (or a simplified employee pension "SEP") and some participants do or could participate in both types of plan, what provisions must be in the plans to comply with the top-heavy requirements?

A. If an employer maintains (or has maintained) both a defined benefit plan and a defined contribution plan (or SEP), and the plans have or could have participants who participate in both types of plan then the plans must contain more provisions than those described in Question and Answer T–26. First, if there are any employees who participate in one plan but not the other plan, the plans may exclude rules to determine whether the plan is top-heavy (or to apply when the plan is top-heavy) only if both plans contain a single benefit structure that satisfies section 416 (b), (c), and (d). Second, unless the plans always satisfy the requirements of section 415(e) using the 1.0 adjustment in the defined benefit and defined contribution fractions as described in section 416(h)(1), the plans must include provisions similar to those in Question and Answer T–26 (for top-heavy) to determine whether the plan is super top-heavy and to satisfy section 416(h) if it is.

T–28 Q. Are any plans exempted from including top-heavy provisions?

A. Section 401(a)(10)(B) of the Code provides that regulations may exempt certain plans from including the top-heavy provisions described in that section. Until further regulations are published on this subject, any plan that covers only non-key employees who are included in a unit of employees covered by a collective bargaining agreement (if retirement benefits were the subject of good faith bargaining) need not include any top-heavy provisions. Further, a plan need not include any top-heavy provisions if no employee of the employer maintaining the plan is or could be a key employee of the employer. Thus, for example, a retirement plan for state employees need not include top-heavy provisions because no employee of the state is or could be a key employee as defined in section 416(i)(1).

T–29 Q. Must ratios be computed each year to determine whether a plan is top-heavy?

A. No. In order to administer the plan, the plan administrator must know whether the plan is top-heavy. However,

precise top-heavy ratios need not be computed every year. If, on examination, the Internal Revenue Service requests a demonstration as to whether the plan is top-heavy (or super top-heavy; see Question and Answer T–24) the employer must demonstrate to the Service's satisfaction that the plan is not operating in violation of section 401(a)(10)(B). For purposes of any demonstration, the employer may use computations that are not precisely in accordance with this section but which mathematically prove that the plan is not top-heavy. For example, if the employer determined the present value of accrued benefits for key employees in a simplified manner which overstated that value, determined the present value for non-key employees in a simplified manner which understated that value, and the ratio of the key employee present value divided by the sum of the present values was less than 60 percent, the plan would not be considered top-heavy. This would be a sufficient demonstration because the simplified fraction could be shown to be greater than the exact fraction and, thus, the exact fraction must also be less than 60 percent.

Several methods that may be used to simplify the determinations are indicated below.

(1) If the top-heavy ratio, computed considering all the key employees and only some of the non-key employees, is less than 60 percent, then it is not necessary to accumulate employee data on the remaining non-key employees. Inclusion of additional non-key employees would only further decrease the ratio.

(2) If the number of key employees is known but the identity of the key employees is not known (i.e. if the only key employees are officers and the limit on officers is applicable) the numerator may be determined by using a hypothetical "worst case" basis. Thus, in the case of a defined benefit plan, if the numerator of the top-heavy ratio were determined assuming each key employee's present value of accrued benefits were equal to the maximum section 415 benefits at the age that would maximize such present value, that assumption would only overstate the present value of accrued benefits for key employees. Thus, if that ratio is less than 60 percent, the plan is not top-heavy and accurate data on the key employees need not be collected.

(3) If the employer has available present value of accrued benefit computations for key and non-key employees in a defined benefit plan, and these values differ from those that would be produced under Question and Answer T–18 only by inclusion of a withdrawal assumption, the present value for the key employees (but not the non-key employees) may be adjusted to a "worst case" value by dividing by the lowest possible probability of not withdrawing from plan participation before normal retirement age. If the top-heavy ratio based on this inflated key employee value is less than 60 percent, the present value need not be recomputed without the withdrawal assumption. The methods set forth in this answer may also be used to determine whether a plan is super top-heavy by inserting "90%" for "60%" in the appropriate places.

T–30 Q. Will a plan fail to qualify if it provides that the $200,000 maximum amount of compensation taken into account under section 416(d) may be automatically increased in accordance with regulations under section 416?

A. No.

T–31 Q. If a plan provided benefits based on compensation in excess of $200,000 and the plan becomes top-heavy, must any accrued benefits attributable to this excess compensation be eliminated?

A. No. For any year that a plan is top-heavy, section 416(d) provides that compensation in excess of $200,000 must not be taken into account. However, a top-heavy plan may continue to provide for any benefits attributable to compensation in excess of $200,000 to the extend such benefit were accrued before the plan was top-heavy. Furthermore, such benefits may not be reduced by either (1) a plan amendment adding the $200,000 restriction, or (2) a change in the plan benefit structure imposing the $200,000 restriction due to the plan's becoming top-heavy, without violating section 411(d)(6).

V. Vesting Rules for Top-heavy Plans

V–1 Q. What vesting must be provided under a top-heavy plan?

A. Under section 416(b), the accrued benefits attributable to employer contributions must be nonforefeitable in accordance with one of two statutory standards. Either such accrued benefits must be nonforfeitable after 3 years of service or the nonforfeitable portion of accrued benefits must be at least 20 percent after 2 years of service, 40 percent after 3 years of service, 60 percent after 4 years of service, 80 percent after 5 years of service and 100 percent after 6 years of service. The accrued benefits attributable to employer contributionsa has the same meaning as under section 411(c) of the Code. As under section 411(a), the accrued benefits attributable to employee contributions must be nonforfeitable at all times.

V–2 Q. What service must be counted in determing vesting requirements

A. All service required to be counted under section 411(a) must be counted for these purposes. All service permitted to be disregarded under section 411(a)(4) may similarly be disregarded under the schedules of section 416(b).

V–3 Q. What benefits must be subject to the minimum vesting schedule of section 416(b)?

A. All accrued benefits within the meaning of section 411(a)(7) must be subject to the minimum vesting schedule. These accrued benefits include benefits accrued before the effective date of section 416 and benefits accrued before a plan becomes top-heavy. However, when a plan becomes top-heavy, the accrued benefits of any employee who does not have an hour of service after the plan becomes top-heavy are not required to be subject to the minimum vesting schedule.

V–4 Q. May a top-heavy plan provide a minimum eligibility requirement of the latter of age 25 or the completion of 3 years of service and provide that all benefits are nonforfeitable when accrued?

A. Yes.

V–5 Q. When does nonforfeitable mean?

A. In general, nonforfeitable has the same meaning as in section 411(a). However, the minimum benefits required under section 416 (to the extent required to be nonforfeitable under section 416(b)) may not be forfeited under section 411(a)(3)(B) or 411(a)(3)(D).

V–6 Q. Will a class-year plan automatically satisfy the minimum vesting requirements in section 416(b) if it provides that contributions with respect to any plan year become nonforfeitable no later than the end of the third plan year following the plan year for which the contribution was made?

A. No. Although this vesting schedule is similar to the 3-year minimum vesting schedule permitted by section 416(b)(1)(A), it does not satisfy that minimum. The 3-year vesting schedule in section 416(b)(1)(A) requires that after completion of 3 years of service the entire accrued benefit of a participant be nonforfeitable. Under the class-year vesting schedule described above, a portion of a participant's accrued benefit (that attributable to contributions for the prior 3 years) is forfeitable regardless of the participant's years of service.

V–7 Q. When a top-heavy plan ceases to be top-heavy, may the vesting

schedule be altered to a vesting schedule permitted without regard to section 416?

A. When a top-heavy plan ceases to be top-heavy, the vesting schedule may be changed to one that would otherwise be permitted. However, in changing the vesting schedule, the rules described in section 411(a)(10)) of the Code apply. Thus, any portion of the accrued benefit that was nonforfeitable before the plan ceased to be top-heavy must remain nonforfeitable; also, any employee with five or more years of service must be given the option of remaining under the prior (i.e. top-heavy) vesting schedule.

M. Minimum Benefits Under Top-heavy Plans

M–1 Q. Which employees must receive minimum contributions or benefits in a top-heavy plan?

A. Generally, every non-key employee must receive minimum contributions or benefits in a top-heavy plan. However, see Question and Answers M–4 and M–8 for certain exceptions. Different minimums apply for defined benefit and defined contribution plans.

M–2 Q. What is the defined benefit minimum?

A. The defined benefit minimum requires that the accrued benefit at any point in time must equal at least the product of an employee's average compensation for the five consecutive years when the employee had the highest aggregate compensation from the employer and the lesser of 2% per year of service or 20%. Thus, a non-key employee accrues 2% each year for the first ten years. For purposes of the defined benefit minimum, years of service may exclude years when the plan was not top-heavy for any plan year ending during such year of service as well as years of service completed in a plan year beginning before January 1, 1984. The compensation required to be taken into account is the compensation described in section 415. However, compensation in years before January 1, 1984 and compensation in years after the close of the last plan year in which the plan is top-heavy may be disregarded. The defined benefit minimum is expressed as a life annuity (with no ancillary benefits) commencing at normal retirement age. Thus, if post-retirement death benefits are also provided, the 2% minimum annuity benefit may be adjusted. (See Question and Answer M–3). The 2% minimum annuity benefit may not be adjusted if pre-retirement ancillary benefits are provided. Normal retirement age has the same meaning as under section 411(a)(8). Any accruals of employer derived benefit, whether or not attributable to years for which the plan is top-heavy, may be used to satisfy the defined benefit minimums. Thus, if a non-key employee had already accrued a benefit of 20 percent of final average pay at the time the plan became top-heavy, no additional minimum accruals would be required (although the accrued benefit would increase as final average pay increased). Accrued benefits attributable to employee contributions must be ignored. Accrued benefits attributable to employer and employee contributions have the same meaning as under section 411(c).

M–3 Q. What defined benefit minimum must be received if an employee receives a benefit in a form other than a single life annuity or a benefit other than at normal retirement age?

A. If the form of benefit is other than a single life annuity, the employee must receive an amount that is the acturial equivalent of the minimum single life annuity benefit. If the benefit commences at a date other than at normal retirement age, the employee must receive at least an amount that is the acturial equivalent of the minimum single life annuity benefit commencing at normal retirement age. Thus, the employee may receive a lower benefit if the benefit commences before the normal retirement age and the employee must receive a higher benefit if the benefit commences after the normal retirement age. No specific acturial assumptions are mandated providing different acturial equivalents. However, the assumptions must be reasonable.

M–4 Q. Which employees must accrue a minimum benefit in a defined benefit top-heavy plan?

A. Each non-key employee who has at least one thousand hours of service for an accrual computation period (or equivalent service as determined under Department of Labor regulations, 29 CFR 2530. 200b–3) must accrue a minimum benefit in a defined benefit top-heavy plan for that accrual computation period. For a top-heavy plan that does not base accruals on accrual computation periods, minimum benefits must be credited for all periods of service required to be credited for benefit accrual. (See § 1.410(a)–7). A non-key employee may not fail to accrue a minimum benefit merely because the employee was not employed on a specified date. Similarly, neither (1) an employee who is excluded from participation (or who accrues no benefit) merely because the employee's compensation is less than a stated amount nor (2) an employee who is excluded from the plan because of a failure to make mandatory employee contributions, may fail to accrue a minimum benefit.

M–5 Q. Would the defined benefit minimum be satisfied if the plan provides a normal retirement benefit equal to the greater of the plan's projected formula or the projected minimum benefit and if benefits accrue in accordance with the fractional rule described in section 411(b)(1)(C)?

A. No. The fact that this fractional rule would not satisfy the defined benefit minimums may be illustrated by the following example. Consider a non-key employee entering a top-heavy plan at age 25 in a plan in which the projected minimum is greater for the employee than the projected benefit under the normal formula would be. Under the fractional rule, the employee's accrued benefit ten years later at age 35 would be 5% (20%×10/40). under section 416, the employee's minimum accrued benefit after ten years of service must be at least 20%. Thus, because the 5% benefit is not equal to the 20% benefit required under section 416, such benefit would not satisfy the required minimum.

M–6 Q. What is the defined contribution minimum?

A. The contributions and forfeitures allocated to the account of any non-key employee for each plan year in which the plan is top-heavy must equal at least 3% of compensation (within the meaning of section 415) for that plan year for each non-key employee. However, a lower minimum is permissible in the case where the contributions plus forfeitures made or required to be made for key employees is less than 3%. The contribution made on behalf of any key employee is equal to the ratio of the sum of the contribution and forfeiture made for such key employee divided by the compensation for such key employee. Thus, the minimum percentage of compensation that must be provided for any non-key employee for a plan year is the largest percentage of compensation provided on behalf of any key employee for that plan year (if the largest percentage of compensation provided on behalf of any key employee for that plan year is less than 3%).

M–7 Q. In the case of the waiver of minimum funding standards of section 412(d) of the Code, how does section 416 treat the defined contribution minimum?

A. For purposes of determining the contribution made on behalf of a key employee that is required to be made, a waiver of the minimum funding requirements is ignored. Thus, if a

defined contribution plan receives a waiver of the minimum funding requirement, and if the minimum contribution required under the plan without regard to the waiver exceeds 3%, the exception described in the previous question does not apply even though no key employee receives a contribution in excess of 3% and even though the amount required to be contributed on behalf of the key employee has been waived. Also, a waiver of the minimum funding requirements will waive the requirements of section 412 of the Code as well as the requirements under section 416 of the Code. Thus, in the case of a top-heavy plan in which the non-key employee must recieve an allocation, a waiver of the minimum funding requirements may eliminate a funding violation and such waiver will preclude a violation under section 416 even though the required contribution is not made. However, the adjusted account balance (as described in Rev. Rul. 78–223, 1978–1 C.B. 125) of the non-key employees must reflect the required minimum contribution even though such contribution was not made.

M–8 Q. Which participants must receive the defined contribution plan minimum?

A. Those participants who have not separated from service at the end of the plan year must receive the defined contribution plan minimum. Individuals who have (1) failed to complete 1000 hours of service (or the equivalent), (2) declined to make mandatory contributions to in the plan, or (3) been excluded from the plan because such individual's compensation is less than a stated amount but must be considered participants to satisfy the coverage requirements of section 410(b) in accordance with section 410(a)(5), are considered employees covered by the plan for purposes of the section 416(c) minimums.

M–9 Q. May either the defined benefit minimum or the defined contribution minimum be integrated with social security?

A. No.

M–10 Q. What minimum contribution or benefit must be received by a non-key employee who participates in a top-heavy plan?

A. In the case of an employer maintaining only one plan, if such plan is a defined benefit plan, each non-key employee covered by that plan must receive the defined benefit minimum. If such plan is a defined contribution plan (including a target benefit plan) each non-key employee covered by the plan must receive the defined contribution minimum. In the case of an employer who maintains more than one plan, employees covered under only the defined benefit plan must receive the defined benefit minimum. Employees covered under only the defined contribution plan must receive the defined contribution plan minimum. In the case of employees covered under both defined benefit and defined contribution plans, the rules are more complicated. Section 416(f) precludes, in the case of employees covered under both defined benefit and defined contribution plans, either required duplication or inappropriate omission. Therefore, such employees need not receive both the defined benefit and the defined contribution minimums. There are four safe harbor rules a plan may use on a temporary basis in determining which minimum an employee must receive. Since the defined benefit minimums are generally more valuable, if each employee covered under both a defined benefit top-heavy plan and a defined contribution top-heavy plan receives the defined benefit minimum, receipt of such minimum will satisfy the standards. Another approach that may be used is a floor offset type of approach (see Rev. Rul. 76–259, 1976–2 C.B. 111) under which the defined benefit minimum is provided in the defined benefit plan and is offset by the benefits provided under the defined contribution plan. Another approach that may be used in the case of employees covered under both defined benefit and defined contribution plans is to prove, using a comparability analysis, that the defined contribution plans are providing aggregate benefits at least equal to those in the defined benefit plan. In order to preclude the cost of providing the defined benefit minimum alone, the complexity of a floor offset plan and the annual fluctuation of a comparability analysis, a safe haven minimum defined contribution is being provided. If the contributions and forfeitures under the defined contribution plan equal 5% of compensation each year the plan is top-heavy such minimum will be presumed to satisfy the section 416 minimums.

M–11 Q. Can a plan described in section 412(i) of the Code (funded exclusively by level premium insurance contracts) also satisfy the minimum benefit requirements of section 416?

A. The accrued benefits provided for a non-key employee under most level premium insurance contracts might not provide a benefit satifying the defined benefit minimum because of the lower cash value in early years under most level premium insurance contracts, and because such contracts normally provide for level premiums until normal retirement age. However, a plan will not be considered to violate the requirements of section 412(i) merely because it funds certain benefits through either an auxiliary fund or deferred annuity contracts, if the following conditions are met:

(1) The targeted benefit at normal retirement age under the level premium insurance contract is determined, taking into account the defined benefit minimum that would be required assuming the current top-heavy (or non top-heavy) status of the plan contiunes until normal retirement age; and

(2) The benefits provided by the auxiliary fund or deferred annuity contracts do not exceed the excess of the defined benefit minimum benefits over the benefits provided by the level premium insurance contract.

If the above conditions are satified, then the plan is still exempt from the minimum funding requirements under section 412 of the Code and may still utilize the special accrued benefit rule in section 411(b)(1)(F) subject to the following modifications: Although the portion of the plan funded by the level premium annuity contract is exempt from the minimum funding requirements, the portion funded by an auxiliary fund is subject to those requirements. (Thus, a funding standard account must be maintained and a Schedule B must be filed with the annual report.) The accured benefit for any participant may be determined using the rule in section 411(b)(1)(F) but must not be less than the defined benefit minimum.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-6629 Filed 3-14-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 928

Surface Mining and Reclamation Operations Under a Federal Program for Nevada; Cancellation of Promulgation Process

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is announcing the withdrawl of the proposed Federal program to regulate surface coal mining and reclamation operations for Nevada because there are no known coal

reserves on non-Federal and non-Indian lands in that State.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On October 27, 1982, the Office of Surface Mining proposed a Federal program for Nevada in the **Federal Register** to regulate coal exploration and surface coal mining and reclamation operations on non-Federal or non-Indian lands in that State. 47 FR 47792. During the comment period, OSM was informed by the Director of the Nevada Division of Mineral Resources that all known coal deposits in Nevada are too small and of poor quality for commercial recovery at this time.

The Surface Mining Control and Reclamation Act in Section 503 and 504, 30 U.S.C. Sections 1253 and 1254, and OSM's regulations, 30 CFR 736.11, require that there be an approved State or Federal regulatory program in States having coal on non-Federal or non-Indian lands and in which there is a likelihood of either coal exploration or development before June 1985. Since Nevada has no known coal reserves on either non-Federal or non-Indian lands, a regulatory program is not required. Therefore, the proposed regulatory program for Nevada is being withdrawn and the promulgation process cancelled. Should information come to light which indicates the presence of coal reserves on non-Federal and non-Indian lands within the State, promulgation of the required program will be reinitiated by subsequent rulemaking notice.

Dated: March 8, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83-6530 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2249-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

Correction

In FR Doc. 83–4478 beginning on page 7714 in the issue of Wednesday, February 23, 1983, make the following corrections:

1. On page 7714, first column, under **DATES,** the last sentence should have been placed at the end of the **SUMMARY,** and within that particular sentence, the words "phosphides" and "actively" should have read "phosphide" and "acutely" respectively; second column, under **SUPPLEMENTARY INFORMATION,** first paragraph, eleventh line, "of" should read "or"; second paragraph, fifth line, insert "is" after "it"; third column, first full paragraph, seventh line, "dedsignate" should read "designate", and in the last paragraph, *B. Zinc Phosphide.*, first line, "agency" should read "Agency".

2. On page 7715, second column, second full paragraph, ninth line from the bottom, insert a comma after "effects"; third column, twelfth line from the bottom, the symbol "L" should read ">".

3. On page 7716, second column, second full paragraph, fifth line, "form" should read "from".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has ben delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposd flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Alaska	Galena (City), Yukon-Koyubuk Division	Yukon River	Intersection of Second Avenue and Seventh Avenue	*130
	Maps available for inspection at City Hall, Galena, Alaska.			
	Send comments to the Honorable Vernon White, Box 149, Galena, Alaska 99741.			
Alaska	Valdez, City, Unorganized Borough	Lowe River	At Port Valdez	*11
			Approximately 62,300 feet upstream of Port Valdez	*268
		Valdez Glacier Stream	At Port Valdez	*11
			Approximately 20,500 feet upstream of Richardson Highway.	*227
		Mineral Creek	At Port Valdez	*11
			Approximately 4,800 feet upstream of Mineral Creek Road.	*142
		Robe River	At confluence with Lowe River	*11
			Approximately 1,700 feet upstream of Richardson Highway.	*22
	Maps available for inspection at the office of the Director of Community Planning and Development, Valdez, Alaska.			
	Send comments to Honorable Jim Watson, City Manager of Valdez, P.O. Box 307, Valdez, Alaska 99686.			
Arizona	Yuma County (Unincorporated Areas)	Main Outlet Drain Shallow Flooding.	100 feet west from center of Old Arizona 95 and U.S. Highway 95 south of Gila River.	*165
		Colorado River	At the center of intersection of 12th Street and Palm Avenue near the City of Yuma.	*142
		East Main Canal Shallow Flooding	Center of intersection of Magnolia and 10th Streets	*3
		Shallow Flooding	Center of intersection of 13th Street and East Drain extension.	#2
		Yuma Levee Area	Center of intersection of Avenue D and Riverside drive	*125
		Fortuna Wash	Center of intersection of Southern Pacific Railroad Fortuna Wash.	*193
		Fortuna Wash	Center of intersection of east bound land of Interstate Highway 8 and Fortuna Wash.	*317
		Fortuna Wash East Fork	At confluence with Fortuna Wash	*390
		Gila Gravity Main Canal Shallow Flooding.	1,000 feet east from center of intersection of 6th Street and Laguna Dam Road.	*158
		Gila River	100 feet upstream from center of Avenue 7E	*145
		Gila River Shallow Flooding	4,500 feet east-northeast from center of intersection of Old Arizona 95 and U.S. Highway 95 and U.S. Highway 95 north of Gila River.	*172
		Gila River Shallow Flooding	Center of Avenue 18E 5,500 feet north from intersection of Avenue 18E and 6th Street.	*179
		Borrow Pit Lake	At shoreline	*158
	Maps available for inspection at the Department of Public Works, 2703 Avenue B, Yuma, Arizona.			
	Send comments to Honorable Pete Woodard, P.O. Box 1112, Yuma, Arizona 85364.			
Connecticut	Noank Fire District, New London County	Fishers Island Sound	Shoreline at Cove Street (extended west)	*14
			Shoreline at Chesbro Road (extended)	*15
			Shoreline of Beebe Cove at Tryon Avenue (extended)	*12
	Maps available for inspection at the Noank Fire Station, Noank, Connecticut.			
	Send comments to Honorable Frank Socha, Chairman of the Noank Fire District Executive Commission, 6 Center Street, Noank, Connecticut 06340.			
Connecticut	Stonington, Borough, New London County	Fishers Island Sound	Shoreline of Stonington Harbor at High Street extended.	*14
			Shoreline at Water Street extended	*16
			Shoreline at South Street extended	*14
			Shoreline at Sandy Point	*16
	Maps available for inspection at the Planning and Zoning Office in the Borough Hall, Stonington, Connecticut.			
	Send comments to Honorable Clarence Maxon, Stonington Borough Warden, Borough Hall, Stonington, Connecticut 06378.			
Florida	Everglades City (City), Collier County (Unincorporated Areas).	Gulf of Mexico	At the intersection of Buckner Avenue and Collier Avenue.	*13
			At the intersection of Patura Street and Copeland Avenue.	*15
			At the intersection of Gardenia St. and Copeland Avenue.	*16
			At the intersection of Jasmine Street and Copeland Avenue.	*17
	Maps available for inspection at City Hall, Everglades City, Florida.			
	Send comments to Honorable Herman G. Askren, P.O. Drawer C, Everglades, Florida 33929.			
Georgia	Unincorporated Areas of Liberty County	Clay Creek	Just downstream of southeastern corporate limits of the City of Midway (downstream crossing).	*8
		Goshen Canal	Approximately 350 feet upstream of State Highway 82	*18
		Mill Creek	Approximately 250 feet upstream of 18th Street	*58
			Approximately 200 feet upstream of Seaboard Coastline Railroad.	*69
		Peacock Creek	Approximately 200 feet downstream of U.S. Highway 17 (State Highway 25).	*11
			Approximately 500 feet downstream of Seaboard Coastline Railroad (upstream crossing).	*17
		Atlantic Ocean/St. Catherines Sound.	At the Interstate Highway 95 crossing of the Jerico River.	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Approximately 1,000 feet south of the intersection of Interstate Highway 95 and U.S. Highway 17 (State Highway 25).	*13
			Approximately 100 feet south of Yellow Bluff Fishing Camp.	*14
			Approximately 900 feet north of Halfmoon Landing	*16
			Approximately 500 feet south of Stevens Airfield	*16
			Approximately 200 feet east of Interstate Highway 95 crossing the North Newport River.	*16
		Atlantic Ocean/Sapelo Sound	Approximately 100 feet east of Drum Point Landing	*16
Maps available for inspection at County Joint Planning Commission, Main Street, Hinesville, Georgia 31313.				
Send comments to Mr. James Floyd, Chairman, County Board of Commissioners or Mr. Ben Darsey, County Administrator, Liberty County Courthouse, P.O. Box 81, Hinesville, Georgia 31313.				
Illinois	(V) Cave-In-Rock, Hardin County	Ohio River	Western corporate limits	*360
			Eastern corporate limits	*361
Maps available for inspection at the Cave-In-Rock Post Office.				
Send comments to Honorable Ralph Warren, Village President, Village of Cave-In-Rock, Village Hall, Mill Street, Cave-In-Rock, Illinois 62919.				
Illinois	(V) Hamburg Calhoun County	Mississippi River	At the confluence of Irish Creek	*451
			About 0.86 mile upstream of confluence of Irish Creek	*452
Maps available for inspection at the City Clerk's Office, Village Hall, Hamburg, Illinois.				
Send comments to Honorable James E. Smith, Mayor, Village of Hamburg, Village Hall, Hamburg, Illinois 62045.				
Illinois	(Uninc.) Hardin County	Ohio River	Just downstream of the confluence of Wallace Branch	*354
			About 1.7 miles upstream of the confluence of Saline River.	*366
Maps available for inspection at the County Clerk's Office, Hardin County Courthouse, Elizabethtown, Illinois.				
Send comments to Honorable Harold Dutton, County Board Chairman, Hardin County. Hardin County Courthouse, Elizabethtown, Illinois 62931.				
Illinois	(V) Heyworth McLean County	Kickapoo Creek Tributary	About 550 feet downstream of US Highway 51	*706
		Just upstream of Willis Street	*717	
			About 3100 feet upstream of Joselyn Street	*735
		Tributary A	Just downstream of US Highway 51	*727
			About 840 feet upstream of Illinois Central Gulf Railroad.	*744
Maps available for inspection at the Village Hall, Heyworth, Illinois.				
Send comments to Honorable Harold Swanzy, Village President, Village of Heyworth, Village Hall, Heyworth, Illinois 61745.				
Illinois	(Uninc.) Pope County	Ohio River	Downstream county line	*341
			Upstream county line	*354
Maps available for inspection at the County Clerk's Office, Pope County Courthouse, Golconda, Illinois.				
Send comments to Honorable Bennie Gibbs, County Board Chairman, Pope County, County Commissioner's Office, Pope County Courthouse, Golconda, Illinois 62938.				
Indiana	(T) Brooksburg, Jefferson County	Ohio River	Within the corporate limits	*467
Maps available for inspection at Ms. Cathy Corbin's residence, Rural Route 3, Brooksburg, Indiana.				
Send comments to Honorable Eddie Fisher, Town Board President, Town of Brooksburg, Fire Hall, Brooksburg, Indiana 47250.				
Iowa	(C) Maxwell, Story County	Indian Creek	Just downstream of State Highway 210	*865
			Just downstream of County Road at upstream corporate limits.	*873
		Rock Creek	About 1450 feet downstream of confluence of Rock Creek Tributary.	*866
			Just downstream of County Highway E63	*880
			Just upstream of County Highway E63	*885
		Tributrary to Rock Creek	At confluence with Rock Creek	*871
			About 600 feet upstream of County Road	*877
Maps available for inspection at City Hall, Maxwell, Iowa.				
Send comments to Honorable Don Ferguson, Mayor, City of Maxwell, City Hall, Maxwell, Iowa 50161.				
Michigan	(Twp) Holland, Ottawa County	Lake Macatawa	Shoreline	*584
		Macatawa River	Mouth of Lake Macatawa	*584
			Just upstream Adams Street	*594
			Just downstream 96th Avenue	*599
		Secondary Channel	At confluence with Macatawa River	*594
			At divergence with Macatawa River	*596
		Pine Creek	Just upstream 144th Avenue	*597
			Just upstream Ripley Street	*608
			About 75 feet downstream Quincy Street	*621
		Bosch-Hulst Drain	About 1,800 feet downstream 107th Avenue	*593
			Just downstream Paw Paw Road	*600
			Just upstream Chicago Drive	*606
			Just upstream Riley Road	*615
			Just downstream Quincy Street	*630
		Zeeland Drain	Mouth at Bosch-Hulst Drain	*616
			Just upstream 100th Avenue	*640
		Brower Drain	Mouth at Zeeland Drain	*622
			Just downstream 100th Avenue	*634
		North Branch Drain	Mouth at Macatawa River	*594
			Just downstream Country Club Road	*626
		County Drain No. 40	Mouth at Macatawa River	*587
			Just downstream Private Drive (near U.S. Highway 31)	*590

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just upstream Private Drive (near U.S. Highway 31)	*596
			About 50 feet downstream Felch Street	*614
Maps available for inspection at the Supervisor's Office, 353 North 120th Avenue, Holland, Michigan.				
Send comments to Honorable Jacob M. Jongekrijg, Supervisor, Township of Holland, Holland Township, 353 North 120th Avenue, Holland, Michigan 49423.				
Massachusetts	Amherst, Town, Hampshire County	Mill River	Downstream corporate limits	*150
			Upstream State Route 116	*159
			Upstream Montague Road	*174
			Approximately .44 mile upstream of Montague Road	*184
			Downstream Mill Street	*203
		Fort River	Downstream corporate limits	*140
			Confluence of Muddy Brook	*143
			Upstream West Street	*150
			Upstream Boston and Maine Railroad	*160
			Approximately .83 mile upstream County Route 9	*170
			Upstream Pelham Road	*176
		Plum Brook	Confluence with Fort River	*146
			Upstream Pomeroy Lane	*150
			Upstream Potwine Lane	*160
		Muddy Brook	Confluence with Fort River	*143
			Upstream West Street	*149
		Hop Brook	Confluence with Fort River	*159
			Approximately 200' upstream Boston & Maine Railroad	*160
			Upstream Station Road	*163
		Swamp Brook	Confluence with Mill River	*153
			Upstream Sunderland Road	*166
			Downstream Montague Road	*176
Maps available for inspection at the Town Hall, Planner's Office, Amherst, Massachusetts.				
Send comments to Honorable Barry Delcastilho, Town Manager of Amherst, Town Hall, Amherst, Massachusetts 01002.				
Nebraska	(C) Ft. Calhoun, Washington County	Missouri River	About 1.2 miles downstream of the confluence of Moores Creek.	*999
			About 0.6 mile upstream of the confluence of Moores Creek.	*1,001
Maps available for inspection at City Hall, Fort Calhoun, Nebraska.				
Send comments to Honorable John N. McGowan, Mayor, City of Fort Calhoun, City Hall, Fort Calhoun, Nebraska 68023.				
New Jersey	North Caldwell, Borough, Essex County	Passaic River	Total length within corporate limits	*171
		Green Brook	Downstream corporate limits	*227
			Grandview Avenue (upstream side)	*359
			Dam 5 (upstream side)	*411
Maps available for inspection at the Municipal Building, Gould Avenue, North Caldwell, New Jersey.				
Send comments to Honorable Richard Nelson, Mayor of the Borough of North Caldwell, Municipal Building, Gould Avenue, North Caldwell, New Jersey 07006.				
New Jersey	Lebanon, Township, Hunterdon County	South Branch Raritan River	Downstream corporate limits	*327
			CONRAIL (upstream side)	*410
			Hoffmans Crossing Road (upstream)	*442
			Approximately 300 feet upstream of confluence of Little Brook.	*451
			Vernon Road (downstream side)	*487
			Upstream corporate limits	*489
		Musconetcong River	State Route 31 Access Road (upstream side)	*346
			Springtown Road (upstream side)	*357
			Downstream Footbridge (downstream side)	*364
			Approximately 150 feet downstream of confluence of Derry Run.	*377
			Mowder Road (upstream side)	*384
			Mowder Hill Road (upstream side)	*395
			Penwell road (upstream side)	*413
			Upstream corporate limits	*424
		Spruce Run	Van Syckels Corner Road	*275
			Confluence of Rocky Run	*302
			2nd Private Drive (upstream side)	*327
			Upstream corporate limits	*365
		Rocky Run	Confluence with Spruce Run	*302
			Approximately 75 feet upstream of CONRAIL	*336
			Private Drive (downstream side)	*426
			Rocky Run Road (upstream side)	*473
			Approximately 1,235 feet upstream of Rocky Run Road.	*530
		Willoughby Brook	Confluence with Spruce Run Reservoir	*275
			State Route 31 (upstream side)	*276
			Most downstream corporate limits	*294
			Downstream footbridge (upstream side)	*365
			Upstream footbridge (downstream side)	*440
			Approximately 60' upstream of Buffalo Hollow Road (upstream side).	*467
Maps available for inspection at the Municipal Building, Hill Road at Wood Glen, Lebanon, New Jersey.				
Send comments to Honorable Gottfried Tletzer, Mayor of Lebanon, R.D. 1, Box 125, Glen Gardner, New Jersey 08826.				
New Jersey	Sea Bright, Borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*14
		South Shrewsbury River	Shoreline at Island View Way extended	*12
			Shoreline 150 feet north of Imbrie Place extended	*11
			Shoreline at Osborne Street extended	*10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shrewsbury River	Shoreline at River Street extended	*10
			Shoreline at Rumson Road extended	*9
			Shoreline at Atlantic Way extended	*11
			Shoreline 100 feet north of State Route 36 (extended)	*12
Maps available for inspection at the Borough Hall, 1099 East Ocean Avenue, Sea Bright, New Jersey.				
Send comments to Honorable Cecile F. Norton, Mayor of Sea Bright, 1099 East Ocean Avenue, Sea Bright, New Jersey 07006.				
New Jersey	Vernon, Township, Sussex County	Wallkill River	Downstream corporate limits	*389
			Upstream Bassets Bridge Road	*391
			Upstream corporate limits	*394
Maps available for inspection at the Vernon Municipal Center, Church Street, Vernon, New Jersey.				
Send comments to Honorable Michael Clark, Mayor of Vernon, Vernon Municipal Center, Church Street, Vernon, New Jersey 07402.				
New Jersey	Wantage, Township, Sussex County	Wallkill River	Downstream corporate limits	*389
			Upstream of Bassets Bridge Road	*391
			Upstream of Glenwood Road	*394
			Upstream corporate limits	*401
Maps available for inspection at the Municipal Building, Route 23, Sussex, New Jersey.				
Send comments to Honorable Harold D. Rome, Mayor of Wantage Township, Municipal Building, R.D. 1, Route 23, Sussex, New Jersey 07461.				
New York	Angelica, Village, Allegany County	Angelica Creek	Downstream corporate limits	*1,358
			Upstream Olean Street	*1,410
			Upstream Peacock Hill Road	*1,430
			Upstream corporate limits	*1,445
		Tributary A-1	Confluence with Angelica Creek	*1,435
			Downstream Common Road (North Street)	*1,506
Maps available for inspection at the Village Office, White Street, Angelica, New York.				
Send comments to Honorable Frank Kern, Village Office, White Street, P.O. Box 158, Angelica, New York 14709.				
New York	Long Beach, City, Nassau County	Atlantic Ocean	Entire shoreline within community	*14
		Reynolds Channel	Entire shoreline within community	*7
Maps available for inspection at the Building Department, City Hall, 1 West Chester Street, Long Beach, New York.				
Send comments to Honorable Edwin L. Eaton, City Manager of Long Beach, City Hall, 1 West Chester Street, Long Beach, New York 11561.				
New York	Roslyn, Village, Nassau County	Hempstead Harbor	Hempstead Harbor shoreline and entrance to Roslyn Channel	*17
Maps available for inspection at the Village Hall, 1 Paper Mill Road, Roslyn, New York.				
Send comments to Honorable Elias Spielman, Mayor of the Village of Roslyn, Village Hall, 1 Paper Mill Road, Roslyn, New York 11576.				
New York	Roslyn Harbor, Village Nassau County	Hempstead Habor	Entire shoreline within community	*17
		Motts Cove	Entire shoreline within community	*14
Maps available for inspection at the Village Hall, 500 Motts Cover Road, Roslyn Harbor, New York.				
Send comments to Honorable John J. Collins, Mayor of Roslyn Harbor, 500 Motts Cove Road, Roslyn Harbor, New York 11576.				
North Carolina	City of Burnsville, Yancy County	Little Crabtree Creek	Just upstream of Hunter Street	*2628
			Just upstream of Pensacola Road (State Route 197)	*2656
Maps available for inspection at Town Hall, Main Street, Burnsville, North Carolina 28714.				
Send comments to Mayor Mark W. Bennett or Mr. Tom Storie, Superintendent of Public Works, Town Hall, P.O. Box 97, Burnsville, North Carolina 28714.				
North Carolina	Town of Clyde, Haywood County	Pigeon River	Just upstream of Interstate Highway 40 (U.S. Highways 19 and 23 Bypass Connector).	*2528
			Just upstream of Main Street	*2533
Maps available for inspection at Town Hall, 18 Depot Street, Clyde, North Carolina 28721.				
Send comments to Mayor S. L. Rogers, or Ms. Peggy Green, Town Clerk, Town Hall, P.O. Box 386, Clyde, North Carolina 28721.				
North Carolina	Unincorporated Areas of Haywood County	Pigeon River	Just upstream of Interstate Highway 40	*2486
			Just upstream of S.R. 1513	*2512
			Just downstream of River Road	*2598
			Approximately 150 feet upstream of S.R. 1869	*2630
			At confluence of East Fork Pigeon River, just downstream of State Highway 215.	*2653
		Jonathan Creek	Just upstream of Interstate Highway 40	*2437
			Just downstream of U.S. Highway 276 at downstream crossing.	*2493
			Just upstream of S.R. 1318	*2588
			Just upstream of S.R. 1309	*2698
			Just upstream of S.R. 1302 at downstream crossing	*2772
			Just downstream of Evans Cove Road	*2954
			Just downstream of Rich Cove Road	*3000
			Just upstream of S.R. 1302 at its crossing upstream of the confluence of Carpenter Branch.	*3146
			Just upstream of S.R. 1301	*3358
		Richland Creek	Just downstream of State Highway 209	*2524
		Hominy Creek	Just downstream of U.S. Highway 19 & 23 (downstream crossing).	*2259
			Just upstream of U.S. Highway 19 & 23 at its crossing located upstream of the confluence of North Hominy Creek.	*2395
		North Hominy Creek	Just upstream of U.S. Highway 19 & 23	*2394
			Just upstream of U.S. 1601	*2585
			Just upstream of Newfound Road	*2658
		Tributary to North Hominy Creek	Just downstream of S.R. 1608	*2691

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Beaverdam Creek	Just downstream of Beaverdam Road	*2627
			Just downstream of S.R. 1614	*2708
		West Fork Pigeon River	Approximately 150 feet downstream of U.S. Highway 276.	*2622
		East Fork Pigeon River	Just downstream of U.S. Highway 276, at downstream crossing.	*2690
			Just downstream of U.S. Highway 276 at its second crossing of the river located approximately 350 feet upstream of the confluence of Lenior Creek.	*2741
			Just upstream of S.R. 1104 approximately 1,200 feet at downstream of the confluence of Henderson Branch where S.R. 1104 links with U.S. Highway 276.	*2774
			Just upstream of U.S. Highway 276 at its uppermost crossing located approximately 2,600 feet upstream of the confluence of Long Branch.	*2860
			Just upstream of Hunger Creek Road	*3042.

Maps available for inspection at County Commissioner's Office, County Courthouse Annex and at the County Planner's Office, County Courthouse, Waynesville, North Carolina 28786.

Send comments to Mr. Edwin Russell, Chairmen of the County Commission, County Courthouse Annex or Ms. Mary Henigbaum, County Planner, County Courthouse, Waynesville, North Carolina 28786.

North Carolina	Town of Maggie Valley, Haywood County	Jonathan Creek	Just upstream of Secondary Road 1307	*2874
			Approximately 75 feet upstream of Evans Cove Road	*2956
			Just upstream of Fie Branch Road	*3089
		Campbell Creek	Just downstream of U.S. Highway 19	*3011
			Approximately 150 feet upstream of U.S. Highway 19	*3015

Maps available for inspection at Town Hall, Highway 19, Maggie Valley, North Carolina 28751.

Sent comments to Mayor James T. Miller and Albert Matthews, Town Manager, Town Hall, P.O. Box 339, Maggie Valley, North Carolina 28751.

North Carolina	Unicorported Areas of Yancey County	Ayles Creek	Just upstream of Yancey Railroad (approximately 2,270 feet upstream from confluence with Little Crabtree Creek.	*2,498
			Just upstream of Secondary Road 1153	*2,636
		Little Crabtree Creek	Approximately 160 feet upstream of Secondary Road 1147.	*2,471
		Just upstream of Secondary Road 1142		*2,562
		Bowlens Creek	Just upstream of Bowlens Creek Road (approximately 420 feet upstream of confluence with Cane River).	*2,615
		Just upstream of Bowlens Creek Road (approximately 2.95 miles upstream of confluence with Cant River)		*2,904
		Bald Creek	Approximately 100 feet upstream of U.S. Highway 19 (approximately 4,220 feet upstream of confluence with Cane River).	*2,512
		Bald Mountain Creek	Just upstream of Private Drive (approximately 1,850 feet upstream of confluence with Cane River).	*2,317
		Jacks Creek	Just downstream of Secondary Road 1416	*2,328
		South Toe River	Just downstream of Secondary Road 1303	*2,468
			Just downstream of confluence of Whitecak Creek	*2,678
		Cane River	Just downstream of Secondary Road 1354	*2,148
			Just upstream of U.S. Highway 19W	*2,400
			Just upstream of U.S. Highway 19E	*2,536
			Just upstream of State Highway 197	*2,934
		Elk Fork	Just upstream of State Highway 197	*3,116
		Brown Creek	Just upstream of State Highway 80	*2,734
		Cat Tail Creek	Just upstream of State Highway 197	*2,867
		Whitecak Creek	Approximately 50 feet upstream of Private Drive (approximately 4,380 feet above confluence with South Toe River).	*2,734
		Big Creek	Just upstream of Secondary Road 1414	*2,188
		Haney Creek	Just upstream of Private Drive (approximately 790 feet upstream of confluence with Cane River).	*2,956

Maps available for inspection at County Manager's Office, Yancey County Courthouse, Main Street, Burnsville, North Carolina 28714.

Send comments to Mr. Alton Robinson, Chairman, Yancey County Board of Commissioners, or Mr. David Blankenship, County Manager, Yancey County Courthouse, Main Street, Burnsville, North Carolina 28714.

North Dakota	Dunn Center (City), Dunn County	Spring Creek	75 feet upstream from center of Central Avenue	*2,170
			Approximately 200 feet south from the center of the intersection of Railroad Street and First Avenue East.	*2,160

Maps available for inspection at City Hall, Main Street, Dunn Center, North Dakota.

Send comments to Honorable Gust Mittelstedt, P.O. Box 381 Dunn Center, North Dakota 58626.

North Dakota	Halliday (City), Dunn County	Spring Creek	At the intersection of West Second Avenue and North Second Street.	*2,048
			550 feet east-southeast from center of intersection of Second Street and East Fourth Avenue.	*2,041
		Alkali Creek	950 feet west from the center of the intersection of South Third Street and West First Avenue.	*2,053

Maps available for inspection at City Hall, Main Street, Halliday, North Dakota.

Send comments to Honorable Leo Lesmeister, P.O. Box 217, Halliday, North Dakota 58636.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
North Dakota	Killdeer (city), Dunn County	Spring Creek	50 feet downstream from the center of State Highway 22.	*2,245
			50 feet downstream from the center of High Street	*2,231

Maps available for inspection at City Hall, Railroad Street, Killdeer, North Dakota

Send comments to Honorable Arnold William Lubke, P.O. Box 515 Killdeer, North Dakota 58640.

Ohio	(V) Adena, Harrison and Jefferson Counties	North fork	At mouth at Short Creek	*857
			At upstream corporate limit	*869
		South fork	At mouth at middle fork	*878
			At upstream corporate limits	*882
		Short Creek	Just upstream of Norfolk Southern Railway (downstream of South Bridge Street).	*850
			At confluence of South Fork	*878
		Middle fork	About 1,400 feet upstream of confluence of south fork (upstream corporate limits).	*885

Maps available for inspection at the Village Hall, Main and South Bridge Streets, Adena, Ohio.

Send comments to Honorable June McKim, Mayor, Village of Adena, Village Hall, Main and South Bridge Streets, P.O. Box 44, Adena, Ohio 43901.

Ohio	(V) Amsterdam, Jefferson County	Yellow Creek	About 0.56 mile downstream of Liberty Street (at downstream corporate limit).	*926
			Just upstream of Market Street	*931
		Goose Creek	At mouth at Yellow Creek	*931
			About 0.47 mile upstream of State Road (at upstream corporate limit).	*957

Maps available for inspection at the Village Hall, Main Street, Amsterdam, Ohio 43903.

Send comments to Honorable Jim Davidson, Mayor, Village of Amsterdam, Village Hall, Main Street, Amsterdam, Ohio 43903.

Oklahoma	City of Newcastle, McClain County	Tributary to Canadian River	Just downstream of May Avenue	*1,164
		Tributary A.1 of Canadian River	Just upstream of East Johnson River	*1,148
		Tributary A.1.1 of Canadian River	Approximately 100 feet downstream of the corporate limits.	*1,155
		Tributary B of Canadian River	Just downstream of May Avenue	*1,158
		Pond Creek	Just upstream of East Fox Lane	*1,145
			Just upstream of East Kelly Road	*1,166
		Tributary No. 1 of Pond Creek	Just downstream of East Haun Road	*1,155
			Just upstream of East Haun Road	*1,165
		Tributary No. 1.1 of Pond Creek	Just downstream of East Bond Road	*1,198
			Just upstream of East Bond Road	*1,207
		Tributary No. 1.2 of Pond Creek	Just upstream of Main Street	*1,230
		Tributary No. 2 of Pond Creek	Approximately 200 feet downstream of Portland Avenue.	*1,153
		Tributary No. 3 of Pond Creek	Just upstream of Fox Lane	*1,154
		Tributary No. 4 of Pond Creek	Just upstream of East Fox Lane	*1,165
		Tributary No. 5 of Pond Creek	Just upstream of Main Street	*1,176
		Tributary No. 5.1 of Pond Creek	Just upstream of MacArthur Boulevard	*1,215
		Tributary No. 5.2 of Pond Creek	Just downstream of MacArthur Boulevard	*1,242
		Tributary No. 6 of Pond Creek	Just upstream of Main Street	*1,188
		Tributary No. 7 of Pond Creek	Approximately 1,500 feet upstream of the confluence with Pond Creek.	*1,176
		Tributary No. 8 of Pond Creek	Just upstream of unnamed road	*1,200
		Tributary No. 9 of Pond Creek	Approximately 740 feet upstream of the confluence with Pond Creek.	*1,216
		Tributary No. 10 of Pond Creek	Just upstream of West Fox Lane	*1,247
		Tributary D of Canadian River	Just upstream of State Highway 37	*1,183
		Tributary D.1 of Canadian River	Just upstream of unnamed road	*1,206
		Stinson Creek	Just upstream of unnamed road	*1,245
		Tributary No. 1 of Stinson Creek	Just upstream of Council Road	*1,254
		Tributary No. 2 of Stinson Creek	Approximately 200 feet downstream of Haun Road	*1,283
		Tributary No. 3 of Stinson Creek	Approximately 275 feet downstream of Haun Road	*1,273

Maps available for inspection at City Manager's Office, City Hall, South Carr Street, Newcastle, Oklahoma 73065.

Send comments to Mayor Jesse Joy or Mr. James Branum, City Manager, City Hall, P.O. Drawer E, Newcastle, Oklahoma 73065.

Oregon	Echo (city), Umatilla County	Umatilla River	150 feet upstream from center of Main Street	*633

Maps available for inspection at City Hall, Bonanza, Echo, Oregon.

Send comments to Honorable Marvin Storz, P.O. Box 9, Echo, Oregon 97826.

Pennsylvania	Bechtelsville Borough, Berks County	Swamp Creek	Downstream corporate limits	*365
			Approximately 80 feet upstream of Mill Street	*381
			Approximately 40 feet upstream of Conrail	*395
			Upstream Main Street	*409
			Upstream corporate limits	*425

Maps available for inspection at the Borough Hall, 158 South Main Street, Bechtelsville, Pennsylvania.

Send comments to Honorable Gerald Bauer, Bechtelville Council President, 158 South Main Street, Bechtelsville, Pennsylvania 19505.

Pennsylvania	Bedminster, Township Bucks County	Cabin River	At State Route 413	*391
			Upstream of U.S. Route 611	*447
			Approximately 0.4 mile upstream of U.S. Route 611	*466
		Deep Run	Upstream of Stone Bridge Road	*416
			Upstream of Deep Run Road	*454

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		East branch Perkiomen Creek	Upstream of Scott Road	*482
			Downstream of Smith School Road	*539
			Upstream of State Route 313	*342
			Downstream of Elephant Road	*358
		Tohickon Creek	At Iron Bridge Road	*269
			Upstream of Dark Hollow Road	*277
			Upstream of Creek Road	*286
			Upstream of U.S. Route 611	*291
			Upstream of Farm School Road	*302
			Upstream of Fretz Valley Road	*310
			Approximately 2,150 feet upstream of Fretz Valley Road.	*313

Maps available for inspection at the Bedminster Township Building, R.R. 2, Box 406, Perkasie, Pennsylvania.

Send comments to Honorable A. Warren Kulp, Jr., Chairman of the Bedminster Board of Supervisors, R.R. 2, Box 406, Perkasie, Pennsylvania 18944.

Pennsylvania	Middlesex, township, Butler County	Glade Run	Approximately 1.0 mile downstream of Sheldon Road	*1,001
			Upstream side of Sheldon Road bridge	*1,017
			Upstream side of McFann Road bridge	*1,028
			Upstream side of State Route 8 bridge	*1,065
			Upstream side of Steiner Road bridge	*1,083
			Upstream side of Overbrook Road bridge	*1,105
			At Glade Lake Dam	*1,121

Maps available for inspection at the Township Building, Middlesex, Pennsylvania.

Send comments to Honorable Bernard J. Fell, Chairman of the Middlesex Township Board of Supervisors, P.O. Box 188, Valencia, Pennsylvania 16059.

Texas	Baileys Prairie, town, Brazoria County	Oyster Creek	Downstream corporate limits	*30
			Upstream State Route 35	*32
			Upstream corporate limits	*33

Maps available for inspection at the City Hall, Baileys Prairie, Texas.

Send comments to Honorable A. D. Williams, Mayor of Baileys Prairie, Route 1, Angleton, Texas 77515.

Texas	Brazoria, city, Brazoria County	Brazos River	Area north of FM 521 and south of Market Street	*25
			Southeast portion of corporate limits in vicinity of Mulberry Lane.	*24

Maps available for inspection at the City Hall, Brazoria, Texas.

Send comments to Honorable Paul Harang, Mayor of the City of Brazoria, City Hall, Brazoria, Texas 77422.

Texas	Clute, city, Brazoria County	Oyster Creek	Most downstream corporate limits	*11
			Upstream access road	*14
			Upstream State Route 288	*15
			Downstream Missouri Pacific Railroad	*17

Maps available for inspection at the City Hall, Clute, Texas.

Send comments to Honorable Bobby Jacobs, Mayor of Clute, P.O. Box 997, Clute, Texas 7731.

Texas	Richwood, city, Brazoria County	Oyster Creek	Downstream corporate limits	*15
			Upstream corporate limits	*16

Maps available for inspection at the City Hall, Richwood, 215 Halbert, Richwood, Texas.

Send comments to Honorable Thomas W. Jones, Mayor of Richwood, 215 Halbert, Richwood, Texas 77531.

Texas	West Columbia, city, Brazoria County	Bell Creek	Downstream corporate limits	*25
			Upstream corporate limits	*32
		Brazos River	Southeast portion of the community near Greenfield Drive.	*31
			Corporate limits at Austin Street (extended)	*33

Maps available for inspection at the City Hall, West Columbia, Texas.

Send comments to Honorable M. A. Brooks, Mayor of West Columbia, P.O. Drawer 487, West Columbia, Texas, 77486.

Washington	Arlington (city), Snohomish County	Stillaguamish River	100 feet upstream from Burlington Northern Railroad crossing.	*68
		South Fork Stillaguamish River	110 feet north from center of intersection of Talcott Street and East Burke Avenue.	*71

Maps available for inspection at City Hall, 3rd & Olympic, Arlington, Washington.

Send comments to Honorable John Larson, 3rd & Olympic, Arlington, Washington.

Washington	Gold Bar (town), Snohomish County	Skykomish River	320 feet southwest from center of intersection of 8th Street U.S. Highway 2.	*195
		Wallace River	Center of intersection of First Street and Wallace River.	*185
		May Creek	50 feet upstream from center of First Street	*184

Maps available for inspection at Town Hall, 501 Croft, Gold Bar, Washington.

Send comments to Honorable Les McCombs, Box 107, Gold Bar, Washington 98251.

Washington	Index (town), Snohomish County	North Fork Skykomish River	100 feet upstream from center of Fifth Street	*535

Maps available for inspection at Town Hall, Index, Washington.

Send comments to Honorable Kim Hunter, General Delivery, Index, Washington 98256.

Washington	Marysville (city), Snohomish County	Snohomish River (Ebey Slough and Steamboat Slouth).	At center of the intersection of 1st Street and Interstate Highway 5.	*9

Maps available for inspection at City Hall, 514 Delta Avenue, Marysville, Washington.

Send comments to Honorable Daryl Brennick, 514 Delta Avenue, Marysville, Washington 98270.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Washington	Monroe (city); Snohomish County	Snohomish River	At 171st Avenue SE, vicinity of Burlington Northern Railroad.	*30
		Skykomish River	At the center of Simons Road crossing of Woods Creek.	*61
Maps available for inspection at City Hall, 806 W. Main, Monroe, Washington.				
Send comments to Honorable Gordon Tjerne, P.O. Box 130, Monroe, Washington 98272.				
Washington	Shelton (city), Mason County	Goldsborough Creek	50 feet upstream from center of 1st Street	*16
		Oakland Bay	At Shelton	*11
Maps available for inspection at Planning Department, 2nd & Franklin, Shelton, Washingon.				
Send comments to Honorable Joyce Jaros, 2nd & Franklin, Shelton, Washington 98584.				
Washington	Snohomish (city), Snohomish County	Snohomish River	60 feet upstream from center of U.S. Highway 2	*27
		Pilchuck River	50 feet upstream from center of 6th Street	*38
Maps available for inspection at Planning Department, 1620 4th Street, Snohomish, Washington.				
Send comments to Honorable Ralph Davis, 1009 1st Street, Snohomish, Washington 98290.				
Washington	Standwood (city) Snohomish County	Stillaguamish River	At the center of intersection of 94th Dr., NW., and 271st Street NW.	*10
Maps available for inspection at City Hall, 10220 270 Street, NW. Standwood, Washington.				
Send comments to Honorable Kenneth Day, P.O. Box 278 Standwood, Washington 98292.				
Washington	Tacoma (city), Pierce County	Puyallup River	50 feet upstream from center of Eells Street	*10
		Swan Creek	50 feet upstream from center of the Burlington Northern Railroad Bridge crossing.	*14
		Snake Lake	250 feet northwest from the intersection of S. 31st Street and Madison Street.	*298
		Wapato Lake	240 feet west of the intersection of Wapato Lake Drive and S. 68th Street.	*311
		Puget Sound	100 feet north of the intersection of 6th Avenue and Walters Drive.	*9
			200 feet northeast from the intersection of Ruston Way and 49th Street.	*9
Maps available for inspection at Planning Department, 740 St. Helens, Tacoma, Washington.				
Send comments to the Honorable Doug Southerland, 740 St. Helens, Suite 1220, Tacoma, Washington 98402.				
Washington	Walla Walla County (unincorporated areas)	Walla Walla River (at Touchet)	300 feet upstream from center of Gardena Highway	*439
		Walla Walla River (near College Place).	100 feet upstream from center of Whitman Road	*612
			100 feet upstream from center of Peppers Bridge Road.	*773
		Touchet River (at Touchet)	At the intersection of Hawley and Conrad Roads	*457
		Touchet River (near Waitsburg)	Approximately 850 feet south from intersection of U.S. Highway 12 and Dewitt Road.	*1,284
		Lower Mill Creek	50 feet upstream from center of Last Chance Road	*666
			75 feet upstream from center of Gose Street	*808
		Upper Mill Creek	200 feet upstream from center of Mill Creek Dam	*1,265
			75 feet upstream from center of Sevenmile Road	*1,486
			50 feet upstream from center of New Wickersham Bridge.	*1,835
		Yellowhawk Creek	50 feet upstream from center of Old Milton Highway	*735
		Cottonwood Creek	50 feet upstream from center of Braden Road	*872
		Russell Creek	50 feet upstream from center of South Third Avenue	*893
			50 feet upstream from center of Depping Road	*1,032
		Russell Creek overflow area	300 feet upstream from center of School Avenue	*1,006
		Reser Creek	50 feet upstream from center of South Wilber Street	*976
		Coppei Creek	50 feet upstream from center of State Highway 124	*1,237
		Dry Creek (at Dixie)	At the intersection of creek and U.S. Highway 12	*1,539
Maps available for inspection at the Engineering Department, 314 West Main, Walla Walla, Washington.				
Send comments to Honorable Robert Petersen, P.O. Box 1506, Walla Walla, Washington 99362.				
West Virginia	Bramwell, town, Mercer County	Bluestone River	Downstream corporate limits	*2,239
			Upstream side of U.S. Highway 52 bridge	*2,242
			Upstream side of Duhring Street bridge	*2,248
			Upstream side of Pocahontas Avenue bridge	*2,255
			Upstream corporate limits	*2,259
Maps available for inspection at the Town Hall, Bramwell, West Virginia.				
Send comments to Honorable Don Murphy, Mayor of the Town of Bramwell, Town Hall, Bramwell, West Virginia 24715.				
West Virginia	Brooke County	Ohio River	Downstream county boundary	*663
			Upstream of Norfolk & Western Railway	*668
			Downstream of Steubenville Highway	*670
			Upstream of upstream Conrail bridge	*672
		Cross Creek	At confluence with Ohio River	*668
			Upstream of Cross Creek Road (second upstream crossing).	*678
			Upstream of County Highway 7-6	*705
			Upstream of Potrock Road	*727

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Upstream of Norfolk & Western Railway (most upstream crossing).	*750
			Downstream of county boundary	*775
		Harmon Creek	At confluence with Ohio River	*672
			Upstream of State Route 2	*681
			Upstream of County Highway 1-3	*704
			Upstream of County Highway 1	*722
			Upstream of County Highway 3-1	*730
			Upstream of Wood Crib and Pier Road	*788
			Upstream of Rayland Road	*812
			Downstream of upstream County boundary	*823

Maps available for inspection at the County Courthouse, Wellsburg, West Virginia.

Send comments to Honorable Alfred De Angelis, President of the Brooke County Commissioners, P.O. Box 272, Wellsburg, West Virginia 26070.

West Virginia	Granville, town, Monongalia County	Monongahela River	Downstream corporate limits	*811
			Upstream corporate limits (at confluence of Dents Run).	*812
		Dents Run	Confluence with Monongahela River	*812
			Upstream corporate limits	*818

Maps available for inspection at the Town Hall, Dents Run Road, Granville, West Virginia.

Send comments to Honorable James Everly, Mayor of the Town of Granville, Town Hall, Granville, West Virginia 26534.

West Virginia	Matoaka, town, Mercer County	Widemouth Creek	Downstream corporate limits	*2,359
			Downstream side first crossing of State Route 10 bridge.	*2,363
			Upstream corporate limits	*2,366

Maps available for inspection at the Town Office, Matoaka, West Virginia.

Send comments to Honorable Jimmy Sangid, Mayor of the Town of Matoaka, P.O. Box 83, Matoaka, West Virginia 24736.

West Virginia	Oakvale, town, Mercer County	East River	Downstream corporate limits	*1,703
			Downstream side of downstream access road bridge	*1,729
			Upstream corporate limits	*1,754

Maps available for inspection at the Oakvale Post Office, Oakvale, West Virginia.

Send comments to Honorable Obie Booth, Mayor of the Town of Oakvale, P.O. Box 187, Oakvale, West Virginia 24739.

West Virginia	Princeton, city, Mercer County	Brush Creek	Downstream corporate limits	*2,386
			Downstream Thorn Street bridge	*2,388
			Upstream Brick Street bridge	*2,389
			Upstream Ingleside Road bridge	*2,390
			Upstream corporate limits	*2,393
		Daves fork	At confluence with Brush Creek	*2,389
			Upstream Athens Road bridge	*2,393
			Upstream Thorn Street bridge	*2,396
			Approximately 0.10 mile upstream Prince Street bridge	*2,398
		Glady fork	At confluence with Brush Creek	*2,391
			Upstream Old Bluefield-Princeton Road bridge	*2,397
			Upstream Bluefield Road bridge	*2,400
			Approximately 0.68 mile upstream Bluefield Road bridge.	*2,408

Maps available for inspection at the Municipal Building, Princeton, West Virginia.

Send comments to Honorable Emory J. Reaser, Mayor of the City of Princeton, Municipal Building, Princeton, West Virginia 24740.

West Virginia	Wyoming County	Guyandotte River	Approximately 2 miles downstream of confluence of Lanes Branch.	*1,162
			Downstream of County Route 10-7	*1,181
			Upstream of Norfolk & Western Railway	*1,211
			Upstream of County Route 160	*1,239
			Upstream of County Route 18	*1,367
			Upstream of State Route 10	*1,396
			Upstream of State Route 16 (downstream crossing)	*1,444
			Upstream of County Route 41	*1,479
			Upstream of County Route 114	*1,510
			Upstream of Route 16-2	*1,525
			Upstream corporate limits	*1,566
		Laurel fork	Downstream corporate limits	*1,279
			Upstream of County Route 30	*1,351
			Downstream of State Route 10	*1,363
		Ravenscliff Reach	Upstream of County Route 34	*1,758
		Glen Rogers Reach	Upstream of North & Western Railway (first crossing)	*1,813
			Upstream of Norfolk & Western Railway (second crossing).	*1,823
			Approximately 0.8 mile upstream of Norfolk & Western Railway (second crossing).	*1,839
		Clear fork	Approximately 0.46 mile downstream of most downstream private road.	*1,215
			At confluence of McDonald Mill Creek	*1,220
			Upstream of State Route 971	*1,234
			Approximately 0.25 mile upstream of Norfolk & Western Railway.	*1,241
		Milam fork	Confluence with Laurel fork	*1,730
			Upstream of abandoned railway	*1,757
			Upstream of Norfolk & Western Railway	*1,794
			Upstream of County Route 5	*1,805

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Indian Creek	Approximately 1.93 miles upstream of County Route 5	*1,823
			Approximately 1.37 miles downstream of Turkey Wallow Road.	*1,269
			Upstream of Turkey Wallow Road	*1,292
			Upstream of most upstream private road	*1,506
		Slab fork	Approximately 200 feet downstream of State Route 16	*1,558
			Downstream of corporate limits	*1,502

Maps available for inspection at the Office of the County Clerk, County Courthouse, Pineville, West Virginia.

Send comments to Honorable William W. Bailey, President of the Wyoming County Board of Commissioners, P.O. Box 309, Pineville, West Virginia 24874.

Wisconsin	(V) Suring, Oconto County	Oconto River	About 0.40 mile downstream of Main Street	*795
			About 500 feet upstream of the confluence of Peshtigo Brook.	*797

Maps available for inspection at the Village Hall, Suring, Wisconsin.

Send comments to Honorable O.J. Kane, Village President, Village of Suring, Village Hall, Suring, Wisconsin 54174.

Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel assignment. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been seved on the person(s) who filed the comment to which the reply is directed constitutes an ex parte presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Marking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such submissions by parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6699 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-121; RM-83-121]

FM Broadcast Station in Steamboat Springs, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUBJECT: Action taken herein proposes the substitution of Class C FR Channel 245 for Channel 244A at Steamboat Springs, Colorado, and modification of the license of the Class A station (KSBT) to specify operation on the Class C channel, at the request of the licensee, KBCR, Inc.

DATE: Comments must be filed on or before April 18, 1983, and reply comments must be filed on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Steamboat Springs, Colorado); MM Docket No. 83-121, RM-4273.

Adopted: February 15, 1983;

Released: March 3, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making filed December 13, 1982, by KBCR, Inc. ("petitioner"), licensee of Station KSBT (FM), proposing the substitution of Class C FM Channel 245A at Steamboat Springs, Colorado, and modification of the license of Station KSBT to specify operation on Channel 245.

2. According to the Commission's established policy, the proposal to substitute a superior Class C channel for a Class A channel and modify the license to specify operation on the Class C channel is subject to affording other interested parties an equal opportunity to file, an application and be given consideration for the new channel. *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of another interest by the comment deadline could the modification take place.

3. In view of the foregoing, we believe it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Steamboat Springs Colorado	244A	245

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 145, 303).

Federal Communications Commission.

Robert K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a conterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6702 Filed 3-14-83; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-119; RM-4214]

FM Broadcast Station in Hill City, Kansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action, proposed the assignment of Class C FM Channel 270 to Hill City, Kansas, in response to a petition filed by Jerrell E. Kautz and John Cartwright. The assisgnment could provide a first FM assignment to that community.

DATES: Comments must be filed on or before April 18, 1983, and reply comments must be filed on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of an Amendment of § 73.202(b), Table of Assignment, FM Broadcast Stations (Hill City, Kansas), MM Docket No. 83–119, RM–4214.

Adopted: February 15, 1983.

Released: March 3, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on October 5, 1982, by Jerrell E. Kautz and John Cartwright ("petitioners") seeking to substitute Channel 228A for 221A at Phillipsburg, Kansas, and assign Class C Channel 223 to Hill City, Kansas, as its first FM assignment. Petitioners expressed an interest in applying for the Hill City channel, if assigned.

2. Class C Channel 223 was previously substituted for Channel 221A at Phillipsburg, Kansas (see BC Docket No. 82–145). It is therefore not available for assignment at Hill City, Kansas. A Commission staff study indicates that Class C Channel 270 is alternately

available for assignment at Hill City. A site restriction of 6.3 miles northwest of the city is required due to Station KSKU in Hutchinson, Kansas.

3. In view of the fact that the proposed assignment could provide a first FM broadcast service to Hill City, Kansas, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Hill City, Kansas		270

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexbility Act Do Not Apply to Rule Making to Amend §§ 73.202(b) 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may common on them in reply comments. They will not be considered if advanced in reply comments. ((See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6703 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-120, RM-4346]

FM Broadcast Station in Bear Lake, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposed to assign FM Channel 261A to Bear Lake, Michigan, in response to a petition filed by North Michigan Associates. The proposed assignment could provide a first FM service to that community.

DATES: Comments must be filed on or before April 18, 1983, and reply comments on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Notice of Proposed Rule Making

In the matter of an Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bear Lake, Michigan); MM Docket No. 83–120, RM–4346.

Adopted: February 15, 1983.

Released: March 3, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 12, by North Michigan Associates ("petitioner") proposing the assignment of Channel 261A to Bear Lake, Michigan, as its first FM assignment. Petitioner submitted information in support of the proposal. Petitioner failed to state that it will apply for the channel, if assigned. It is expected to do so in its comments. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the proposed assignment of Channel 261A to Bear Lake, Michigan, is within 402 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

3. In view of the fact that the proposed assignment could provide a first local FM service to Bear Lake, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Bear Lake, Michigan		261A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to the rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, al *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentatioin required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comment. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments, on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6700 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-118; RM-4232]

TV Broadcast Stations in Bellevue, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 33 to Bellevue, Washington, as its first television assignment, in response to a petition filed by Eastside Television Associates.

DATES: Comments must be filed on or before April 18, 1983, and reply comments must be filed on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the Matter of an Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Bellevue, Washington); MM Docket No. 83-118, RM-4232.

Adopted: February 15, 1983.

Released: March 3, 1983.

By Chief, Policy and Rules Division.

1. The Commission has under consideration the petition for rule making filed November 1, 1982, by Eastside Television Associates ("petitioner"), which seeks the assignment of UHF Television Channel 13 to Bellevue, Washington. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other criteria.

2. Bellevue (population 73, 903),[1] in King County (population 1,269,749) is located approximately 13 kilometers (8 miles) east of Seattle, Washington. It has no local Television broadcast service.

3. Since the proposed assignment to Bellevue, Washington, is within 400 kilometers(250 miles) of the U.S.-Canadian border, concurrence of the Canadian government must be obtained.

4. Petitioner included demographic information which demonstrates the need for a first local television service to Bellevue.

5. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the following city:

City	Channel No.	
	Present	Proposed
Bellevue, Washington		33+

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.*

9. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commisson's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6704 Filed 3-14-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-123; RM-4272]

FM Broadcast Station in Greenfield, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 258 to Greenfield, California, in response to a petition filed by Anita L. Levine. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before April 18, 1983, and reply comments on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Greenfield, California) MM Docket No. 83-123; RM-4272.

Notice of Proposed Rule Making

Adopted: February 10, 1983.

Released: March 4, 1983.

1. A petition for rule making was filed December 13, 1982, by Anita L. Levine ("petitioner") seeking the assignment of Channel 258 to Greenfield, California, as its first FM assignment. Petitioner expressed an interest in applying for the channel. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a first FM service to Greenfield, California, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Greenfield, California		258

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix follows. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in

connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be acompanied by a certificate of service. (See § 1.420.(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-6696 Filed 3-14-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-124; RM-4218]

FM Broadcast Station in New Carlisle, Indiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 272A to New Carlisle, Indiana, as its first local FM service, in response to a petition filed by Miramar Broadcasting, Inc.

DATES: Comments must be filed on or before April 18, 1983, and reply comments must be received on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (New Carlisle, Indiana); MM Docket No. 83-124; RM-4218.

Notice of Proposed Rule Making

Adopted February 10, 1983.

Released: March 4, 1983.

1. A petition for rule making was filed October 12, 1982, by Miramar Broadcasting, Inc., ("petitioner") proposing the assignment of FM Channel 272A to New Carlisle, Indiana, as its first FM assignment. Petitioner expressed an interest in applying for the channel, if assigned. A site restriction of 1.2 miles northeast of the city is required due to Station WTAS in Crete, Indiana.

2. Since New Carlisle, Indiana, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian Government.

3. In view of the fact that the proposed assignment could provide a first local FM service to New Carlisle, Indiana, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
New Carlisle, Indiana		272A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the revelant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix follows. Proponent(s) will be expected to answer whetever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a conterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filling the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-6698 Filed 3-14-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-126; RM-4275]

FM Broadcasting Station in Mandan, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Class C Channel 284 for Channel 285A, at Mandan, North Dakota, and modification of the license of Class A Station KNDR(FM) to specify operation on the Class C channel, at the request of the licensee, Central Dakota Enterprises, Inc.

DATES: Comments must be filed on or before April 18, 1983, and reply comments on or before May 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mandan, North Dakota) MM Docket No. 83-126, RM-4275.

Notice of Proposed Rule Making

Adopted: February 10, 1983.
Released: March 4, 1983.

1. A petition for rule making was filed December 17, 1982, by Central Dakota Enterprises, Inc. ("petitioner"), licensee of Station KNDR(FM), proposing the substitution of Class C Channel 284 for 285A at Mandan, North Dakota, and modification of the license of Station KNDR to specify operation on Channel 284.

2. Petitioner states that the substitution of Channel 284 for 285A would enable the station to better serve its community. Petitioner also notes that in an effort to better serve the Mandan-Bismarck area, it has filed an application for Channel 243 at Bismarck, North Dakota. In the event that the instant substitution is made, petitioner will withdraw its application for Channel 243 at Bismarck. Also, petitioner states that it will promptly submit the required engineering data to support an application specifying operation on Class C Channel 284, if assigned. The channels can be substituted in compliance with the minimum distance separation requirements.

3. Since the proposed substitution of Channel 284 for 285A at Mandan is within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

4. According to the Commission's established policy, the proposal to substitute a superior Class C channel for a Class A channel and to modify the license to specify operation on the Class C channel is subject to affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

5. In view of the foregoing, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel	
	Present	Proposed
Mandan, North Dakota	285A	284

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 18, 1983, and reply comments on or before May 3, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549, published February 9, 1981.

For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings,

such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix follows. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counter proposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-6897 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposal to List Senecio franciscanus as a Threatened Species and Determine its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period on proposed rule.

SUMMARY: Notice of reopening of comment period on a proposal to determine *Senecio franciscanus* (San Francisco Peaks groundsel) to be a Threatened species and determine an area within the Conconino National Forest, Coconino County, Arizona as its Critical Habitat will be reopened for a period of 60 days. This is in order to allow for the acceptance of additional comments.

DATES: All interested parties should submit further comments and recommendations to the Service by March 16, 1983.

ADDRESS: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see **ADDRESS** above) (505/766-3972); or Mr. John L. Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: *Scenecio franciscanus* is an alpine plant species known only to occur within a total area of less than 2.6 square kilometers between Humphreys and Agassiz Peaks in the Conconino National Forest, Arizona. The one known population is currently threatened by trampling from off-trail hiking. This species was proposed for listing as Threatened with Critical Habitat on November 22, 1982 (47 FR 52483). The first comment period extended until January 21, 1983.

The Endangered Species Act of 1973, as amended requires that a summary of any proposed listing regulation be published in a newspaper of general circulation in the areas in which the proposed species is believed to occur. Due to an inadvertent delay, this newspaper summary had not been published by the end of the original comment period. The Service will now promptly publish the newspaper notice and wishes to reopen the comment period to allow any individuals that may be affected to have an opportunity to make recommendatiions and provide comments regarding this proposal.

The Service particularly solicits the views and recommendations of those

possessing information regarding the status of this species, the suitability of the area proposed as Critical Habitat for it, and possible beneficial or detrimental consequences likely to follow its listing and designation of Critical Habitat.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 4, 1983.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-6609 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 51
Tuesday, March 15, 1983

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.

OFFICE OF THE VICE PRESIDENT

Federal Regulation of Financial Services

AGENCY: Office of the Vice President.

ACTION: Extending the comment period.

SUMMARY: The Task Group on Regulation of Financial Services published a notice in the February 7, 1983 **Federal Register** requesting comments on a series of issues regarding the Federal Government's regulatory structure for financial institutions.

DATE: The comment period is being extended by 22 days. Comments must be received by April 5, 1983.

ADDRESS: Interested parties are invited to submit two copies of written data, views or arguments concerning the problems of the existing Federal regulatory structure and suggesting alternatives to the Task Group on Regulation of Financial Services, Room 1060, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION: See the Monday, February 7, 1983 **Federal Register**, Vol. 48, No. 26, page 5704.

Dated: March 10, 1983.

Richard C. Breeden,

Deputy Counsel to the Vice President.

[FR Doc. 83-6587 Filed 3-14-83; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-008]

Disqualification Under the Horse Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Disqualification.

SUMMARY: This notice is to advise the general public and the horse industry of individuals who were charged with violation of the Horse Protection Act and disqualified, for specified terms, from showing or exhibiting any horse, judging or managing any horse show, exhibition, sale, or auction.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. Hall, Chief Staff Veterinarian, Interstate Inspection and Compliance Staff, Federal Building, Room 806, 6505 Belcrest Road, Hyattsville, MD 20782 (301/436-8695).

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection Act (15 U.S.C. 1825(c)) provides authority for disqualifying persons from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction. This document gives notice that the following individuals have been disqualified, for the terms specified, from showing or exhibiting any horse and from judging or managing any horse show, exhibition, sale, or auction:

1. Name: Richard Wall. Address: Shelbville, Tennessee. Disqualification period: October 4, 1982, through October 3, 1984.

2. Name: Sandra Law. Address: Middleville, Michigan. Disqualification period: December 1, 1982, through May 30, 1983.

Any person who knowingly fails to obey a disqualification order shall be subject to a civil penalty of not more than $3,000 for each violation. Any horse show, exhibition, sale, or auction, or its management, which knowingly allows any disqualified person to judge, manage, or participate in a horse show, exhibition, sale, or auction in violation of a disqualification order shall be subject to a civil penalty or not more than $3,000 for each violation.

Done at Washington, D.C., this 9th day of March 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-6581 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-34-M

Office of the Secretary

Intent To Reestablish Citizen's Advisory Committee on Equal Opportunity

Notice is hereby given that the Secretary of Agriculture will reestablish the Citizen's Advisory Committee on Equal Opportunity.

The purpose of the Committee is to strengthen the Department's efforts in the area of Civil Rights. The Committee will advise the Secretary and other Officials of the Department on all aspects of the Department's policies, practices, and procedures which promote equal opportunity.

The reestablishment of this Committee is in the public interest in connection with the performance of duties and responsibilities of the Department.

Questions on the reestablishment of the Committee may be submitted to the Director, Office of Minority Affairs, Room 102-W, Administration Building, until March 30, 1983.

Dated: March 10, 1983.

John J. Franke,

Deputy Assistant Secretary for Administration.

[FR Doc. 83-6582 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-95-M

Soil Conservation Service

Cromwell Riverfront Park RC&D Measure, Connecticut; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Philip H. Christensen, State Conservationist, Soil Conservation Service, Rt. 44, Mansfield Professional Park, Storrs, Connecticut 06268, telephone (203) 429-9361.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR

Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cromwell Riverfront Park Water-based Recreation Development RC&D Measure, Middlesex County, Connecticut.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Philip H. Christensen, State Conservationist, has determined the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to develop a 4.5 acre recreation area along the Connecticut River. The development includes a paved (25 foot wide) boat ramp, 2 parking lots for a total of 50 cars, a picnic area with 10 tables and grills, a comfort station with running water, and 2 50-foot wooden waterfront boardwalks. The measure plan also includes the stabilization of an intermittent stream using riprap as well as the seeding and landscaping of all disturbed areas.

The Notice of Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Philip H. Christensen. The Environmental Assessment has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the Environmental Assessment are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program)

Dated: March 4, 1983.

Philip H. Christensen,

State Conservationist.

[FR Doc. 83-6462 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-16-M

Spadra Creek Watershed, Arkansas; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Spadra Creek Watershed Project, Johnson County, Arkansas, effective on February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, P.O. Box 2323, Little Rock, Arkansas 72203, 501-378-5445.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Jack C. Davis,

State Conservationist.

March 3, 1983.

[FR Doc. 83-6462 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-16-M

Egypt Creek RC. & D. Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Egypt Creek RC&D Measure, Tompkins County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423-5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment of an existing erosion problem which is severely threatening the sole access road to the Cortland Tompkins Community College. In addition, if left untreated, the problem could result in threatening the safety of the users and disrupt operations at the facility. The planned works of improvement include reshaping or existing banks, installation of rock riprap to protect the banks, installation of a rock lined waterway, construction of a plunge pool at the outlet of existing conduits, and revegetating disturbed surfaces.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 3, 1983.

Paul A. Dodd,

State Conservationist.

[FR Doc. 83-6067 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-16-M

Great Chazy River Boat Launching Facility RC. & D. Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the

Great Chazy River Boat Launching Facility RC&D Measure, Clinton county, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for improving existing recreational facilities, primarily, improvement of the existing boat launch. The planned works of improvement include installation of a sheet piling bulkhead, installation of a concrete launching ramp, improvement of the entrance road and parking facilities, installation of public restrooms, and installing flood lights to provide for adequate lighting.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 3, 1983.

Paul A. Dodd,

State Conservationist.

[FR Doc. 83-6666 Filed 3-14-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer From Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673–5922.

New

Title of the Collection of Information: Part 203, "Waiver of Warsaw Convention Liability Limits and Defenses."

Agency Form Number: 263.

How often the Collection of Information must be filed: One time; On occasion.

Who is asked or required to report: Direct U.S. and foreign air carriers.

Estimate of number of annual responses: 3,179.

Estimate of number of annual hours needed to complete the collection of information: 3,334.

Revision

Title of the Collection of Information: Part 253, "Notice of Terms of Contract of Carriage."

Agency Form Number: None.

How often the Collection of Information must be filed: On occasion.

Who is asked or required to report: U.S. air carriers that provide scheduled passenger service.

Estimate of number of annual responses: 1,925.

Estimate of number of annual hours needed to complete the collection of information: 5,640.

Jack Calloway,

Chief, Data Requirements Section, Information Management Division, Office of Comptroller.

March 9, 1983.

[FR Doc. 83-6713 Filed 3-14-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41244]

First American Bank of Virginia, Enforcement Proceeding; 2d Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-entitled proceeding is assigned to be held on April 22, 1983, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., March 9, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-6712 Filed 3-14-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; Correction; California State University et al.

In the Consolidated Decision on Applications for Duty-free Entry of Electron Microscopes appearing at page 8319 in the **Federal Register** of Monday, February 28, 1983, the decision was inadvertently omitted. The decision on these applications should read as follows:

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being

manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-6710 Filed 3-14-83; 8:45 am]

BILLING CODE 3510-25-M

Disposition of Applications for Duty-Free Entry of Scientific Articles: Correction

In the notice appearing at page 9053 in the **Federal Register** of Thursday, March 3, 1983, Docket Number 81-00268 is hereby corrected to read Docket Number 82-00268.

(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. 83-6711 Filed 3-14-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Intent To Conduct a Review of Government Versus Contract Operation

AGENCY: National Ocean and Atmospheric Administration, Commerce.

ACTION: Notice of Intent to Conduct Reviews.

SUMMARY: Notice is hereby given pursuant to Office of Management and Budget (OMB) Circular A-76 and the Department of Commerce Administrative Order 201-41 implementing OMB Circular A-76, that the National Oceanic and Atmospheric Administration (NOAA) intends to conduct reviews of Government operation of versus contract operation of the activities listed below. Contracts may or may not result from the reviews. Results of the reviews will be made available to bidders, offerers, and all interested parties.

FOR FURTHER INFORMATION CONTACT: William J. Coleman, Special Assistant to Associate Administrator, DOC/NOAA/AA, Herbert C. Hoover Building, Room 5126, 14 St. and Constitution Ave., NW., Washington, D.C. 20230 377-5938.

James W. Winchester,

Associate Administrator, NOAA.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Name of activity	Location of activity	Review start date	Review end date
1. Administrative Support Center Supply Activities	Seattle, WA	5/1/83	10/1/83
2. General Metro Support Services	Rockville, MD	6/1/83	9/30/84
3. Library & Information Services	Rockville,MD	5/1/83	9/30/84
4. Data Center ADP Operations	Boulder, CO	5/1/83	9/30/84
5. Data Center Illustrator and ADP Operations	Washington, DC	5/1/83	9/30/84
6. Data Center ADP Archival & Technical Services	Asheville, NC	5/1/83	9/30/84
7. Fishery Lab ADP, Maintenance & Technical Services	Nationwide	5/1/83	9/30/84
8. Fishery Market News & Publications	Nationwide	5/1/83	9/30/84
9. Chart Distribution	Riverdale, MD	5/1/83	9/30/84
10. Tides & Water Levels Branch	Rockville, MD	5/1/83	9/30/84
11. Chart Reproduction	Washington, DC	5/1/83	9/30/84
12. Nautical Cartography	Rockville, MD	5/1/83	9/30/84
13. Aeronautical Cartography	Silver Spring, MD	5/1/83	9/30/84
14. Imagery Processing Lab	Rockville, MD	5/1/83	9/30/84
15. Geodetic Information Center	Rockville, MD	5/1/83	9/30/84
16. Vertical Geodetic Network	Rockville, MD	5/1/83	9/30/84
17. Horizontal Geodetic Network	Rockville, MD	5/1/83	9/30/84
18. Marine Center Operations	Norfolk, VA	5/1/83	9/30/84
19. Circulatory Surveys	Rockville, MD	5/1/83	9/30/84
20. Weather Service Regional Enginering Divisions	Nationwide	5/1/83	9/30/84
21. Electrical Technicians	Anchorage, AK	5/1/83	9/30/84
22. Weather Observations, Communications, & Electrical Technicians	Honolulu, HI	5/1/83	9/30/84
23. National Reconditioning Center	Kansas City, MO	5/1/83	9/30/84
24. Test & Evaluation Facility	Sterling, VA	5/1/83	9/30/84
26. Overseas Logistics Operations	Silver Spring, MD	5/1/83	9/30/84
27. Weather Chart Reproduction	Camp Springs, MD	5/1/83	9/30/84
28. Instrument Shop	Silver Spring, MD	5/1/83	9/30/84
29. AFOS Experimental Facility Technicians	Silver Spring, MD	5/1/83	9/30/84
30. Technical Services Engineering Division	Silver Spring, MD	5/1/83	9/30/84
31. Communications Operations	Suitland, MD	5/1/83	9/30/84
32. Weather Airport Observations	Selected Locations	5/1/83	9/30/84
33. Electrical Technicians	Fairbanks, AK	5/1/83	9/30/84
34. Computers Operations	Princeton, NJ	5/1/83	9/30/84
35. Library Services	Boulder, CO	5/1/83	9/30/84
36. Supply Services	Boulder, CO	5/1/83	9/30/84

[FR Doc. 83-6674 Filed 3-14-83; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Trauma; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Trauma.

Date of meeting: 28 and 29 March 1983.

Time and place: 0830 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presido of San Francisco, CA.

Proposed agenda: This meeting will be open to the public from 0830 to 1030 hrs on 28 March for the Administrative review and discussion of the scientific research program of the Trauma Group, Letterman Army Institute of Research. Attendance by the public at open

sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1045 to 1730 hrs on 28 March and from 0830 to 1700 hrs on 29 March for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. J. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presido of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Fred C. Brand,

Colonel, MSC Executive Officer.

[FR Doc. 83-6565 Filed 3-14-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Public Information Collection Requirement Submitted OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Labor Standards Interview DD Form 1567, OMB #0704–0158.

The Davis Bacon Act, the Copeland Act and the Contract Work Hours and Safety Standards Act require the establishment of minimum wages, job classification, overtime pay rates and fringe benefits for construction work performed by private contractors for the Federal Government. In order to ascertain that the data submitted by the contractor is correct, the employees must be contacted on a random basis to collect the information requested by the form. This interview is required by 29 CFR 5–6.

Construction Contractor Employees—40,000 Responses—6,667 Hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Charles Lloyd, OUSDRE, Room 3D1028, Pentagon, Washington, D.C. 20301, telephone (202) 697–7268.

Dated: March 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-6575 Filed 3-14-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Reinstatement (expired within six months).

Survivor Benefits Program—Minimum Income Claim—DD 1885.

Pub. L. 92–425 enables certain presently existing widows/widowers to apply for a payment of a monthly annuity under certain conditions of limited income. Form DD 1885 is completed by widows/widowers of retired military members and submitted to the Uniformed Service Finance Center for approval and records maintenance. This form is required to enable widows/widowers to apply for benefits under the Survivor Benefit Plan.

Certain presently existing widows/widowers of retired military members; 81 respondents; 243 burden hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the request for extension may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695–0643. This action is for an extension of authority, not for contract purposes.

Dated: March 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-6576 Filed 3-14-83; 8:45 am]

BILLING CODE 3810-01-M

Advisory Group on Electron Devices; Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on 20 April 1983 at the AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: March 9, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-6577 Filed 3-14-83; 8:45 am]

BILLING CODE 3810-01-M

Advisory Group on Electron Devices; Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on 5 April 1983 at the AGED Secretariat Office, 1925 N. Lynn Street, Suite 1000, Arlington, VA 22209.

The mission of the Advisory Group is provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to micorwave tubes, solid state microwave, elctronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: March 9, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-6578 Filed 3-14-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Contracts for Sale of Energy for Use by Northwest Industrial and Irrigation Loads; Notice of Availability and Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Availability and Request for Comments on Proposed Generic Contracts for Sale of Energy for Use by Idle Industrial Capacity and Irrigation Loads.

SUMMARY: The Bonneville Power Administration (BPA) has determined that it will have large amounts of energy available now through October 31, 1983, in addition to energy for all its existing obligations. In the absence of additional sales, substantial amounts of hydroelectric energy will be foregone for lack of markets. In order to make a significant contribution to the economic recovery of the Pacific Northwest, increase BPA's net revenues, and make use of power which might otherwise be wasted, BPA wishes to increase its sales of inexpensive energy. BPA is therefore making energy available in the Northwest, with the expectation that BPA will be able to provide service through October 31, 1983. At this time, BPA requests comments on means of making these and future sales.

—BPA has previously offered to sell nonfirm energy to Northwest utilities for use by their interruptible industrial and irrigation loads on an interim basis through June 30, 1983. BPA requests comments on the principles underlying this type of nonfirm contract. BPA intends to use the comments in developing a policy towards offering such nonfirm energy whenever nonfirm is available. Principles governing the interim sales and sample short-term contracts are available from the BPA Public Involvement Manager.

—BPA also intends to offer, from March 22 to October 31, 1983, energy to its direct-service industrial customers (DSIs) for use in industrial capacity which is now idle. BPA requests immediate comments on this limited contract. Copies of the draft contract are available from the BPA Public Involvement Manager.

DATES: Comments on the short-term DSI contract will be accepted by phone or mail through March 21, 1983. Recommendations will be accepted through March 31, 1983 on principles underlying sales of nonfirm energy to utilities for use by interruptible loads.

ADDRESSES: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2618.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION:

Economic Situation

The current national recession is particularly acute in the Pacific Northwest. Interest rates have depressed the timber industry and poor market conditions have plagued the aluminum market. Offering large amounts of low-cost electricity to Northwest industries and agriculture would stimulate the Northwest economy. Sales of low-cost energy would encurage industries to operate facilities that might otherwise remain closed, thereby increasing employment.

BPA believes that increasing its sales is consistent with its obligation to encourage the widest possible diversified use of electric power at the lowest possible rates consistent with sound business principles.

Due to the current recession, electric loads in the Pacific Northwest have

been lower than anticipated. At the same time, BPA rates have substantially increased, due to increased operating costs and obligations.

Decreased loads have resulted in decreased revenues to BPA, increasing the need to recover costs through future rates. By making low-cost energy available in the Northwest, BPA hopes to increase Northwest energy sales and improve BPA revenues, thus reducing the amount of revenues required in the future and keeping BPA rates as low as possible.

Surplus Energy Available

BPA has substantial surplus energy available for sale. The agency's current load and resource forecasts indicate that it will have firm surplus energy available through the late 1980's. In addition, BPA anticipates the availability of more than 1,000 average megawatts of nonfirm energy in most years, and significantly greater amounts of nonfirm in good water years. BPA is now meeting all available markets, and expects, in addition, to be able to serve a variety of new loads.

Surplus Sales to Date

Efforts to market firm surplus energy outside the Northwest at adequate prices have not been as productive as hoped. On August 27, 1982, BPA forecasted the availability of 750 megawatts of firm surplus energy through June 1983, and made that energy available for sale outside the region at an energy price of 28.4 mills per kilowatthour. BPA monthly average sales of this firm surplus energy were 210 MW in October 1982, 336 MW in November 1982, 254 MW in December 1982, and 66 MW in January 1983. Since January 1983, purchasing utilities have chosen to buy nonfirm energy at the spill rate of 9 mills per kilowatthour intead of the more expensive firm surplus energy, on the expectation that sufficient nonfirm energy will be available to fully substitute for firm purchases.

BPA's sales experience affects its needs for revenues. In its 1982 rate case, BPA anticipated that firm surplus sales would provide $169 million revenue. To date, such sales have produced $18.2 million. Since BPA is obligated to recover the costs of its operation through sales of power and services, revenues which are not recovered as anticipated must be recovered through subsequent rates.

Marketing Recommendations From the Public

In November 1982, BPA requested recommendations on ways in which it could effectively market firm surplus power. A number of the 58 respondents suggested that BPA investigate ways to market energy in the Northwest, as an alternative to firm surplus sales outside the region. In separate forums, the Pacific Northwest Electric Power Planning and Conservation Council recommended BPA make surplus energy available to irrigators at reduced rates. Employees of BPA's direct-service industrial customers recommended BPA make blocks of power available to the region's aluminum industry at reduced rates.

Energy sales to Utilities for Interruptible Loads

BPA had started to look at ways to increase Northwest markets. In January 1983, BPA signed an interim agreement with Umatilla Electric Co-op, providing up to 40 megawatts of nonfirm energy for use at three potato processing plants which were then not operating. BPA offered this type of interim agreement, effective through June 30, 1983, to any Northwest utility customer for use in any interruptible industrial or agricultural load. To date, two other utilities, the City of Port Angeles and Cowlitz County PUD, have signed interim contracts for nonfirm service to interruptible loads of two individual consumers.

Comments on this subject may be submitted through March 31, 1983.

Proposed Short-Term DSI Contract

BPA has investigated the possibility of offering a substantial block of energy to its direct-service industrial customers, in order to enable those customers to restart industrial capacity which is now idle. This sale is based on the availability of substantial unsold firm surplus and nonfirm energy, as described above. The sale would result in increased industrial operations and would make use of power which might otherwise be wasted or have a very low value. By increasing immediate BPA revenues, the sale would reduce the amount of revenues BPA would otherwise have to recover through rates established in its 1983 rate case.

The proposed DSI sale would make energy available to the DSIs for loads exceeding their current operating levels. Each DSI would be required to specify the amount of energy they would purchase under the contract, and would then be committed to purchase the amounts that BPA is able to make available.

The short-term DSI sale would be effective only through October 31, 1983—the day before BPA's 1983 rates take effect. BPA does not anticipate renewing this offer.

In order for the DSI short-term contract to be of benefit to the region, it must be consummated in the shortest possible timeframe. The benefits of the contract are limited by the start-up time required to bring idle industrial capacity back into operation and the fixed termination date of the contract. BPA estimates that the contract must go into effect in March in order to provide sufficient benefits to all parties. BPA intends to offer the contract to the direct-service industries from March 22–31, 1983.

Immediate Submission of Comments Requested on DSI Contract

BPA therefore requests that those interested in commenting on the short-term DSI contract do so immediately. Deadline for receipt of comments is March 21, 1983.

Compliance with National Environmental Policy Act (NEPA)

NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and actions are taken. In order to determine the necessary levels of NEPA documentation, BPA is reviewing its proposals to enter into contracts for sale of energy to the DSIs and to develop a policy for sales of nofirm energy through utilities to interruptible loads. Appropriate environmental reviews will be prepared under DOE's NEPA guidelines and integrated into the contract and policy development processes.

Copies of Contracts, Principles Available

Copies of the short-term DSI contract; the umatilla Electric Co-op, City of Port Angeles, and Cowlitz County PUD contracts; and the principles guiding the latter contracts are available from the BPA Public Involvement Manager at the address and phone number above.

Issued in Portland, Oregon March 9, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83-6908 Filed 3-14-83; 11:29 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Corpening Enterprises; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to

Corpening Enterprises at 1308 Continental National Bank Building, Forth Worth, Texas 76012. This Proposed Remedial Order alleges pricing violations in the amount of $168,577.09 plus interest in connection with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period June 1979 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7407. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 1st day of March, 1983.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 83-6658 Filed 3-14-83; 8:45 am]

BILLING CODE 6450-01-M

TXO Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to TXO Oil Company at 2700 Fidelity Union Tower, Dallas, Texas 75201. This Proposed Remedial Order alleges pricing violations in the amount of $472,357.21 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210, and 212, Subparts F and L during the time period June 1976 through December 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania, Ave., NW., Washington, D C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 25th day of February, 1983.

Ben L. Lemos,

Director, Dallas Officer, Economic Regulatory Administration.

[FR Doc. 83-6659 Filed 3-14-83; 8:45 am]

BILLING CODE 1450-01-M

[ERA Docket No. 83-CERT-004]

Public Service Electric and Gas Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On February 24, 1982, Public Service Electric and Gas Company (Public Service), P.O. Box 570, T5E, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR 595 an application for certification of an eligible use of approximately 2.0 billion cubic feet of natural gas which is expected to displace the use of approximately 308,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 12,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey. The eight stations are: Bergen in Ridgfield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

ESTIMATED OIL DISPLACEMENT

[Thousand of barrels]

Location	Estimated volume (BCF)	0.3% Sulfur No. 6 Oil	0.2% Sulfur No. 2 Oil or 0.1% sulfur kerosene
1. Bergen Generating Station, Ridgefield, NJ	0.86	142	
2. Essex Generating Station, Newark, NJ	.03		6
3. Hudson Generating Station, Jersey City, NJ	.78	122	
4. Kearny Generating Station, Kearny, NJ			
5. Linden Generating Station, Linden, NJ			
6. Sewaren Generating Station, Sewaren, NJ	.30	44	
7. Edison Generating Station, Edison, NJ	.03		6
8. Mercer Generating Station, Trenton, NJ			
Totals	2.0	308	12

The eligible seller of the natural gas is New York State Electric and Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902. The gas will be transported by the Tennessee Gas Pipeline Company, Division of Tenneco, Inc., P.O. 25411, Houston, Texas 77001.

Public Service has in effect certifications by the ERA which authorize purchases of 30.8 billion cubic feet of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA Docket No.	amount (billion cubic feet per year)	Remarks (Expires)
82-CERT-008	3.0	May 23, 1983.
82-CERT-009	7.3	June 24, 1983.
82-CERT-010	7.5	June 24, 1983.
82-CERT-012	7.0	July 24, 1983.
82-CERT-017	6.0	Oct. 12, 1983.
Total	30.8	

Because the natural gas involved in this application will only be available in limited amounts on a monthly basis until February 28, 1984, Public Service has requested that the certification be issued expeditiously in order that Public Service may be in a position to purchase all of the natural gas possible in order to displace the maximum volume of fuel oil.

The ERA has carefully reviewed Public Service's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920), August 16, 1979). The ERA has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10-day public comment period because it involves the displacement of large volumes of fuel oil and it is in the public interest to maximize the displacement of fuel oil. the application also states that becuase the volumes contracted for are seller's monthly reserves, it is not possible to make up for purchases not made in a particular month by increasing purchases in a subsequent month.

Given the limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Branch, Room GA-007, RG-43, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., March 7, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-6393 Filed 3-14-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TC83-4-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Tariff Sheet Filing

March 9, 1983.

Take notice that on February 22, 1983, Arkansas Louisiana Gas Company ("Arkla"), P.O. Box 21734, Shreveport, Louisiana, 71151, filed in Docket No. TC83-4-000 a tariff sheet pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act to become effective 30 days from the date of filing, consisting of Sixth Revised Sheet No. 3B to its FERC Gas Tariff, First Revised Volume No. 1.

Arkla states that the purpose of the filing is to redefine its lowest priority categories, Priority 7 and Priority 8, which apply to industrial customers served under interruptible contracts, so that interruptible customers who have agreed to purchase at least a specified minimum volume of gas if it is tendered to them will be in Priority 7 and interruptible customers who have not agreed to purchase a specified minimum volume of gas if it is tendered to them will be in Priority 8. No change is proposed in any of the firm priorities in Arkla's curtailment plan.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before March 18, 1983, 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. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6650 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-362-000]

Central Illinois Light Co.; Filing

March 10, 1983.

Take notice that on March 1, 1983, Central Illinois Light Company (CILCO) tendered for filing an Interconnection Agreement between CILCO and Central Illinois Public Service Company (New Interconnection Agreement) dated March 1, 1983.

CILCO states that the New Interconnection Agreement is intended to replace entirely the presently effective interconnection agreement between CILCO and Central Illinois Public Service Company (CIPS) which is designated as CILCO's Rate Schedule FERC No. 20, with supplements, and CIP's Rate Schedule No. 81, with supplements. The New Interconnection Agreement contains proposed reciprocal service schedules for Limited Term Power, Emergency Energy, Economy Energy, Short Term Power, Maintenance Power and General Purpose Energy. Also included in the New Interconnection Agreement is a service schedule designed to bring the other service schedules into compliance with FERC Order No. 84 whenever "energy is being supplied from one party to the other is being purchased from a third party."

CILCO has requested that the New Interconnection Agreement be given an effective date of May 1, 1983 in accordance with the stated intent of the two parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 25, 1983. 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. 83-6651 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-358-000]

Connecticut Light & Power Co.; Filing

March 10, 1983.

Take notice that on February 28, 1983, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed initial rate schedule with respect to a System Power Agreement dated December 1, 1981 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) (together, the NU Companies) and (2) the Massachusetts Municipal Wholesale Electric Company (MMWEC).

CL&P states that the System Power Agreement provides for a supply of station service energy to MMWEC's Stony Brook generating station, located in Ludlow, Massachusetts, when such generating station is not capable of supplying such energy itself. The System Power Agreement commenced on December 1, 1981 and will continue until terminated by any party upon delivering 180 days of prior written notice of such termination to the other parties.

The capacity charge rate is the cost-of-service rate associated with HELCO's Middletown Unit No. 4 (the HELCO Unit) and is determined in accordance with Schedule A to the System Power Agreement. The energy charge rate is the product of the New England Power Exchange (NEPEX) value for replacement fuel cost for the HELCO Unit and the average incremental heat rate on the system of the NU Companies for the prior calendar year.

CL&P requests that the Commission waive its standard notice period and permit the System Power Agreement to become effective on December 1, 1981.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, HELCO, WMECO, and MMWEC (Ludlow, Massachusetts).

Any person desiring to be heard or to protest said application 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 Rules 210, 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.210, 385.211 and 385.214). All such petitions or protests should be filed on or before March 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6652 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-359-000]

Connecticut Light & Power Co.; Filing

March 10, 1983.

Take notice that on February 28, 1983, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated May 1, 1982 between (1) CL&P, Western Massachusetts Electric Company (WMECO) and Holyoke Water Power Company (HWP and together with CL&P and WMECO, the NU Companies) and (2) City of Holyoke, Massachusetts Gas and Electric Department (HG&E).

CL&P states that the Transmission Agreement provides for transmission services to HG&E for the wheeling of their purchase from MMWEC of a portion of MMWEC's entitlement obtained from Salem Harbor Unit No. 4 during the period from May 1, 1982 to October 31, 1982.

The transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of transmission service on the electric transmission system of the NU Companies determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts HG&E is entitled to receive during such month. The monthly transmission charge is reduced by up to 50% to give due recognition for payments made by HG&E to other systems also providing transmission service.

CL&P requests that the Commission waive its standard notice period and permit the Transmission Agreement to become effective on May 1, 1982.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, HWP, and HG&E (Holyoke, Massachusetts).

Any person desiring to be heard or to protest said application 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 Rules 210, 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.210, 385.211 and 385.214). All such petitions or protests should be filed on or before March 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6653 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-346-000]

Public Service Company of New Mexico; Filing

March 10, 1983.

Take notice that on February 22, 1983, Public Service Company of New Mexico (PNM) tendered for filing Service Schedule F (Agreement for Short-Term Energy Sale) to the Interconnection Agreement (Rate Schedule FPC No. 9) between PNM and El Paso Electric Company (EPE).

PNM states that the service to be provided to EPE under Service Schedule F is for approximately 400 gigawatt hours of interruptible block energy. Interruptibility provisions are set out in Section 4 of the Agreement. Service is to commence March 1, 1983, and continue through January 31, 1984, and PNM therefore requests a waiver of the notice requirement. The rates for services are (1) twenty-four dollars per megawatt hour for all energy delivered up to 50 megawatts and (2) twenty-three dollars per megawatt hour for energy delivered in excess of 50 megawatts per hour, plus up to one dollar per megawatt hour for any New Mexico state taxed assessed upon generation of electricity.

Copies of the filing were served upon El Paso Electric Company and the New Mexico Public Service 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, 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 March 25, 1983. 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. 83-6655 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-357-000]

Public Service Company of New Mexico; Filing

March 10, 1983.

Take notice that on February 28, 1983, the Public Service Company of New Mexico (PNM) tendered for filing a Block Energy Agreement between PNM and the Cities of Burbank and Passadena (the City of Burbank and the City of Pasadena are referred to collectively as "Cities").

PNM is to provide the Cities up to 307 gigawatt hours of block energy at a rate of delivery of 35 MW each hour, subject to limitations contained in Section 6. Service is to commence May 1, 1983, subject to acceptance by the FERC, and shall continue through April 30, 1984. The rate for service is $0.036 per kwh, plus applicable taxes.

Copies of the filing were served upon the Cities and the New Mexico Public Service 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, 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). All such motions or protests should be filed on or before March 25, 1983. 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. 83-6656 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-182-000]

Jeanerette Sugar Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 10, 1983.

On February 4, 1983, Jeanerette Sugar Company, c/o Ideal Industrial Electric Analysis, Ltd., 36 Southwest Dr., New Iberia, Louisiana 70560, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is located in Jeanerette, Louisiana. The primary energy source to the facility is biomass in the form of bagasse. Natural gas is utilized in start up. The electric power production capacity of the facility is 2 megawatts. There are no other biomass-fueled small power production facilities located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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. 83-6654 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-351-000]

Dayton Power and Light Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 25, 1983, the Dayton Power and Light Company (DP&L) tendered for filing proposed changes in the rates and the starting date of the power year included in Service Schedule A—Firm Power Service to Piqua to DP&L's Rate Schedule FERC No. 34 for service to the City of Piqua, Ohio under an Interconnection Agreement dated as of May 10, 1972. The proposed changes would increase revenues from service under Schedule A by appoximately $265,436, based on the 12-month period ending December 31, 1983. The DP&L proposes that the rates and charges and terms and conditions of service revised by this filing become effective April 26, 1983; however, in order to make the proposed increases coincide with DP&L's currently pending, general retail rate increase presently anticipated to become effective in late April 1983, DP&L requests that the effectiveness of the increase be suspended until the date the rates established in that decision become effective, if later than April 26, 1983.

A copy of the filing was served upon the City of Piqua, Ohio and mailed to the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 March 24, 1983. 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. 83-6549 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-356-000]

Dayton Power and Light Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 28, 1983, the Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement for partial requirements and/or transmission wheeling service to municpalities for resale (Service Agreement) between DP&L and the City of Tipp City, Ohio.

DP&L states that the proposed Service Agreement permits the City of Tipp City to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous Service Agreement between DP&L and the City of Tipp City under which the City of Tipp City received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests an effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be hear or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 25, 1983. 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. 83-6550 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-347-000]

Detroit Edison Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 24, 1983, Detroit Edison Company (Detroit) tendered for filing FERC Electric Tariff Original Volume No. 1, Sixth Revised Sheet No. 10.

Detroit states that Sixth Revised Sheet No. 10, extends availability of service under the Company's Experimental Interruptible Service Option (Sheet No. 16a, Paragraph 3.5) to the Michigan Municipal Cooperative Power Pool.

Detroit for purposes of this filing only, is also requesting permission to waive the clause from Paragraph 3.5 which precludes customers interconnected with other wholesale suppliers of power from taking service under this provision.

Detroit requests an effective date of December 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 24, 1983. 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. 83-6551 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-354-000]

Holyoke Water Power Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 28, 1983, Holyoke Water Power Company (HWP) tendered for filing a proposed rate schedule, entitled "Water Use Agreement", dated July 30, 1982, between HWP and Linweave, Inc. of Holyoke, Massachusetts.

HWP states that the Water Use Agreement provides for exchanges of electric energy produced by HWP for water entitlements of Linweave, Inc. when such exchanges result in overall economic water utilization. Linweave, Inc. will resell the electricity to Fitchbury Gas & Electric Company. The Water Use Agreement is effective during the period from January 31, 1983, to September 30, 2009 (or until such other time in accordance with Article Five of the Water Use Agreement).

WHP requests an effective date of January 31, 1983, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing were mailed to Linweave, Inc.

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 March 25, 1983. 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. 83-6552 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-348-000]

Kansas Gas and Electric Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 25, 1983, Kansas Gas and Electric Company (KG&E) tendered for filing proposed changes in its FERC Electric Service Tariff No. 131.

KG&E states that the filing is Partial Requirements Service which provides electric power and accompanying energy to be supplied to the City of Neodesha, Kansas in the form of firm, emergency, economy, transmission and reserve capacity service.

KG&E further states that the filing is necessary because the City desires to purchase participation power from outside sources and increases its accessibility to sources of firm power.

KG&E requests an effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Neodesha, Kansas and the Utilities Division of the Kansas 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 March 24, 1983. 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. 83-6553 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-349-000]

Kansas Gas and Electric Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 25, 1983, Kansas Gas and Electric Company (KG&E) tendered for filing proposed changes in its FERC Electric Service Tariff No. 132.

KG&E states that the filing is Partial Requirements Service which provides electric power and accompanying energy to be supplied to the City of Mulvane, Kansas in the form of firm, emergency, economy, transmission and reserve capacity service.

KG&E further states that this filing is necessary because the City desires to purchase participation power from outside sources and increases its accessibility to sources of firm power.

KG&E requests an effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Mulvane, Kansas and the Utilities Division of the Kansas 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 March 24, 1983. 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. 83-6554 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-350-000]

Kansas Gas and Electric Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on February 25, 1983, tendered for filing proposed changes in its FERC Electric Service Tariff No. 146.

KG&E states that the filing is Partial Requirements Service which provides electric power and accompanying energy to be supplied to the City of Winfield, Kansas in the form of firm, emergency, economy, transmission and reserve capacity service.

KG&E further states that this filing is necessary because the City desires to purchase participation power from outside sources and increase its accessibility to sources of firm power.

KG&E requests an effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Winfield, Kansas and the Utilities Division of the Kansas 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 March 24, 1983. 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. 83-6555 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP80-15, Docket No. CS71-0063, Docket No. CS71-0046]

Michigan Wisconsin Pipe Line Co.; Protest and Complaint

Issued: March 9, 1983.

On February 14, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed with the Federal Energy Regulatory Commission (Commission), pursuant to § 157.40(c)(v)(B) of the Commission's regulations, a protest to Ozark-Mahoning Company's (Ozark-Mahoning) and Rip C. Underwood's (Underwood) claims of contractual authority to charge and collect the Commission's prescribed small producer rate, and the maximum lawful price under section 104 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982), for natural gas sold to Michigan Wisconsin by Ozark-Mahoning and Underwood.

Michigan Wisconsin states that on or about February 1, 1965, it entered into a twenty year gas sales contract with Ozark-Mahoning, Underwood, and Phillips Petroleum Company (Phillips), governing the sale of nautral gas produced from, *inter alia*, the Hefley No. 1-A and Lee No. 1-C Wells. The contract provided for a fixed purchased price, with periodic escalations. Michigan Wisconsin began purchasing natural gas produced from the Lee Well in July, 1966, and from the Hefley Well in July, 1976.

On August 28, 1975, the Federal Power Commission issued Opinion No. 742,[1] in which it established a just and reasonable ceiling rate for sales made by small producers.[2] On October 24, 1975, Ozark-Mahoning notified Michigan Wisconsin that it was entitled to collect rates in excess of those due Phillips, which is not a small producer, pursuant to Opinion No. 742. Michigan Wisconsin states that under the February 1, 1965 gas purchase agreement, neither Ozark-Mahoning nor Underwood were entitled to collect the higher rates prescribed by Opinion No. 742, but through a clerical error, it mistakenly increased its payments to these producers to the Opinion No. 742 small producer ceiling rate. Michigan Wisconsin further states that subsequent to the enactment of the NGPA, it inadvertently paid the NGPA section 104 maximum lawful price to both Ozark-Mahoning and Underwood.

Michigan Wisconsin contends that it discovered this error in September, 1981, and promptly informed Ozark-Mahonng and Underwood of such error. Michigan Wisconsin further informed them that in order to recoup such overpayments, plus interest, it would reduce its payments for all current purchases of natural gas from Ozark-Mahoning and Underwood. On November 10, 1982, Ozark-Mahoning and the Estate of Underwood filed a petition in the District Court of Wheeler County, Texas, naming Michigan Wisconsin as a defendant in a breach of contract action. This lawsuit was a result of Michigan Wisconsin's reduction in the price paid for current purchases of natural gas from Ozark-Mahoning and Underwood.

For the reasons set forth above, Michigan Wisconsin requests that the Commission find that Ozark-Mahoning and Underwood were not and are not contractually authorized to collect either the Opinion No. 742 small producer rates, or the maximum lawful prices prescribed by section 104 of the NGPA. Michigan Wisconsin further requests that the Commission find that these producers have erroneously collected rates in excess of those authorized by law, and that Michigan Wisconsin be entitled to recoup such erroneous overpayments with interest.

Any person desiring to participate who is not already a party or participant in this proceeding shall file a petition to intervene, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 15 days after publication of the notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6556 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-352-000]

Niagara Mohawk Power Corp.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on February 25, 1983, tendered for filing as a rate schedule an agreement between Niagara and the Vermont Electric Power Company, Inc., dated February 1, 1983.

Niagara states that the agreement provides for the sale of surplus energy

---

[1] Docket No. R-393, 54 F.P.C. 853 (1975).

[2] Ozark-Mahoning's small producer certificate was issued May 5, 1971 in Docket No. CS71-0063, and Underwood's was issued May 5, 1971 in Docket No. CS71-0046.

as scheduled by Vermont Electric Power Company, Inc.

Niagara requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Vermont Electric Power Company, Inc. and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 March 24, 1983. 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. 83-6557 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-214-000]

Northwest Pipeline Corp., Application

March 9, 1983.

Take notice that on March 2, 1983, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP83-214-000 an application pursuant to Sections 3 and 7(c) of the Natural Gas Act for authorization necessary to implement a deferred exchange of natural gas with Westcoast Transmission Company Limited (Westcoast), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that The Washington Water Power Company (Water Power) has agreed to release to British Columbia Hydro and Power Authority (B.C. Hydro) up to 50,572 Mcf of daily withdrawal capacity and 1,719,466 Mcf of seasonal storage capacity available to Water Power in the Jackson Prairie Storage Project (Jackson Prairie) in Lewis County, Washington. Water Power owns a one-third undivided interest in Jackson Prairie.

In order to facilitate B.C. Hydro's use of Jackson Prairie, Westcoast, B.C. Hydro's sole supplier of natural gas, and Applicant have entered into a deferred exchange agreement (Deferred Exchange). The Deferred Exchange provides that, during the injection period of May through September, Applicant would accept from Westcoast at an existing interconnection of facilities near Sumas, Washington, natural gas which B.C. Hydro has purchased from Westcoast. Applicant would transport such volumes received at Sumas to Jackson Prairie for injection into storage for B.C. Hydro's account. Applicant states that in no event would it be required to transport gas which could not be received into its facilities, injected into Jackson Prairie, or which would exceed B.C. Hydro's maximum storage inventory of 1,719,466 Mcf. During the withdrawal period of October through April, Applicant would redeliver to Westcoast by displacement thermally equivalent volumes withdrawn from Jackson Prairie for B.C. Hydro's account. Applicant's deliveries of gas to Westcoast would be accomplished by Westcoast's withholding from the volumes of gas Westcoast actually delivers to Applicant pursuant to the Fourth Service Agreement dated October 10, 1969, the volume of gas which B.C. Hydro nominates for withdrawal from Jackson Prairie. Applicant states that the maximum daily and seasonal volumes it would transport during the withdrawal period are 50,572 Mcf and 1,719,466 Mcf, respectively. It is asserted that Westcoast is responsible for scheduling of gas deliveries at Sumas for injection at Jackson Prairie and scheduling of gas withdrawals from Jackson Prairie for redelivery at Sumas.

Applicant states that neither it nor Westcoast would charge for the exchange of natural gas. The Deferred Exchange would be in effect for a five-year period commencing on May 1, 1983, and continuing until April 30, 1988, and thereafter on a year-to-year basis.

Applicant states that it does not propose to import or export natural gas by reason of this application. It is asserted that this proposal has been structured specifically to preclude any expansion or extension of existing authorized imports or exports by all parties.

Applicant states that in order to effectuate the instant proposal, Applicant and Water Power have entered into a gas transportation agreement which provides that Applicant would transport during the injection period natural gas delivered to it by Westcoast to Jackson Prairie for Water Power for the account of B.C. Hydro and transport during the withdrawal period volumes of natural gas withdrawn from Jackson Prairie for delivery to Westcoast for Water Power for B.C. Hydro's account. In Docket No. CP83-213-000, on March 2, 1983, Applicant filed an application pursuant to Section 7 of the Natural Gas Act requesting, among other things, authorization to transport gas for Water Power.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirments of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-6558 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-213-000]

Northwest Pipeline Corp.; Application

March 9, 1983.

Take notice that on March 2, 1983, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No.

CP83-213-000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon partially a natural gas service presently rendered to The Washington, Water Power Company (Water Power) and for a certificate of public convenience and necessity authorizing the transportation of natural gas for Water Power, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests Commission permission and approval to abandon the sale and delivery to Water Power of a daily volume of 50,572 Mcf and a seasonal volume of 1,719,466 Mcf of natural gas which Applicant is presently authorized to render pursuant to Applicants Rate Schedule SGS-1. Applicant further requests a certificate of public convenience and necessity authorizing the transportation of up to 1,719,466 Mcf for Water Power from a point of interconnection between the facilities of Westcoast Transmission Company Limited (Westcoast) and Applicant near Sumas, Washington, to the Jackson Prairie Storage Project (Jackson Prairie) located in Lewis, County, Washington, during the months of May through September, and the transportation of up to 50,572 Mcf of natural gas per day from Jackson Prairie to Sumas during the months of October through the next succeeding April, up to a total of 1,719,466 Mcf.

Jackson Prairie is owned in equal and individed interests by Applicant, Water Power, and Washington Natural Gas Company (Washington Natural) with Washington Natural designated as the project operator. The presently authorized levels of storage at Jackson Prairie are as follows:

	Million cubic feet
Seasonal working gas	12,800,000
Cushion gas	19,450,000
Total storage gas	32,250,000
Firm daily delivery rate	325,000
Daily best efforts rate	71,800

Water Power is contractually allocated 100,000 Mcf on firm daily deliverability and 3,600,000 Mcf of seasonal capacity. The daily and seasonal volumes of 100,000 Mcf and 3,600,000 Mcf, respectively, are those volumes which Applicant is authorized to sell and deliver to Water Power pursuant to Rate Schedule SGS-1.

It is asserted that Water Power does not require, at the present time, the daily and seasonal volumes allocated to Water Power at Jackson Prairie. Therefore, Water Power has elected to release a portion of its Jackson Prairie storage volumes to British Columbia Hydro and Power Authority (B.C. Hydro). It is asserted that Water Power has entered into a storage release agreement (Storage Release) with B.C. Hydro providing for Water Power to release to B.C. Hydro 50,572 Mcf of daily deliverability and 1,719,466 Mcf of seasonal capacity. The Storage Release provides for a five-year initial term. It is said that the Storage Release would enable B.C. Hydro to use Jackson Prairie in order to serve the heating season requirements of its customers and would enable Water Power to reduce its costs incurred in maintaining storage capacity at Jackson Prairie.

Applicant states it is required to reduce its obligation to sell and deliver natural gas to Water Power pursuant to Rate Schedule SGS-1 by the same volumes of Jackson Prairie storage capacity that Water Power will release to B.C. Hydro.

It is asserted that in order to effectuate the Storage Release, B.C. Hydro has entered into an agreement with Westcoast providing for Westcoast to deliver during the injection period natural gas to Northwest in accordance with a deferred exchange agreement (Exchange Agreement) and B.C. Hydro would pay Westcoast for such gas delivered to Applicant for injection into storage.[1] During the withdrawal period, Applicant would deliver equivalent volumes by displacement to Westcoast for redelivery to B.C. Hydro.

Applicant states that in order to effectuate delivery of gas which B.C. Hydro nominates for injection and withdrawal, Applicant and Water Power have entered into a gas transportation agreement (Transportation Agreement). Pursuant to the Transportation Agreement, Applicant would transport during the injection period up to 1,719,466 Mcf of natural gas seasonally from Sumas to Jackson Prairie for Water Power for the account of B.C. Hydro. Pursuant to the Transportation Agreement and Exchange Agreement, Applicant would transport by displacement for Water Power for B.C. Hydro's account, gas withdraw from Jackson Prairie and redeliver equivalent volumes to Westcoast at Sumas. The volumes delievered to Westcoast would be limited to 50,572 Mcf per day and 1,719,466 Mcf seasonally.

In consideration for the transportation service, Water Power would pay Applicant a transportation charge for all volumes transported from Sumas to Jackson Prairie and all volumes transported from Jackson Prairie to Sumas; a compressor fuel charge for all volumes transported notwithstanding direction; and a compressor fuel charge for all volumes injected and withdrawn from Jackson Prairie.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1983, 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 interve in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6559 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[1] In Docket No. CP83-214-000, on March 2, 1983, Applicant filed an application pursuant to Sections 3 and 7 of the Natural Gas Act requesting authorization of a deferred exchange of natural gas with Westcoast.

[Docket No. ER83-353-000]

Pacific Gas and Electric Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PG and E) on February 28, 1982, tendered for filing pursuant to 18 CFR 35.13(a)(2) (i) and (ii) proposed rate changes in its Contract No. 14–06–200–2948A (Contract) with the Western Area Power Administration (WAPA), on file with this Commission as FPC Electric Tariff Volume No. 4. PG and E is filing an increase in meter rental and meter reading charges to WAPA under Article 28(b) of the contract. The proposed change increases the meter charges to WAPA by approximately $51,600 a year. PG and E is also filing the formulation to be used to develop service charges under Articles 22(c)(1)(i) and 22(c)(2)(ii).

PG and E requests waiver of the Commission's notice requirements in order to comport with effective dates previously agreed upon by the parties.

PG and E states the rate increase and formulation clarifications are necessary due to increased operating costs incurred in providing the services required by the Contract articles, and to enable the parties to implement transactions under the Contract articles.

Copies of the filing were served upon the Western Area Power Administration, and the California 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 March 24, 1983. 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. 83-6560 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI64-26-000 and RP74-41, et al.]

Texas Eastern Transmission Corporation, et al.; Filing of Pipeline Refund Reports and Refund Plans

March 9, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 24, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
5/24/82	Texas Eastern Transmission Corp.	CI64-26-000 and RP74-41.	Report.
1/20/83	Algonquin Gas Transmission Co.	RP81-80-007.	Plan.
2/16/83	Eastern Shore Natural Gas Co.	RP72-134-028.	Report.
2/16/83	United Gas Pipe Line Co.	RP82-57-008.	Report.
2/16/83	Natural Gas Pipe Line Co. of America.	RP77-98-015.	Report.
2/22/83	Alabama-Tennessee Natural Gas Co.	RP71-7-001.	Report.
2/22/83	Montana-Dakota Utilities Co.	RP81-71-003.	Report.

[FR Doc. 83-6561 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-355-000]

Western Massachusetts Electric Co.; Filing

March 9, 1983.

The filing Company submits the following:

Take notice that on February 28, 1983, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with respect to gas turbine units located at Doreen and Woodland Road Substations (Purchase Agreement) dated December 1, 1982 between WMECO and Vermont Electric Generation Transmission Cooperative, Inc., (VEG&T).

WMECO states that the Purchase Agreement provides for a sale to VEG&T of specified percentages of capacity and associated energy from two gas turbine generating units during the period from December 1, 1982 to October 31, 1985, together with related transmission service.

WMECO further states that the Capacity Charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto, of the Purchase Agreement. The Transmission Charge rate is the annual average cost of transmission service on the transmission systems of the Northeast Utilities (NU) Companies at the time that the sale was made, and was determined in accordance with Appendix E and Exhibits thereto of the Purchase Agreement. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate divided by twelve ($/KW-month), and (ii) the number of kilowatts of winter capability which VEG&T is entitled to receive during each month. The Variable Maintenance Charge is derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge, based on gas turbine manufacturer's recommendations.

WMECO requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to VEG&T, Johnson, Vermont.

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 March 25, 1983. 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. 83-6562 Filed 3-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM79-34; and ST83-169]

Transportation Certificates for Natural Gas Displacement of Fuel Oil; Tennessee Gas Pipeline Co.; Notice of Self-Implementing Transactions

March 10, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the

following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to Section 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" Indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284, subpart	Expiration date[2]	Transportation rate (cents per million Btu)
ST83-169	Tennessee Gas Pipeline Co	Florida Gas Transmission Co	1/3/83	G		
ST83-170	Tennessee Gas Pipeline Co	Florida Gas Transmission Co	1/3/83	G		
ST83-171	Overthrust Pipeline Co	Tennessee Gas Pipeline Co	1/3/83	G		
ST83-172	Northern Natural Gas Co	Transcontinental Gas Pipe Line Corp	1/3/83	G		
ST83-173	Sugar Bowl Gas Corp	West Lake Arthur Corp	1/4/83	C		
ST83-174	Tennessee Gas Pipeline Co	West Lake Arthur Corp	1/4/83	G		
ST83-175	Texas Eastern Transmission Corp	Tennessee Gas Pipeline Co	1/5/83	G		
ST83-176	Natural Gas Pipeline Co. of America	Northern Gas Co	1/5/83	B		
ST83-177	Panhandle Eastern Pipeline Co	United Gas Pipe Line Co	1/6/83	G		
ST83-178	Panhandle Eastern Pipeline Co	Kansas-Nebraska Natural Gas Co	1/6/83	G		
ST83-179	Northern Natural Gas Co	Tengasco Gas Gathering Co	1/6/83	B		
ST83-180	Norhtern Natural Gas Co	Michigan Wisconsin Pipe Line Co	1/6/83	G		
ST83-181	Michigan Wisconsin Pipe Line Co	United Gas Pipeline Co	1/6/83	G		
ST83-182	Michigan Wisconsin Pipe Line Co	Northern Indiana Public Service Co	1/6/83	B		
ST83-183	Michigan Wisconsin Pipe Line Co	Tennessee Gas Pipeline Co	1/6/83	G		
ST83-184	Trailblazer Pipeline Co	Tennessee Gas Pipeline Co	1/6/83	G		
ST83-185	Trunkline Gas Co	Southern Natural Gas Co	1/6/83	G		
ST83-186	Midwestern Gas Transmission Co	Cajun Natural Gas Co	1/7/83	B		
ST83-187	Tennessee Gas Pipeline Co	Consolidated Gas Supply Corp	1/7/83	G		
ST83-188	Tennessee Gas Pipeline Co	Bridgeline Gas Distribution Co	1/7/83	B		
ST83-189	Sugar Bowl Gas Corp	Bridgeline Gas Distribution Co	1/7/83	C		
ST83-190	Wyoming Interstate Co., Inc	Tennessee Gas Pipeline Co	1/7/83	G		
ST83-191	Columbia Gulf Transmission Co	United Gas Pipe Line Co	1/7/83	G		
ST83-192	Transcontinental Gas Pipe Line Corp	Florida Gas Transmission Co	1/10/83	G		
ST83-193	Transcontinental Gas Pipe Line Corp	Sugar Bowl Gas Corp	1/10/83	B		
ST83-194	Natural Gas Pipeline Co. of America	Columbia Gas Transmission Corp	1/10/83	G		
ST83-195	Kansas-Nebraska Natural Gas Co	Northern Gas Co	1/10/83	B		
ST83-196	Northern Natural Gas Co	Tennessee Gas Pipeline Co	1/10/83	G		
ST83-197	Northern Natural Gas Co	United Gas Pipe Line Co	1/10/83	G		
ST83-198	Panhandle Eastern Pipeline Co	Producer's Gas Co	1/10/83	B		
ST83-199	Columbia Gulf Transmission Co	Louisiana Intrastate Gas Corp	1/10/83	B		
ST83-200	Houston Pipeline Co	El Paso Natural Gas Co	1/11/83	C		
ST83-201	Oasis Pipeline Co	El Paso Natural Gas Co	1/11/83	C		
ST83-202	Consolidated Gas Supply Corp	Brooklyn Union Gas Co	1/12/83	B		
ST83-203	Transcontinental Gas Pipe Line Corp	Trunkline Gas Co	1/12/83	G		
ST83-204	Transcontinental Gas Pipe Line Corp	Tennessee Gas Pipeline Co	12/27/82	G		
ST83-205	Northern Natural Gas Co	Tennessee Gas Transmission Co	1/13/83	G		
ST83-206	United Gas Pipe Line Co	Dow Intrastate Gas Co	1/14/83	B		
ST83-207	Southern Natural Gas Co	Howell Pipeline Co	1/18/83	B		
ST83-208	Hydrocarbon Ltd	United Gas Pipe Line Co	1/18/83	C		
ST83-209	Producer's Gas Co	Florida Gas Transmission Co	1/18/83	D		
ST83-210	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	1/18/83	G		
ST83-211	Tennessee Gas Pipeline Co	Northern Utilities, Inc	1/18/83	B		
ST83-212	United Gas Pipe Line Co	City of Milton, Florida	1/19/83	B		
ST83-213	Transcontinental Gas Pipe Line Corp	Consolidated Edison of New York, Inc	1/20/83	B		
ST83-214	Transcontinental Gas Pipe Line Corp	City of Lawrenceville, Georgia	1/20/83	B		
ST83-215	Trunkline Gas Co	Northern Natural Gas Co	1/20/83	G		
ST83-216	Sabine Pipeline Co	Bridgeline Gas Distribution Co	1/20/83	B		
ST83-217	Michigan Consolidated Gas Co	Michigan Wisconsin Pipe Line Co	1/21/83	G		
ST83-218	Columbia Gulf Transmission Co	Sugar Bowl Gas Corp	1/21/83	B		
ST83-219	Riverway Gas Pipeline Co	Entex, Inc	1/24/83	C	6/23/83	25.00
ST83-220	Tennessee Gas Pipeline Co	West Lake Arthur Corp	1/24/83	G		
ST83-221	Tennessee Gas Pipeline Co	United Gas Pipe Line Co	1/24/83	G		
ST83-222	United Gas Pipe Line Co	Sugar Bowl Gas Corp	1/20/83	B		-
ST83-223	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	1/24/83	B		
ST83-224	Granite State Gas Transmission, Inc	Northern Utilities, Inc	1/25/83	B		
ST83-225	Louisiana Intrastate Gas Corp	Florida Gas Transmission Co	1/25/83	C	6/24/83	20.00
ST83-226	Granite State Gas Transmission, Inc	Northern Utilities, Inc	1/25/83	B		
ST83-227	Michigan Wisconsin Pipe Line Co	Florida Gas Transmission Co	1/26/83	G		
ST83-228	Michigan Wisconsin Pipe Line Co	Northern Indiana Public Service Co	1/26/83	B		
ST83-229	Sea Robin Pipeline Co	United Gas Pipe Line Co	1/26/83	G		
ST83-230	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	1/27/83	B		
ST83-231	El Paso Natural Gas Co	Westar Transmission Co	1/28/83	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284, subpart	Expiration date[2]	Transportation rate (cents per million Btu)
ST83-232	Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	1/28/83	G		
ST83-233	Northern Natural Gas Co	Intratex Gas Co	1/31/83	B		
ST83-234	Tennessee Gas Pipe Line Co	Transcontinental Gas Pipeline Corp	1/31/83	G		
ST83-235	Texas Gas Transmission Corp	LGS Intrastate, Inc	1/31/83	B		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the commission's regulations.
[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to § 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-6857 Filed 3-14-83; 8:45 am]
BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-183; File No. BPH-810611AG et al.]

Raymond F. Akin, et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Raymond F. Akin, New Albany, Mississippi, Req. 106.3 MHz, Channel 292A, 3 kW (H&V), 300 feet, MM Docket No. 83-183, File No. BPH-810611AG; Ebony Broadcasting Company, New Albany, Mississippi, Req. 106.3 MHz, Channel 292A, 3 kW (H&V), 300 feet, MM Docket No. 83-184, File No. BPH-811125AH; Dan F. Sanders, Charles Tubb, Ray Toney and Michael S. Whitehead d.b.a. Mississippi Multimedia Association, New Albany, Mississippi, Req. 106.3 MHz, Channel 292A, 3 kW (H&V), 300 feet, MM Docket No. 83-185, File No. BPH-811130AZ; WTUP Broadcasting Corporation, New Albany, Mississippi, Req. 106.3 MHz, Channel 292A, 3 kW (H&V), 300 feet, MM Docket No. 83-186, File No. BPH-811130BC; for construction permit for a new FM station.

Hearing Designation Order

Adopted: February 28, 1983.
Released: March 8, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Raymond F. Akin (Akin), Ebony Broadcasting Company (Ebony), Dan F. Sanders, Charles Tubb, Ray Toney and Michael S. Whitehead d.b.a. Mississippi Multimedia Association (MMA) and WTUP Broadcasting Corporation (WTUP).

2. *Akin.* The engineering data that Akin provided does not clearly demonstrate that he provides a 3.16 mV/m signal to the entire city of New Albany, as required by § 73.315(a) of the Commission's Rules. Neither has Akin requested a waiver of this provision. Accordingly, an appropriate issue will be specified.

3. Since no determination has been reached that the antenna proposed by Akin would not constitute a menace to air navigation, an issue regarding this matter is required.

4. *Ebony.* To finance its proposal, Ebony relies principally on a prospective bank loan of $250,000. The letter from the Bank of Mississippi, however, appears to be an offer to negotiate a loan rather than a commitment by the bank to make that amount of money available. Therefore the material submitted in Ebony's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Ebony will be given 30 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If Ebony cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

5. *WTUP.* WTUP has not submitted an adequate description, in narrative form, of the planned programming service relating to the issues of public concern facing its proposed service area. See *Deregulation of Radio*, 84 FCC 2d 968, 999 (1981). An amendment is required to be filed with the presiding Administrative Law Judge.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Akin's proposal would provide coverage of the city sought to be served, as required by § 73.315 of the Commission's Rules and, if not, whether circumstances exist which warrant a waiver of that Section.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Akin would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

10. It is further ordered, That Ebony shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the presiding Administrative Law Judge that the certification cannot be made, as may be appropriate, within 30 days of the release of this Order.

11. It is further ordered, That WTUP shall file an amendment with the presiding Administration Law Judge outlining its proposed programming service relating to the issues of public concern facing its proposed service area,

within 30 days of the release of this Order.

12. It is further ordered, That the Petition for Leave to Amend, filed by MMA, is granted and the accompanying amendment is accepted.

13. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-6642 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-181, File No. BPH-811127AD; and MM Docket No. 83-182, File No. BPH-820623AG]

Kenneth W. Diebel and Marie Del Rio d/b/a/ Delta Communications, Ltd., And John T. Hunt; Designating Applications for Consolidated Hearing on Stated Issues

In re application of Kenneth W. Diebel & Marie Del Rio d.b.a. Delta Communications, Ltd., Rayville, Louisana, Req: 92.1 MHz, Channel 221A 3 Kw (H & v), 279 feet, MM Docket No. 83-181, File No. BPH-811127AD; John T. Hunt, Rayville, Louisana, Req: 92.1 MHz, Channel 221A, 3 kW (H&V), 300 feet, MM Docket No. 83-182, File No. BPH-820623AG; for construction permit for a new FM station.

Hearing Designation Order

Adopted: February 28, 1983.

Released: March 7, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Kenneth W. Diebel and Marie Del Rio d.b.a. Delta Communications, Ltd. (Delta) and John T. Hunt (Hunt).

2. *Hunt.* Hunt has not submitted an adequate description in narrative form of the programming service relating to the issues of public concern facing his proposed service area. See Question 1, Section IV, FCC Form 301 (1982). Accordingly, it will be necessary for the applicant to file an amendment with the presiding Administrative Law Judge.

3. Hunt did not give the area (sq. mi.) and the population within his proposed 1 mV/m contour as called for by Section V-B. Therefore, he will be required to submit an amendment to the presiding Administrative Law Judge. In the event there appears to be a significant difference in the size of the areas and populations which would receive service from the proposals, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue of the purpose of determining whether a comparative preference should accrue to either of the applicants.

4. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutally exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. Too determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications, if either, should be granted.

6. It is further ordered, That Hunt shall file an amendment with the presiding Administrative Law Judge describing in narrative form his proposed programming service relating to the issues of public concern facing his proposed service area, within 30 days of the release of this Order.

7. It is further ordered, That Hunt shall file an amendment with the presiding Administrative Law Judge giving the area and population within his proposed 1mV/m contour, as called for by Section V-B of the application form, with 30 days of the release of this Order.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.359(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 6643 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-178, File No. BPH - 810819AB, et al.]

KMAP, Inc., et al. Designating Applications for Consolidated Hearing on Stated Issues

In re applications of KMAP, INC., Oildale, California, Req: 95.3 MHz, Channel 237A, .85 kW (H&V), 583 feet, MM Docket No. 83-178, File No. BPH-810819AB; Steven Rodriquez Macias, Oildale, California, Req: 95.3 MHz, Channel 237A, 3 kW (H&V), 300 feet, MM Docket No. 83-179, File No. BPH-811210AG; Kenneth B. Orchard and Robert F. Turner dba, KB Enterprises, Oildale, California, Req: 95.3 MHz, Channel 237A, 2.5 kW (H&V), 320 feet, MM Docket No. 83-180, file No. BPH-820304AG; for construction permit for a new FM Station.

Hearing Designation Order

Adopted: February 23, 1983.

Released: March 7, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by KMAP, Inc. (KMAP), Steven Rodriquez Macias (Macias), and Kenneth B. Orchard and Robert F. Turner dba KB Enterprises.

2. *KMAP.* By means of *Public Notice* 40542, FCC 76–438, the Commission promulgated an interim policy with respect to effective radiated power and antenna height. In accordance with that policy, the proposed 60 dBu contour must not exceed 14.5 miles. The facility proposed by KMAP, Inc. would have an ERP of 850 watts and an HAAT of 583 feet. Its 60 dBu contour would extend 14.6 miles; thus, it would violate the above/stated policy. To place its application in condition suitable for comparative hearing, KMAP, Inc. will be required to file with the presiding Administrative Law Judge, within 30 days of the release of this Order, an amendment specifying a maximum ERP of 830 watts for an HAAT of 583 feet.

3. *Macias.* Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Mr. Macias has published the required notice. To remedy this deficiency, he must publish the local notice, if he has not already done so, within 30 days of the release of this Order and so inform the presiding Administrative Law Judge.

4. Since no determination has been reached that the antenna proposed by Macias would not constitute a menace to air navigation, an issue regarding this matter is required.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Steven Rodriquez Macias would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That KMAP, Inc. file with the presiding Administrative Law Judge, within 30 days of the release of this Order, an amended Section V specifying a maximum ERP of 830 watts.

8. It is further ordered, That Steven Rodriquez Macias shall inform the presiding Administrative Law Judge, within 30 days of the release of this Order, that he has complied with the public notice requirements of § 73.3580 of the Commission's Rules.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83-6640 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-140; File No. BPCT-820707KE, et al.]

Metro Broadcasting, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Metro Broadcasting, Inc., Orlando, Florida, MM Docket No. 83–140, File No. BPCT–820707KE; Harry D. Calhoun et al. d/b/a Orlando Family Television, Ltd., Orlando, Florida, MM Docket No. 83–141, File No. BPCT–820907KK; Rainbow Broadcasting Company, Orlando, Florida, MM Docket No. 83–142, File No. BPCT–820909KF; Winter Park Communications, Winter Park, Florida, MM Docket No. 83–143, File No. BPCT–820909KV; for construction permit.

Hearing Designation Order

Adopted: February; 25, 1983.
Released: March 9, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, action pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Metro Broadcasting, Inc. (Metro), Orlando Family Television, Ltd. (OFT),[1] Rainbow Broadcasting Company (Rainbow) and Winter Park Communications (WPC) for authority to construct a new commercial television station on Channel 65, Orlando, Florida.[2]

2. WPC specifies Winter Park as its community of license, while the others propose Orlando. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of broadcast service, since these proposals would serve substantial areas in common, however, in addition to the Section 307(b) issue, a contingent comparative issue will also be specified.

3. Since we have not received a final determination from the Federal Aviation Administration that any of the applicants' proposed tower heights and locations would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

4. Metro and WPC each proposes to side-mount its antenna near the top of the tower of television station WMOD (formerly WKNA), Melbourne, Florida. They specify the overall height above ground level as 1,451 feet. On July 8, 1982, however, the Commission granted WMOD's application to lower the tower height from 1,451 feet to 1,005 feet (AGL). Since the change will affect much of the data required by Section V–G, FCC Form 301 (e.g., antenna height above average terrain, height of antenna radiation center, predicted contours, etc.), the applicants will be required to submit new engineering data, as a *minor* amendment, to the Administrative Law Judge within 30 days of the date of release of this Order.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated

[1] Although the deadline for filing pre-designation amendments as a matter of right was November 5, 1982, on November 8 OFT amended its application to reflect changes in the broadcast interests of its principals. Inasmuch as the information is required by § 1.65 of the Commission's Rules the amendment is accepted for filing.

[2] Channel 65 is allocated to Orlando, Florida. Winter Park in located within 15 miles of Orlando. Accordingly, under § 73.607 of the Commission's Rules, Channel 65 is available for use in Winter Park.

proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of broadcast service.

4. In the event it is concluded from Issue 3, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with regard to Issue 1.

8. It is further ordered, That, within 30 days of the release of this Order, Metro Broadcasting, Inc. and Winter Park Communications shall each file with the administrative Law Judge an appropriate engineering minor amendment in accordance with Paragraph 4, *supra*.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-6641 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-158, File No. BPH-810722AA, et. al.]

Santee Cooper Broadcasting Co. of Hilton Head, Inc., et. al.; Designating Applications for Consolidated for Hearing on Stated Issues

In re applications of Santee Cooper Boardcasting Company of Hilton Head, Inc., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 290 feet, MM Docket No. 83-158, File No. BPH-810722AA; Suncoast Television, Inc., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288 3 kW (H&V), 284 feet, MM Docket No. 83-159, File No. BPH-811028AI; Ocean Broadcasting, Inc., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 275 feet, MM Docket No. 83-160, File No. BPH-820128AQ; Women's Broadcasting Coalition, Inc., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 298 feet, MM Docket No. 83-161, File No. BPH-820128AT; Heritage Broadcasting Corporation, Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 KW (H&V), 312 feet, MM Docket No. 83-162, File No. BPH-820129AJ; Island Communications, Inc., Hiltion Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 300 feet, MM Docket No. 83-163, File No. BPH-820129AQ; Jesse N. Williams, Jr., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 KW (H&V), 300 feet, MM Docket No. 83-164, File No. BPH-820129AR; Tradewinds Broadcasting, Ltd., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 KW (H&V), 300 feet, MM Docket No. 83-165, File No. BPH-820129AS; Port Royal Broadcasting, Inc., Bluffton, South Carolina, Req: 105.5 MHz, Channel 288 3kW (H&V) 300 feet, MM Docket No. 83-166, File No. BPH-820129AT; Plantation Broadcasting Corporation, Bluffton, South Carolina, Req: 105.5 Channel 288, 3 kW (H&V), 300 feet, MM Docket No. 83-167, File No. BPH-820129AW; Tantamount Communications Company, Ltd., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 286 feet, MM Docket No. 83-168, File No. BPH-820129BA; WBSL, Inc., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 296 feet, MM Docket No. 83-169, File No. BPH-820129BC; Constance J. Wodlinger, Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 285 feet, MM Docket No. 83-170 File No. BPH-820129BD; Suncoast Radio-South Carolina Corp., Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 300 feet, MM Docket No. 83-171 File No. BPH-820129BL; Charles A. Brooks, Hilton Head Island, South Carolina, Req: 105.5 MHz, Channel 288, 3 kW (H&V), 280 feet, MM Docket No. 83-172 File No. BPH-820129BS; Reginald, Taylor and G. Troy Mattox D/B/A Calibogue Sound, Hilton Head Island, South Carolina, Req:, 105.5 MHz, Channel 288, 3 KW (H&V), 300 feet, MM Docket No. 83-173 File No. BPH-820128BT; for construction permit for a new FM Station.

Hearing Designation Order

Adopted: February 22, 1983.

Released: March 8, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority has under consideration: (i) The above-captioned mutually exclusive applications;[1] (ii) a petition by Women's Broadcasting Coalition, Inc. (WBC) to dismiss application of Port Royal Broadcasting, Inc. (Port Royal); (iii) a petition by WBC to dismiss application of Calibogue Sound (Calibogue); and (iv) related pleadings.

2. The engineering portion of the Suncoast Radio-South Carolina Corp. application, as amended, indicates that the proposed 3.16 mV/m contour covers all of Hilton Head Island except for an area amounting to .3 percent of the island containing 32 homes. Thus, substantial compliance with the community coverage required of § 73.315(a) has been achieved and no issue with respect thereto will be specified.

3. Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Suncoast

[1] Some applicants have specified Hilton Head as the proposed community of license, while others have specified Hilton Head Island. Since the channel is assigned to Hilton Head Island, and unicorporated resort island within Beaufort County, and since the names appear to be used interchangeably, we will consider all the applicants, except those for Bluffton, as proposing to serve Hilton Head island. Accordingly, the caption reflects this fact.

Television, and Calibogue Sound published the required notice. To remedy this deficiency, they must publish local notice if they have not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

4. The material submitted in the applications of Tradewinds Broadcasting, Ltd.; Port Royal; and Charles A. Brooks does not demonstrate their financial qualifications.[2] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicants will be given 30 days from the date of the release of this order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to their financial qualifications. If the applicants cannot make the required certification they shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

5. From the evidence before us, WBC has filed with the Commission the local notice statement described in § 73.3580 of the Rules, but it was not published for three consecutive weeks. To remedy this deficiency, WBC will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge within 30 days of the release of this Order.

6. There is an apparent discrepancy in the data provided by Suncoast Television, Heritage Broadcasting, Tantamount Communications, and WBSL describing their proposed antenna site. Each of the applicants indicate that their antenna will be mounted on an existing tower now used by station WHHR, Hilton Head Island, however, the site location and the height of the ground level above mean sea level differ slightly from the information contained in the WHHR file. The applicants should provide information resolving this descrepancy, and so inform the presiding Administrative Law Judge.

7. Since no determination has been reached that the antennas proposed by Santee Cooper Broadcasting Company and WBC would not constitute a menace to air navigation, an issue regarding this matter is required.

8. *Other matters.* The WBC petition to dismiss Port Royal's application is based on §§ 73.3514 and 73.3566 of the Commission's Rules.[3] The petition specifically notes that: (i) Port Royal failed to provide a planned programming service statement, (ii) questions in the engineering section were unanswered without explanation, and (iii) the signature of Port Royal's consulting engineer was omitted. By an amendment dated February 1, 1982, Port Royal filed an engineering study, signed by its consulting engineer and completed in accordance with the Commission's revisions to FCC Form 301. Since this amendment was timely filed before the April 30, 1982 "B" cut-off date for amendments as a matter of right, it is acceptable and the issue WBC seeks to raise concerning the incompleteness of Port Royal's engineering section is moot. By an amendment dated May 26, 1982, Port Royal submitted an amendment which contained its planned programming service narrative. Question 1 of Section IV requires the applicant to "submit a brief description, in narrative form, of the planned programming service relating to the issues of public concern facing the proposed service area." Contrary to WBC's assertion, failure to provide the planned programming service narrative is not an omission that renders Port Royal's application substantially incomplete. However, the statement provided by Port Royal is not responsive to Question 1 of Section IV. Port Royal will be required to file with the presiding Administrative Law Judge a further statement regarding its planned programming service that fulfills the guidelines of Question 1 of Section IV. Accordingly, the petition to dismiss the application of Port Royal by WBC is granted to the extent indicated herein, and denied in all other respects.

9. The WBC petition to dismiss Calibogue's application is based upon the substantial incompleteness of the application in that: (i) The Section I certification had not been signed by the applicant, (ii) the engineering sections had not been signed by the applicant's consulting engineer, and (iii) the Partnership Agreement was unsigned. WBC claims that the absence of the appropriate signatures further violates §§ 73.3514 and 73.3566 of the Rules. In the application before us, the appropriate signatures are present in the Section I certification and engineering section of the Calibogue application. Furthermore, the Commission no longer requires applicants to submit the partnership agreement. *Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301), 50 RR 2d 381 (1981).* Accordingly, the petition to dismiss the applicaton of Calibogue by WBC is denied.

10. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1mV/m or greater in the case of FM) from the proposals and the availability of other primary service to such areas and populations.

2. To determine whether there is a reasonably possibility that the tower height and location proposed by Santee Cooper Broadcasting Company, and WBC would constitute a hazard to air navigation.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on

[2] Tradewinds and Port Royal failed to supply the necessary documentation required to demonstrate the availability of their respective bank loans. Charles Brooks' balance sheet contained insufficient current liquid assets. Also, Mr. Brooks failed to supply the necessary documentation required to demonstrate his loan's availability.

[3] Sections 73.3514 and 73.3566 state respectively, that "all information called for by the particular form * * * is required to be filed" and that applications which are "patently not in accordance with FCC rules * * * will be considered defective and * * * if inadvertently accepted for filing will be dismissed * * *.

a comparative basis, best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That Suncoast Television, WBC and Reginald Taylor and G. Troy Mattox d/b/a Calibogue Sound shall, within 30 days of the release of this Order, file a statement with the presiding Administrative Law Judge showing compliance with the public requirements of § 73.3580 of the Commission's Rules.

14. It is further ordered, That Tradewinds Broadcasting, Ltd., Port Royal Broadcasting, Inc. and Charles A. Brooks shall, within 30 days of the release of this Order, submit financial certifications in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

15. It is further ordered, That Suncoast Television, Heritage Broadcasting, Tantamount Communications, and WBSL, Inc. shall, within 30 days of the release of this Order, submit the data describing their antenna sites to the presiding Administrative Law Judge.

16. It is further ordered, That Port Royal shall, within 30 days of the release of this Order, file a statement with the presiding Administrative Law Judge regarding its planned programming service.

17. It is further ordered, That the petition to dismiss the application of Port Royal by WBC is granted to the extent indicated herein, and denied in all other respects.

18. It is further ordered, That the Federal Aviation Administration Is made a party to the proceeding.

19. It is further ordered, That the petition to dismiss the application of Calibogue by WBC is denied.

20. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

21. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-6644 Filed 3-14-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[License No. 2448]

Independent Ocean Freight Forwarder; International Cargo Network; Order of Revocation

On February 10, 1983, International Cargo Network, 8579 N.W. 54th Street, Miami, FL 33166 surrendered its Independent Ocean Freight Forwarder License No. 2448 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2448 issued to International Cargo Network be revoked effective February 10, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon International Cargo Network.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-6649 Filed 3-14-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 1798]

Independent Ocean Freight Forwarder; M & A Cargo Services Inc.; Order of Revocation

On February 10, 1983, M & A Cargo Services Inc., 8213 N.W. 74th Avenue, Miami, FL 33166 surrendered its Independent Ocean Freight Forwarder License No. 1798 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1798 issued to M & A Cargo Services Inc. be revoked effective February 10, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon M & A Cargo Services Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-6648 Filed 3-14-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2089]

Independent Ocean Freight Forwarder; Savir, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Favir, Inc., P.O. Box 523116, Miami, Florida 33152 was cancelled effective February 9, 1983.

By letter dated January 13, 1983, which was returned by the Post Office marked unclaimed, we attempted to advise Savir, Inc. that Independent Ocean Freight Forwarder License No. 2089 would be automatically revoked unless a valid surety bond was filed with the Commission.

Savir, Inc. failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2089 be and is hereby revoked effective February 9, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2089 issued to Savir, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Savir, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-6646 Filed 3-14-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2296]

Independent Ocean Freight Forwarder; Sea-Wing International, Inc.; Order of Revocation

On March 7, 1983, Sea-Wing International, Inc., 2360 East Devon Avenue, Des Plaines, IL 60018 surrender its Independent Ocean Freight

Forwarder License No. 2296 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), §10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2296 issued to Sea-Wing International Inc. be revoked effective March 7, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Sea-Wing International, Inc.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 83-6647 Filed 3-14-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2053]

Independent Ocean Freight Forwarder, Charles Williams; Order of Revocation

Section 44(c), Shipping Act 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Charles Williams, c/o 343 So. Dearborne Street, Suite 1503, Chicago, IL 60604 was cancelled effective February 9, 1983.

By letter dated January 11, 1983, which was returned by the Post Office marked "returned to sender, moved, left no address," we attempted to advise Charles Williams that Independent Ocean Freight Forwarder License No. 2053 would be automatically revoked unless a valid surety bond was filed with the Commission.

Charles Williams has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2053 be and is hereby revoked effective February 9, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2053 issued to Charles Williams be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Charles Williams.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-6615 Filed 3-14-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barclays Bank PLC, et al.; 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* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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 interests, 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 hearing 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* and its subsidiary, *Barclays Bank International Limited*, London, England (consumer finance and insurance activities; New York): To engage through their subsidiaries, BarclaysAmerican/Financial, Inc. ("BAF") and BarclaysAmerican/Retail Services, Inc. ("BARS"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of a related credit life, credit accident and health, and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BarclaysAmericanCorporation's insurance underwriting subsidiaries. These proposed insurance activities are permissible under Section 601(A) and (D) of the Garn-St. Germain Depository Institutions Act of 1982. These activities would be conducted from an office of BAF and BARS located in Auburn, New York, serving customers on Auburn and surrounding areas in New York. This notification is for the relocation of an existing office located in Seneca Falls, New York. Comments on this application must be received not later than April 6, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Merchants Bancorp, Inc.*, Allentown, Pennsylvania (insurance underwriting activities; Pennsylvania): To engage, through its subsidiary, Merchants Life Insurance Company, Phoenix, Arizona, in action as an underwriter of credit life and accident and health insurance directly related to extensions of credit by Applicant's subsidiary bank, The Merchants Bank of Allentown. These activities would be conducted from an office in Allentown, Pennsylvania, serving the State of Pennsylvania. Comments on this application must be received not later than April 8, 1983.

Board of Governors of the Federal Reserve System, March 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-6542 Filed 3-14-83; 8:45 am]

BILLING CODE 6210-01-M

Ellis Banking Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in

section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Ellis Banking Corporation,* Bradenton, Florida; to acquire 51 percent or more of the voting shares of Dixie County State Bank, Cross City, Florida. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than April 8, 1983.

Board of Governors of the Federal Reserve System, March 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-6540 Filed 3-14-83; 8:45 am]

BILLING CODE 6210-01-M

Sunshine Bankshares Corp., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Sunshine Bankshares Corporation,* Fort Walton Beach, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of Sunshine Bank, Fort Walton Beach, Florida. Comments on this application must be recevied not later than April 6, 1983.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Collier Bancshares Holding Company, Inc.,* McAllen, Texas; to become a bank holding company by acquiring 30.69 percent of the voting shares of Lower Rio Grande Valley Bancshares, Inc., La Feria, Texas, and thereby indirectly acquire shares of The First National Bank of La Feria, La Feria, Texas, Valley National Bank, Harlingen, Texas, and The First National Bank of Mercedes, Mercedes, Texas. Comments on this application must be received not later than April 8, 1983.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Bankshares, Inc.,* St. George, Utah; to become a bank holding company by acquiring 80 percent of the voting shares of Dixie State Bank, St. George, Utah. Comments on this application must be received not later than April 6, 1983.

Board of Governors of the Federal Reserve System, March 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-6541 Filed 3-14-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board's subcommittee on General Organization and Management will meet on March 17, 1983, from 10:00 a.m. to 4:00 p.m., at 26 Federal Plaza, New York, NY 10278. This session will be open to the public and will be devoted to a discussion and review of the Subcommittee's efforts to assist GSA in improving telecommunications and mail management, records management technology, and internal use of office automation.

Less than fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

For further information on room location or other details, contact Roger C. Dierman, Deputy Associate Administrator, on (202) 523-1141.

Charles S. Davis III,

Associate Administrator.

[FR Doc. 83-6621 Filed 3-14-83; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Annual Report; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Public Law 92-463 (5 U.S.C. Appendix I), the calendar year 1982 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress:

Immunization Practices Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. (telephone 202/287-6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. (telephone 202/245-6791).

Dated: March 7, 1983.

Donald R. Hopkins,

Acting Director.

[FR Doc. 83-6664 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 80N-0276; DESI 7630]

Certain Anabolic Steroids; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing

Correction

In FR Doc. 83-1144 beginning on page 2208 in the issue of Tuesday, January 18, 1983, make the following correction:

In the first column of page 2209, the ninth paragraph, the designation "NDA 11-683" should read "NDA 11-638".

BILLING CODE 1505-01-M

Gastroenterology and Urology Device Section of the General Medical Devices Panel; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Gastroenterology and Urology Device Section of the General Medical Devices Panel

Date, time, and place. April 5, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11 a.m.; closed presentation of data, 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 4 p.m.; Norman T. Welford, National Center for Devices and Radiological Health (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

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 Norman T. Welford before March 22, 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 a premarket approval application for a plasmapheresis filter and control system, and the classification of the following devices: Nephrostomy Catheter; Dialyzer Reprocessing System; Thermal Devices for Hemorrhoids; Urological Irrigation System; Penile Tumescence Monitor; External Penile Rigidity Device; Automated Blood Cell Separators for Therapeutic Apheresis.

Closed presentation of data. The company will present trade secret data on a premarket approval application for a plasmapheresis filter and control system. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, howevr, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda item to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes, information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agnecy action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from

public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: March 8, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-6569 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82D-0361]

Defect Action Level for the Adulteration of Apricot, Peach, and Pear Purees by Mold; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of revised FDA Compliance Policy Guide 7110.31 that includes a new defect action level of 12 percent Howard mold count for mold in apricot, peach, and pear purees.

DATE: Comments, data, and information may be submitted for 1 year following publication of this notice in the **Federal Register** or until March 15, 1984.

ADDRESS: Written comments, data, and information on the defect action level and requests for single copies of FDA compliance Policy Guide 7110.31 maybe submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: FDA is revising Compliance Policy Guide 7110.31 to include a defect action level for Howard mold in apricot, peach, and pear purees. That guide had previously contained only an action level for Howard mold in apricot, peach, and pear nectars. This defect action level is based on analytical data obtained from domestic and foreign samples collected in a recent survey from 5 or more retail stores in each of 60 standard metropolitan statistical areas throughout the United States. The samples were collected and analyzed by an independent organization and an independent laboratory under contract to FDA.

From analytical data of 1,100 apricot, peach, and pear puree samples, FDA established a data base for a statistical analysis of the frequency distribution of Howard mold count in the subject purees. From computer simulations using the data available on the 1,100 samples, the agency determined that a defect action level of 5 percent Howard mold count for a six subsample average and a 20 percent Howard mold count for a single subsample would have little or no economic impact on the fruit puree industry.

Earlier FDA had conducted a similar survey for mold defects in apricot, pear, and peach nectars that showed almost the same results as the survey conducted for the purees of these fruits. The agency reported the results of this survey in the notice announcing the defect action level for Howard mold count in apricot, pear, and peach nectars, published in the **Federal Register** of July 31, 1981 (46 FR 39222). In response to that notice, the National Food Processors Association submitted comments and data that persuaded FDA that there might be a larger adverse economic impact on the fruit nector industry that the agency had originally estimated. Based on those arguments, FDA increased the defect action level for fruit nectars from 5 percent to 12 percent Howard mold count (see 47 FR 41206; September 17, 1982).

Because the levels of mold found in the survey of the fruit purees were almost identical to the mold count found in nectars, and because the production and processing problems of these two products are very similar, the agency assumes that the 5 percent action levels would have a simlar economic impact on the puree industry. Accordingly, FDA is establishing under Compliance Policy Guide 7110.31 a defect action level for the purees that conforms to that established for apricot, pear, and peach nectars. FDA will initiate regulatory action when the Howard mold count for six or more subsamples of apricot, peach, or pear purees is 12 percent or above. The agency will not take regulatory action when only one subsample exceeds the action level. The Compliance Policy Guide specifies that FDA personnel will use the modified Association of Official Analytical Chemists (AOAC) method prescribed in the Guide until September 16, 1983. After that date, FDA personnel will follow the AOAC official first action method for Howard mold count of fruit nectars, purees, and pastes. FDA believes that the 12 percent action level is stringent enough to ensure that industry will produce apricot, peach, and pear purees with only trivial and harmless levels of mold.

Background data and information concerning the establishment of this defect action level are on file with the Dockets Management Branch (address above), along with a copy of Compliance Policy Guide 7110.31, and are available in that office for public examination between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of Compliance Policy Guide 7110.31 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch.

In accordance with the revised procedure for establishing and evaluating all new defect action levels (published in the **Federal Register** of Septemeber 21, 1982; 47 FR 41637) this action level will remain in effect for an interim period following publication in the **Federal Register** or notification to the field. During the year following publication of this notice, FDA invites interested persons to submit relevant comments, data, and information showing why this level should be revised. FDA emphasizes that defect action levels will be revised only on the basic of data and information that adequately support such changes. This defect action level will remain in effect until FDA has evaluated all the available data and has published its decision in the **Federal Register.**

Interested person may submit to the Dockets Management Branch (address above) written comments, data, and information regarding this defect action level. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 8, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-6406 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Office of Population Affairs; Announcement of Competitive Grant Applications for General Family Planning Training Projects

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs, Office of Family Planning announces that applications from public and nonprofit private entities are now

being accepted for grant awards under section 1003(a) of the Public Health Service (PHS) Act [42 U.S.C. 300a–1(a)] to provide training for personnel to carry out family planniing service programs described in section 1001 of the PHS Act (42 U.S.C. 300).

DATE: Applications must be postmarked or received by the close of business April 30, 1983.

ADDRESS: Completed applications should be mailed to the following address: Grants Management Office, Office of Population Affairs, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201. Application kits, including all necessary forms, instructions, review criteria, and information relating to the grant application may be obtained upon written request from this Office.

FOR FURTHER INFORMATION CONTACT: Joyce Elmore, Ph.D., R.N. Project Officer, Office of Population Affairs, Office of Family Planning, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201. Telephone number 202/472–7916.

SUPPLEMENTARY INFORMATION: Subject to Congressional action on an appropriation for the family planning program for Fiscal Year 1983, the program anticipates approximately $570,000 will be available for three competitive general family planning training grants. Grants will made to be eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the PHS Act, taking into account the degree to which the project meets the requirements of the regulations (42 CFR 59.205 and 59.206). Applications are invited for the following three grants:

One general training grant for Department of Health and Human Services (DHHS) Region II (New Jersey, New York, Puerto Rico and the Virgin Islands). A funding range of $180,000–$215,000 is under consideration for this grant.

One general training grant for DHHS Region VI (Arkansas, Louisiana, New Mexico, Oklahoma and Texas). A funding range of $190,000–$225,000 is under consideration for this grant.

One general training grant for DHHS Region X (Alaska, Idaho, Oregon and Washington). A funding range of $110,000–$130,000 is under consideration for this grant.

In order to comply with the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to OPA, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which this information is to be submitted. Applicants are advised to contact the appropriate State Clearinghouse (listed at 42 FR 210, January 10, 1977) for detailed informatioin on meeting the A–95 requirements.

It is strongly recommended that applicants contact the Clearinghouses immediately to indicate their intent to apply for a grant. The A–95 applications may be submitted to the Clearinghouses concurrently with the submission to OPA. Clearinghouse comments or verification that no comments were made within the period available may be submitted to OPA no later than June 30, 1983.

(Catalog of Federal Domestic Assistance Number 13.260)

Dated: March 7, 1983.

Marjorie E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83-6708 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-17-M

Office of Population Affairs; Announcement of Competitive Grant Applications for Family Planning Nurse Practitioner Training Projects

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs, Office of Family Planning, announces that applications for awards are now being accepted from public or nonprofit private entities for grant awards under section 1003(a) of the Public Health Service (PHS) Act [42 U.S.C. 300a–1(a)] to provide training for personnel to carry out family planning service programs described in section 1001 of the PHS Act (42 U.S.C. 300), specifically nurse practitioner training.

DATE: Applications must be postmarked or received by the close of business April 30, 1983.

ADDRESS: Completed applications should be mailed to the following address: Grants Management Office, Office of Population Affairs, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201. Application kits, including all necessary forms, instructions, review criteria, and information relating to the grant application may be obtained upon written request from this Office.

FOR FURTHER INFORMATION CONTACT: Joyce Elmore, Ph.D., R.N. Project Officer, Office of Population Affairs, Office of Family Planning, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201. Telephone number 202/472–7916.

SUPPLEMENTARY INFORMATION: Subject to Congressional action on an appropriation for the family planning program for Fiscal Year 1983, the program anticipates approximately $430,000 will be available for three competitive grants for family planning nurse practitioner training. (Examples of other Titles for this training are "Obstetric-gynecologic Nurse Practitioner" training or "Women's Health Care Nurse Practitioner" training). Grants will be made to eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the PHS Act, taking into account the degree to which the project meets the requirements of the regulations (42 CFR 59.205 and § 59.206). Applications are invited for the following three grants:

One Grant for a range of $175,000–215,000 to train nurse practitioners from the following three regions:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont);
Region II (New Jersey, New York, Puerto Rico and the Virgin Islands);
Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia).

One Grant for a range of $100,000–$115,000 to train nurse practitioners from the following region:

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee).

One Grant for a range of $95,000–$110,000 to train nurse practitioners from the following two regions:

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas);
Region VII (Iowa, Kansas, Mississippi, Nebraska).

In order to comply with the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to OPA, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does

not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which this information is to be submitted. Applicants are advised to contact the appropriate State Clearinghouse (listed at 42 FR 210, January 10, 1977) for detailed information on meeting the A-95 requirements.

It is strongly recommended that applicants contact the Clearinghouses immediately to indicate their intent to apply for a grant. The applications may be submitted to the Clearinghouses concurrently with the submission to OPA. Clearinghouse comments or verification that no comments were made within the period available may be submitted to OPA no later than June 30, 1983.

(Catalog of Federal Domestic Assistance Number 13.260)

Dated: March 7, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83-6709 Filed 3-14-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

School Construction Priorities List—FY 1984

February 25, 1983.

This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The school construction priority list has been revised for Fiscal Year 1984 as required by Pub. L. 95-561; 92 Stat. 2319. Section 1125(o) requires that: "At the time any budget request for school construction is presented, the Secretary shall publish in the **Federal Register** and submit with the budget request the current list of all school construction priorities".

This notice for FY 1984 provides the current revised list of proposed construction projects.

Construction of these projects is subject to the availability of funds and/or the status of currently committed construction projects approved by Congress. Committed projects currently are Hopi Junior Senior High School which is being funded in phases and Alamo Navajo School now under design.

These proposed projects are also subject to further review in terms of either replacement or rehabilitation. The source of monies for these proposed projects—Facility Improvement and Repair funds or New Construction funds—will be determined by the magnitude of work to be done.

This current list of school construction projects applies to FY 1984. A revised list is developed and published for each succeeding fiscal year.

BIA, Contract and Previously Private School Construction Ranking—FY 1984

1. Western Cheyenne River Consolidated School, SD
2. Papago High School, AZ
3. Two Eagle River Indian High School, MT
4. Rocky Boys Indian High School, MT
5. Coeur D'Alene Indian School, ID
6. Paschal-Sherman Indian School, WA
7. Lac Courte Oreilles Ojibwa School, WI

Further information regarding this list or the ranking processs may be obtained from the Acting Chief, School Facilities Staff, Bureau of Indian Affairs, P.O. Box 2147, Albuquerque, NM 87103-2147, Telephone: (505) 766-2985.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-6663 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-18542]

Arizona; Notice of Proposed Withdrawal and Reservation of Lands

March 7, 1983.

The U.S. Army Corps of Engineers has filed on behalf of the Department of the Air Force, Application A-18542, for the withdrawal of the following described public land from settlement, sale, location or entry under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Gila and Salt River Meridian, Arizona

T. 1 S., R. 7 E.,
Sec. 33, SE¼.

The area described aggregates 160 acres in Maricopa County, Arizona.

The Department of the Air Force desires that the land be withdrawn and reserved as an integral part of Williams Air Force Base. Improvements situated on this land consist of portions of active runways, clear zone, navigational aids, and perimeter fencing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Arizona State Office, Bureau of Land Management, at the address shown below, on or before June 15, 1983. Notice of public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(d) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2753.

Effective on the date of publication of this notice, the above-described land shall be segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-6661 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-84-M

Butte District, Montana; Grazing Advisory Board Meeting

The Butte District Grazing Advisory Board will meet on Tuesday, April 12, 1983, in the conference room of the Butte District Office at 106 North Parkmont (Industrial Park), Butte, Montana. The meeting will begin at 9:00 a.m.

The agenda for the meeting will include (1) Election of officers; (2) the asset management program; (3) an update on the range improvement expenditures and projects; (4) the Bureau of Land Management-Minerals Management Service merger; and (5) new and existing Allotment Management plans in the Dillon Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: March 7, 1983.

Donald E. Wilson,

Acting District Manager.

[FR Doc. 83-6668 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-84-M

[U-062]

Utah; Change in Commercial and Non-Commercial Recreation Use Fees

March 7, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Change in Commercial and Non-Commercial Recreation Use Fees.

SUMMARY: *Commercial Use* for the 1983 river use season. Fees for commercial river float boating is increased from the present $120.00 per 100 user days to $200.00 per 100 user days on the following areas within the Moab District in Utah:

Green River—Desolation/Gray Canyons
Colorado River—Westwater Canyon
Delores River—Utah State line to confluence with the Colorado River
San Juan River—Bluff, Utah to Clay Hills Crossing

Fees for trips of one day or less duration is $100.00 per 100 user days on the following areas:

Green River—Nefertiti Rapid to Swazey's Rapid
Colorado River—Rose Ranch to Castle Creek
San Juan River—Bluff, Utah to Mexican Hat, Utah

Land based commercial use is increased from $25.00 per 100 user days to $100.00 per 100 user days.

Non-Commercial Use

Fees for non-commercial permits are established in the following special recreation management areas:

Green River—Desolation Canyon $5.00 per person per trip
Colorado River—Westwater Canyon $1.50 per person per trip
San Juan River—Sand Island to Mexican Hat $1.50 per person per trip; Mexican Hat to Clay Hills Crossing $3.00 per person per trip; Sand Island to Clay Hills Crossing $5.00 per person per trip

Noncommercial permit fees are nonrefundable and must be paid prior to permit issuance.

The above fees are based on this administrations policy of users paying a greater share of costs associated with management, permits, and monitoring associated with special recreation use permits. This fee schedule will remain in effect through 1983.

DATE: Effective Date: February 1, 1983.

ADDRESS: District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Gene Nodine, Moab District Manager.

SUPPLEMENTAL INFORMATION: Recreation use fees for land based commercial use has remained at the 1982 level for 10 years or more. Fees for non-commercial permits in special recreation management areas have not been required prior to this action.

Delano Backus,

Chief of Resources, Acting District Manager.

[FR Doc. 83-6669 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1562; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H., Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1 G), and Secretarial Order 3071, the following described lands are hereby deleted from the Socorro Peak Known Geothermal Resources Area, effective March 1, 1983.

(31) New Mexico

Socorro Peak Known Geothermal Resources Area

New Mexico Principal Meridian, New Mexico

T. 2 S., R. 1 E.,
Secs. 28, 29, and 30,
Secs. 31, 32, and 33 (including lands within the Town of Socorro Grant).
T. 3 S., R. 1 E.,
Secs. 4 to 9, inclusive (including lands within the Town of Socorro Grant),
Secs. 16 to 21, inclusive (including lands within the Town of Socorro Grant),
Secs. 28, 29, and 30 (including lands within the Town of Socorro Grant),
Secs. 31, 32, and 33.
T. 4 S., R. 1 E.,
Secs. 4 to 9, inclusive.
T. 2 S., R. 1 W.,
Secs. 25, 26, and 27,
Secs. 31, 32, and 33,
Secs. 34, 35, and 36 (including lands within the Town of Socorro Grant).
T. 3 S., R. 1 W.,
Secs. 1, 2, and 3 (including lands within the Town of Socorro Grant),
Secs. 4, 5, 8, and 9,
Secs. 10 to 15, inclusive (including lands within the Town of Socorro Grant),
Secs. 16 and 7,
Sec. 20, N½,
Sec. 21, N½,
Secs. 22 to 26, inclusive (including lands within the Town of Socorro Grant),
Sec. 27, (part of N½N½ within the Town of Socorro Grant),
Sec. 36.
T. 4 S., R. 1 W.,
Secs. 1, 2, and 12.
T. 2 S., R. 2 W.,
Sec. 36.

The deleted area described aggregates 42,513.00 acres, more or less. The subject lands will be made available to the first qualified applicant under regulations appearing at 43 CFR 3210 beginning with the first calendar month following the date of this notice.

Dated: February 14, 1983.

James W. Sutherland,

Minerals Manager, South Central Region.

[FR Doc. 83-6546 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-M

Canon City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Canon City District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 that a meeting of the Canon City District Advisory Council will be held on Thursday and Friday, April 14 and 15, 1983.

The meeting will be from 1:00 PM to 5:00 PM on April 14, and from 8:00 AM to noon on April 15, at the First National Bank Building, 9th Street and Royal Gorge Blvd., Canon City, Colorado.

The agenda will include:

1. Introduction and biographical sketch of members;
2. Discussion of the function of the Council;
3. Overview of BLM in general, Canon City District in particular and major programs by Resource Area;
4. Election of officers;
5. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:00 AM and Noon on Friday April 15, or file written statements for the Council's consideration. The District Manager may establish a time for oral statements depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to address the Council should notify the District Manager, Bureau of Land Management, 3080 East Main (P.O. Box 311), Canon City, Colorado 81212 by April 13, 1983.

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours at the District Office within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Glenn Wallace, (303) 275–0631.

Clarence Pearson,

Acting District Manager.

[FR Doc. 83–6547 Filed 3–14–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Training and Qualifications of Personnel in Well-Control Training

AGENCY: Minerals Management Service, Interior.

ACTION: Listing of well-control training schools approved in accordance with MMSS–OCS–T 1.

SUMMARY: On January 19, 1982, the Minerals Management Service (MMS) was established under Secretarial Order No. 3071. The **Federal Register** Notice, Vol. 47, No. 34, page 7508, published by the MMS on Friday, February 19, 1982, published the MMSS–OCS–T 1 Training Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," Second Edition.

This Notice lists the well-control training schools that are currently approved by the MMS.

FOR FURTHER INFORMATION CONTACT: Mr. M. L. Courtois, Minerals Management Service, National Center, Reston, Virginia 22091 (703/860–7564).

SUPPLEMENTARY INFORMATION:

Legend

Job Classification

RH—Rotary Helper
TP—Toolpusher
DK—Derrickmen
OR—Operator's Representative
DR—Driller

Blowout-Preventer Stack Type

SUR—Surface BOP Stack
SS—Subsea BOP Stack

MMS Approved Well-Control Schools

Rotary Helper and Derrickmen

1. Anglo Alaska/Nabors Alaska Drilling Company
2. Atlantic Pacific Marine Corp.
3. Atwood Group, Inc.
4. Atwood Oceanics, Inc.
5. Bailey-Shannon Drilling, Inc.
6. Basic Research and Training, Inc.
7. Bokenkamp Drilling Co., Inc.
8. Booker Drilling Co., Inc.
9. Broughton Drilling Company
10. Cactus International, Inc.
11. Challenger Drilling, Inc.
12. Chiles Drilling Company
13. Circle Bar Drilling Company
14. Cyclops Drilling Company
15. Dan-Tex International, Inc.
16. Diamond M Company
17. Dixilyn-Field Drilling Company
18. Dolphin-Titan International, Inc.
19. Dual Offshore Company
20. Fluor Drilling Service, Inc.
21. Global Marine Drilling Company
22. Goldrus Marine Drilling Company
23. Griffin-Alexander Drilling Company
24. Houston Offshore International, Inc.
25. Houtech Energy, Inc.
26. Huthnance Drilling Company
27. J.F.P. Drilling Co., Inc.
28. Keydril Company
29. Keyes Offshore, Inc.
30. Loffland Brothers Company
31. Marine Drilling Company
32. Marlin Drilling Company
33. Maurer Engineering, Inc.
34. Mayronne Company
35. Moran Drilling Corp.
36. MUDTECH
37. Nicklos Drilling Company
38. Noble Drilling Company
39. Ocean Drilling and Exploration Company (ODECO)
40. O & U Drilling, Inc.
41. Penrod Drilling Company
42. Peter Bawden Drilling, Inc.
43. Phoenix Seadrill
44. Pool Offshore Company
45. Prentice and Records Enterprises, Inc.
46. Reading and Bates Drilling Company
47. Rowan Companies, Inc.
48. Salen Protexa Drilling Company
49. Santa Fe Drilling Company
50. Savage Drilling Company
51. Scan Drilling Company (U.S.A.), Inc.
52. Sea Drilling Corp.
53. Services, Equipment, and Engineering
54. Shell Offshore, Inc.
55. Shell Oil Company
56. South Texas Offshore Drilling Company
57. Teledyne Movible Offshore, Inc.
58. Temple Drilling Company
59. The Offshore Company
60. Transworld Drilling Company
61. Western Oceanics, Inc.
62. Zapata Offshore Company

Basic Course

1. Alaska Skill Center—DR, TP, OR; SUR, SS
2. Amoco Production Company—OR; SUR, SS
3. Arco Oil and Gas Company—TP, OR; SUR, SS
4. Atlantic Pacific Marine Corp.—DR, TP, OR; SUR, SS
5. Basic Research and Training, Inc.—DR, TP, OR; SUR, SS
6. Cape Cod Community College—DR, TP, OR; SUR, SS
7. Cities Service Company—OR; SUR, SS
8. Chevron U.S.A. Inc.—OR; SUR, SS
9. Conoco, Inc.—OR; SUR, SS
10. Cudd Pressure Control, Inc.—DR, TP, OR; SUR
11. Delta Drilling—DR, TP, OR; SUR, SS
12. Diamond M Company—DR, TP, OR; SUR, SS
13. Digitran, Inc.—DR, TP, OR; SUR, SS
14. Dixilyn-Field Drilling Company—DR, TP, OR; SUR, SS
15. Dresser Industries—DR, TP, OR; SUR, SS
16. Exxon U.S.A.—DR, TP, OR; SUR, SS
17. Global Marine Drilling Company—DR, TP, OR; SUR, SS
18. Gulf Oil Expl. and Prod. Company—DR, TP, OR; SUR, SS
19. IMCO Services—DR, TP, OR; SUR, SS
20. International Drilling Schools—DR, TP, OR; SUR, SS
21. Keydril Company—DR, TP, OR; SUR, SS
22. Loffland Brothers Company—DR, TP, OR; SUR
23. Louisiana State University—DR, TP, OR; SUR, SS
24. Marlin Drilling Company, Inc.—DR, TP, OR; SUR, SS
*25. Maurer Engineering, Inc.—DR, TP, OR; SUR, SS
26. Milchem, Inc.—DR, TP, OR; SUR, SS
27. Murchison Drilling Schools—DR, TP, OR; SUR, SS
28. NL Petroleum Services—DR, TP, OR; SUR, SS
29. ODECO—DR, TP, OR; SUR, SS
30. Oklahoma Petro. Training Corp.—DR, TP, OR; SUR, SS
31. Parker Drilling Company—DR, TP, OR; SUR, SS

*32. Penn State University—DR, TP, OR; SUR, SS
33. Petro. Training & Tech. Services—DR, TP, OR; SUR, SS
34. Pool Offshore Company—DR, TP, OR; SUR
35. Prentice & Records Enterprises, Inc.—DR, TP, OR; SUR
36. Preston L. Moore, Inc.—DR, TP, OR; SUR
37. Reading & Bates Drilling Company—DR, TP, OR; SUR
38. Rike Service, Inc.—DR, TP, OR; SUR, SS
*39. Rocky Mountain Well-Control School—DR, TP, OR; SUR, SS
40. Santa Fe Drilling Company—DR, TP, OR; SUR, SS
41. Sedco, Inc.—DR, TP, OR; SUR, SS
*42. Shell Offshore Inc.—DR, TP, OR; SUR, SS
43. Shell Oil Company—DR, TP, OR; SUR, SS
44. Sturgis/Sheffield, Inc.—DR, TP, OR; SUR*
45. Texaco—DR, TP, OR; SUR, SS
46. TDA Training, Inc.—DR, TP, OR; SUR, SS
47. Union Oil Co. of California—DR, TP, OR; SUR, SS
48. University of Houston/Victoria—DR, TP, OR; SUR, SS
49. University of Oklahoma—DR, TP, OR; SUR, SS
50. University of S.W. Louisiana—DR, TP, OR; SUR, SS
51. University of Texas at Austin—DR, TP, OR; SUR, SS
52. Ventura College—DR, TP, OR; SUR, SS
53. Well-Control School, Inc.—DR, TP, OR; SUR, SS
54. Western Oceanic, Inc.—DR, TP, OR; SUR, SS

Refresher Course

1. Alaska Skil Center—DR, TP, OR; SUR, SS
2. Amoco Production Company—OR; SUR, SS
3. Arco Oil & Gas Company—TP, OR; SUR, SS
4. Atlantic Pacific Marine Corp.—DR, TP, OR; SUR, SS
5. Basic Research & Training, Inc.—DR, TP, OR; SUR, SS
6. Cape Cod Community College—DR, TP, OR; SUR, SS
7. Chevron U.S.A., Inc.—OR; SUR, SS
8. Cities Service Company—OR; SUR, SS
9. Conoco, Inc.—OR; SUR, SS
10. Cudd Pressure Control, Inc.—DR, TP, OR; SUR
11. Delta Drilling Company—DR, TP, OR; SUR, SS
12. Diamond M Company—DR, TP, OR; SUR, SS
13. Dixilyn-Field Drilling Company—DR, TP, OR; SUR, SS
14. Dresser Industries—DR, TP, OR; SUR, SS
15. Gulf Oil Expl. and Prod. Company—DR, TP, OR; SUR, SS
16. IMCO Services—DR, TP, OR; SUR, SS
17. International Drilling School—DR, TP, OR; SUR, SS
18. Keydril Company—DR, TP, OR; SUR, SS
19. Loffland Brothers Company—DR, TP, OR; SUR, SS
20. Louisiana State University—DR, TP, OR; SUR, SS
21. Marlin Driling Co., Inc.—DR, TP, OR; SUR, SS
*22. Maurer Engineering, Inc.—DR, TP, OR; SUR, SS
23. Milchem, Inc.—DR, TP, OR; SUR, SS
24. Murchison Driling Company—DR, TP, OR; SUR, SS
25. NL Petroleum Services—DR, TP, OR; SUR, SS
26. ODECO—DR, TP, OR; SUR, SS
27. Oklahoma Petro. Training Corp.—DR, TP, OR; SUR, SS
28. Parker Drilling Company—DR, TP, OR; SUR
29. Petroleum Train. & Tech. Services—DR, TP, OR; SUR, SS
30. Pool Offshore Company—DR, TP, OR; SUR*
31. Prentice & Records Enterprises, Inc.—DR, TP, OR; SUR, SS
32. Preston L. Moore, Inc.—TP, OR; SUR
33. Reading & Bates Drilling Company—DR, TP, OR; SUR
34. Rike Services, Inc.—DR, TP, OR; SUR, SS
*35 Rocky Mountain Well-Control School—DR, TP, OR; SUR, SS
36. Santa Fe Drilling Company—DR, TP, OR; SUR, SS
37. Sedco, Inc.—DR, TP, OR; SUR, SS
38. Shell Oil Company—DR, TP, OR; SUR, SS
39. Shell Offshore, Inc.—DR, TP, OR; SUR, SS
40. Sturgis/Sheffield, Inc.—DR, TP, OR; SUR*
41. Texaco—DR, TP, OR; SUR, SS
42. TDA Training, Inc.—DR, TP, OR; SUR, SS
43. Union Oil Co. of California—DR, TP, OR; SUR, SS
44. University of Houston/Victoria—DR, TP, OR; SUR, SS
45. University of Oklahoma—DR, TP, OR; SUR, SS
46. University of S.W. Louisiana—DR, TP, OR; SUR, SS
47. University of Texas at Austin—DR, TP, OR; SUR, SS
48. Ventura College—DR, TP, OR; SUR, SS
49. Well-Control School, Inc.—DR, TP, OR; SUR, SS
50. Western Oceanic, Inc.—DR, TP, OR; SUR, SS

*Approved documented program—pending onsite evaluation.

It is anticipated that periodic Notices of this type will be published in the future on an as needed basis.

Dated: March 4, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-6458 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3256, Block 67, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 4, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-6670 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2:00 p.m. on Thursday, March 31, 1983, in the Atlantic Center for the Arts, 1414 Art Center Boulevard, New Smyrna Beach, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development and operation of the Canaveral National Seashore. The agenda will include: protection of seashore resources both natural and historical; status of land transfer from the State; and report on seashore operations and proposed development.

The members of the Advisory Commission are as follows:

Mr. James Reinman, Chairman
Mr. James Powell

Mr. Ney C. Landrum
Ms. Doris Leeper
Mr. Sion Faulk
Mr. Peter E. Cardiff
Mr. T. C. Wilder

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, Post Office Box 2538, Titusville, Florida 32780, Telephone 305/867–4675. Minutes of the meeting will be available for public inspection at park headquarters approximately 4 weeks after the meeting.

Dated: March 4, 1983

Bob Baker,

Regional Director, Southeast Region.

[FR Doc. 83-6633 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-70-M

Missouri National Recreational River Advisory Group; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Missouri National Recreational River Advisory Group will be held April 14, 1983, beginning at 1 p.m. at the Lewis and Clark Lake Visitors Center at Gavins Point dam near Yankton, South Dakota.

The group was established on October 26, 1981, pursuant to Section 707 of the Act of November 10, 1978, 92 Stat. 3529, 16 U.S.C., Section 1247(22), amended Section 16 of the Act of September 8, 1980, 94 Stat. 1137, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Missouri National Recreational River.

The members of the council are as follows:

Mr. Robert Martin (Chairperson)
Mr. Earl Rowland
Mr. Darrel Curry
Mr. Albert Thacker
Mr. Allen Heine
Mr. James M. Peterson
Mr. Thomas R. Lamberson
Mr. Gerald Chaffin
Mr. John Varvel
Mr. Ronald W. Hoffman
Mr. Jim Anderson
Mr. Doug Hofer
Mr. Robert Roper
Mr. Merton Turner
Mr. Walter T. Doolittle

In addition, the U.S. Army Corps of Engineers, the National Park Service, and the U.S. Fish and Wildlife Service will be represented.

Matters to be discussed at the meeting will include a status report and implementation strategies for development and management of the Missouri National Recreational River.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert P. Martin, Chief, Division of Recreation Resources, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (4002) 221–3371 (FTS 864–3371). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 4 weeks after the meeting.

Dated: March 8, 1983.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83-6632 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-70-M

Southeast Regional Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Regional Advisory Committee Act that a meeting of the Southeast Regional Advisory Committee will be held at 1:30 p.m. e.s.t., on March 30, 1983 at the Richard B. Russell Federal Building, Room 1094, 75 Spring Street, S.W., Atlanta, Georgia 30303.

The purpose of the Southeast Regional Advisory Committee is to adivse the Regional Director, National Park Service, on programs, policies, and such other matters as may be referred to it by the Regional Director. It also functions to provide closes communication with the public on such matters.

The members of the Advisory Committee are as follows:

Mrs. Betty Jo Williams, Chairperson
Mr. Jim R. Hicks
Mr. Forrest W. Howell
Ms. Margaret Elizabeth Powell

The matters to be discussed at this include: (1) Overview of park issues in the Southeast Region; (2) the Great Park proposal in Atlanta; and (3) status of development at Andersonville National Historic Site.

The matters to be discussed at this include: (1) Overview of park issues in the Southeast Region; (2) the Great Park proposal in Atlanta; and (3) status of development at Andersonville National Historic Site.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Paul C. Swartz, Chief, Planning and Compliance Division, Southeast Regional Office, FTS (404) 242–5465 or local (404) 221–5465. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at the Southeast Regional Office, 75 Spring Street, SW., Atlanta, Georgia 30303.

Dated: March 4, 1983.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 83-6634 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-70-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations; Idaho et al.

Nominations for the fillowing properties being considered for listing in the National Register were received by the National Park Service before March 4, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 30, 1983.

Bruce MacDougal,

Acting Chief of Registration, National Register.

IDAHO

Blaine County

Hailey, *Fox, J. C., Building,* S. Main St.
Hailey, *Watt, W. H., Building,* 120 N. Main St.

LOUISIANA

Grant Parish

Colfax, *McNeely House, 3rd, 4th, and Main Sts.*

Jefferson Parish

Gretna, *St. Joseph Church-Convent of the Most Holy Sacrament Complex,* Lavousier and 7th Sts.

Harahan, *Harahan Elementary School*, 6723 Jefferson Highway

Pointe Coupee Parish

Oscar vicinity, *Riverlake*, LA 1

Tangipahoa Parish

Hammond, *June House*, 408 E. Coleman Ave.

MASSACHUSETTS

Essex County

Lynn, *Lynn Realty Company Building No. 2*, 672–680 Washington St.
Lynn, *Tapely Building*, 206 Broad St.
Lynn, *Vamp Building*, 3–15 Liberty Square
Newbury, *Hale-Boynton House*, Middle St.

Hampden County

Springfield, *Upper Worthington Historic District*, Worthington, Federal, Summit and Armory Sts.

Middlesex. County

Winchester, *Winchester Town Hall*, 71 Mount Vernon St.

Norfolk County

Dedham, *Ames Schoolhouse*, 450 Washington. St.
Needham, *Fuller, Amos, House*, 220 Nehoiden St.

Suffolk County

Boston, *Harvard Avenue Fire Station*, 16 Harvard Ave.

Worcester County

Northbridge, *Rockdale Common Housing District*, 4–20 McBride, 46–56 Plantation, and 37–42 Taft Sts.

MINNESOTA

Lake of the Woods County

Angle Inlet Vicinity, *Fort St. Charles Archeological Site*

ALABAMA

Jefferson County

Birmingham, *Loveman, Joseph & Loeb Department Store*, 214–224 19th N.

ARIZONA

Cochise County

Willcox, *Norton, John H., and Company Store*, 180 N. Railroad Ave.

Maricopa County

Phoenix, *Smith, Arthur J. and Alice, House*, 2302 N. 3rd St.

CALIFORNIA

Sacramento County

Sacramento, *Wetzlar, Julius, House*, 1021 H St.

Tuolumne County

Pinecrest vicinity, *Emigrant Lake Check Dam (Leighton Encampment and Streamflow Maintenance Dams TR)*, Stanislaus National Forest
Pinecrest vicinity, *Leighton Lake Check Dam (Leighton Encampment and Streamflow Maintenance Dams TR)*, Stanislaus National Forest
Pinecrest vicinity, *Lower Buck Lake Check Dam (Leighton Encampment and Streamflow Maintenance Dams TR)*, Stanislaus Nation Forest
Pinecrest vicinity, *Yellowhammer Camp (Leithton Encampment and Streamflow Maintenance Dams TR)*, Stanislaus National Forest

DELAWARE

New Castle County

Centreville, *Carpenter-Lippincott House (Centreville MRA)*, 5620 Kennett Pike
Centreville, *Centerville-Historic District (Centreville MRA)*, Kennett Pike and Owls Nest/Twaddell Mill Rd.
Centreville, *Chandler, Joseph, House (Centreville MRA)*, 5826 Kennett Pike
Centreville, *Mt. Airy School No. 27 (Centreville MRA)*, 5925 Kennett Pike

GEORGIA

Fulton County

Atlanta, *Imperial Hotel*, 355 Peachtree St.

Miller County

Colquitt, *Colquitt Town Square Historic District*, Cuthbert, 1st, College, and Main Sts.

Troup County

LaGrange vicinity, *Potts Brothers Store*, Gabbettville Rd.

Ramsey County

St. Paul, *Northern Pacific Railway Company Como shops Historic District*, DeCourcy Dr.
St. Paul, *St. Casimir Church*, 937 E. Jessamine Ave.
White Bear Lake, *Cobb, Cyrus B., House*, 2199 1st St.

Winona County

Winona, *Winona Hotel*, 151 Johnson St.

MISSISSIPPI

Adams County

Natchez vicinity, *Cherry Grove Plantation*, S. of Natchez off Kingston Rd.

Hinds County

Jackson, *Sims House*, 513 N. State St.

MONTANA

Carbon County

Red Lodge, *Red Lodge Commercial Historic District*, Broadway between 8th and 11th Sts.

Gallatin County

Bozeman, *Ketterer, Emil, House*, 35 N. Grand Ave.
West Yellowstone, *Kennedy Building (West Yellowstone MRA)*, 127 Yellowstone Ave.
West Yellowstone, *Madison Hotel and Cafe (West Yellowstone MRA)*, 137 Yellowstone Ave.
West Yellowstone, *West Yellowstone Oregon Shortline Terminus Historic District (West Yellowstone MRA)*, Yellowstone Ave.

NEBRASKA

Buffalo County

Kearney, *Barnd, John, House*, 320 E. 31st St.

Kimball County

Kimball, *Stone Building*, 126 S. Chestnut St.

Scotts Bluff County

Gering, *Sorensen, Severin, House*, 2345 17th St.

NEW YORK

Chemung County

Horseheads, *Teal Park (Zim TR)*, Steuben, Pine, and W. Main Sts.
Horseheads, *Zimmerman House (Zim TR)*, 601 Pine St.

Putnam County

Putnam Valley vicinity, Tompkins Corners United Methodist Church, Peekskill Hollow Rd.

Sullivan County

Narrowsburg, *Arlington Hotel*, Main St.

OHIO

Holmes County

Millersburg, *United Methodist Church (Millersburg MRA)*, N. Washington St.

OREGON

Marion County

Salem, *South First National Bank Block*, 241–247 Commercial St., NE

PENNSYLVANIA

Bedford County

Everett vicinity, *Juniata Woolen Mill and Newry Manor*, W of Everett on Lutzville Rd.

TEXAS

Washington County

Brenham, *Bassett and Bassett Banking House*, 222 E. Main St.

UTAH

Cache County

Mendon, *Baker, Samuel, House*, 150 W. 200 North
Mendon, *Willie, James G., House*, 97 N. 100 West

WISCONSIN

Milwaukee County

Milwaukee, *Blatz, Valentin, Brewing Company Office Building*, 1120 N. Broadway

Walworth County

Elkhorn, *Reynolds-Weed House*, 12 N. Church St.

[FR Doc. 83-6407 Filed 3-14-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) based on Environmental Assessments (EA's) for four abandoned mine land projects developed under the State of Missouri's Abandoned Mine Land Reclamation Plan.

SUMMARY: Missouri Department of Natural Resources Lands Reclamation Commission has prepared EA's on projects submitted in the Federal Grant Application, to the Office of Surface Mining.

A FONSI has been prepared for the four reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1231–1234.

Reclamation Projects included in FONSI, Location and description:

Missouri is requesting reclamation Funds for four projects. Work to be performed is for providing reclamation for burning coal refuse, open mine shafts, dilapidated tipples, coal hoppers, etc at the following four projects.

Name of project	Location
Tiger Reclamation	State Route U, one mile South of Wortland, Bates County.
Panama Reclamation	North Central Vernon County.
Tebo Creek Reclamation	Northeast Henry County, Johnson County and Benton County.
Robinson Branch Reclamation.	One mile Northeast of Walker, Vernon County.

ADDRESS: Copies of the EA's and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 and 4:00 p.m.: Office of Surface Mining, Missouri Field Office, Scarritt Building, Kansas City Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke Director, Missouri Field Office, Commercial (816) 374–5527 or (FTS) 758–5527 at the (address above).

Dated: March 3, 1983.

Gene E. Krueger,

Acting Assistant Director.

[FR Doc. 83-6719 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP3MCFC-98]

Motor Carriers; Finance Applications; Decision Notice

March 7, 1983.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transfers may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team 3, (202)275–5223.

MC–FC 81155. By decision of March 7, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to GARY GRAY, doing business as G & H TRUCKING, of Britt, IA 50423, of Permit No. MC–147794 Sub 2, issued September 2, 1981, to ROBERT WALLICK, doing business as R & W TRUCKING, Park Rapids, MN 56470, authorizing the transportation of agricultural and utility trailers and parts and accessories thereof, (1) from the facilities of Kiefer Built, Inc., at or near Kanawha, IA, to points in MN, MT, ND, and SD; and (2) from the facilities of Kiefer Built, Inc., at or near Park Rapids, MN, to points in IA, MT, ND, and SD, under continuing contract(s) in parts (1) and (2) with Kiefer Built, Inc., of Kanawha, IA Representative: Richard D Howe, 600 Hubbell Building, Des Moines, IA. 50309.

[FR Doc. 83-6583 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3–MCF–97]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. It the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commisison may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority

We find, with the exception of those applications involving impediments (e.g. jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper

divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: February 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 (202) 275-5223.

MC-F-15134, filed February 10, 1983. COASTAL INTERMODAL TRANSPORT, INC. (Coastal), (785 Union Commerce Building, Cleveland, OH 44115)—purchase—C. E. MELTON d.b.a. C. E. MELTON TRANSPORT CO. (Melton) (Route 4, Highway 280E, Americus, GA 31709). Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Coastal seeks authority to purchase all of the interstate operating rights and property of Melton. U.S. Truck Lines, Inc. of Delaware (USTL), a non-carrier holding company which controls Coastal, seeks authority to acquire control of the operating rights and property through the transaction. Coastal is purchasing the interstate operating rights contained in certificate No. MC-150464 Sub-Nos. 1, 2, 3, 4, 5 and 6 which authorize the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, and VA (authority in Sub 6 embraces all authority granted in Subs 1, 2, 3, 4 and 5). Coastal holds no authority from this Commission. However, its parent USTL also controls through stock ownership (1) Be-Mac Transport Company, Inc. (MC-10872 and subs thereto), (2) Brown Express, Inc. (MC-46054 and subs thereto), (3) Central Truck Lines, Inc. (MC-36473 and subs thereto), (4) The Cleveland, Columbus & Cincinnati Highway, Inc. (MC-3419 and MC-3420 and subs thereto), (5) Kanawha Cartage Company (MC-150148 and subs thereto), (6) Mercury Freight Lines, Inc. (MC-113528 and subs thereto), (7) Motor Express, Inc. of Indiana (MC-28813 and subs thereto), (8) Motor Express, Inc. (NJ) (MC-1778 and subs thereto), (9) National Tank Truck Delivery, Inc. (MC-116132 and subs thereto), and (10) Ohio Delivery, Inc. (MC-142758 and subs thereto). Condition: USTL shall continue to be required, as previously subjected in MC-F-4807, served May 17, 1951, from *time to time* to file such special accounting and other reports as may be required so that its relationship with carriers under its control may be observed and jurisdiction will be reserved in this respect for the imposition of such further requirements as may be necessary.

[FR Doc. 83-6594 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; 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 transportation 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 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.

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 is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-100

Decided: March 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 134303 (Sub-5), filed February 7, 1983. Applicant: O'HARE WISCONSIN LIMOUSINE SERVICE, INC., 530 S. Michigan Ave., Chicago, IL 60605. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, 312-641-5900. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165792, filed January 20, 1983. Applicant: TRITON TRANSPORT SERVICES, INC., 2701 Lakeside Ave., Cleveland, OH 44114. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, 717-854-3138. Transporting (1) *general commodities*, between points in Glenwood, Brantley, Dozier, Searight, Gantt, and Health, AL, Sheridan, Belfast, and Delight, AR, Detour, CA, Cheraw and McClave, CO, Mineral Bluff, GA, MacKay, Moore, Leslie, and Darlington, ID, Liverpool, Bryant, Maple Mills, Richmond, and Moon, IL, New Lisbon, Milton, Wadesville, Oliver, Springfield, Solitude, Mays, Sexton, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson, and Hamilton, IN, Kent, Bedford, Merle Jct., Lenox, Conway, and Clearfield, IA, Water Valley and Wingo, KY, Sodus, Eau Clair, Berrien Center, North Niles, Dollar Bay, Houghton, Chassell, Keweenaw Bay, Baraga, L'Anse, Herman, Summit, Lyons, Sheridan, Vickeryville, Butternut, Scott, Lake Pentoga, Naults, Stager, Elmwood, Basswood, Beechwood, Iron River, Stambaugh and Palatka, MI, Richton, Tucker, Blodgett, Panther Burn, and Anguilla, MS, Hopkins, Pickering, Holcomb, Frisbee, and Whiteoak, MO, Prague, Malmo, Ithaca, Memphis, Avoca, Cushing, Wolback, Greeley, Elyria, and Burwell, NE, Durupt and Clementsville, ND, Ranger and Lewiston, NC, Milledgeville, Octa, Edgefield, New Jasper, Mount Blanchard, Jenera, Pandora, Vaughnsville, Rimer, Rushmore, Oberlin, Pittsfield, and Edon, OH, Parkdale, OR, Agar, Gorman, and Gettysburg, SD, Coalmont, TN, Robert Lee and Skellytown, TX, Aloha, Carlisle, and Copalis Crossing, WA, and Bear Creek, Clintonville, Birnamwood, Aniwa, Antigo, Kempster, Elcho, Deerbrook, Summit Lake, Pelican Lake, Monico, Malvern, Nine Springs, McFarland, Stoughton, Edgerton, Lyons, Springfield, Elkhorn, Darien, Delavan, Porters, Hematite, and Spread Eagle, WI, on the one hand, and, on the other, points in the U.S.; and (2) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—The purpose in Part (1) of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 166232, filed February 11, 1983. Applicant: MISSISSIPPI BUS CENTER, INC. d.b.a. MISSISSIPPI BUS SERVICE, Route 6, Box 189, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166233, filed February 14, 1983. Applicant: GONGAWARE TOURS, INC., 8080 Pennsylvania Ave., North Huntingdon, PA 15642. Representative: Charles F. Wade, 35 W. Pittsburgh St., Law & Finance Bldg., Greensburg, PA 15601, (412) 832-1590. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166402, filed February 22, 1983. Applicant: B. V. GAGLIANO, INC., 144 Park Pl. E., Woodbridge, NJ 07075. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *passengers*, in charter and special operations, beginning and ending at points in NJ and NY, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2-103

Decided: March 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 145982 (Sub-2), filed February 4, 1983. Applicant: MOTOR TRANSPORTATION COMPANY, INC., 141 North Laurel St., Hazleton, PA 18201. Representative: Jeremy Kahn, 1511 K Street, NW., Suite 733 Investment Bldg., Washington, DC 20005, (202) 783-3525. Transporting *passengers*, beginning and ending at points in PA, NJ, NY, and MD, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159413 (Sub-1), filed February 7, 1983. Applicant: TOWN & COUNTRY TRANSPORTATION AND LEASING CORP., 290 Market St., Warren, RI 02885. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, 617-742-3530. 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 166153, filed February 7, 1983. Applicant: CAROLL H. FARIS, Route 1, Box 113-C, Burnet, TX 78611. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478-9808. 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 166162, filed February 9, 1983. Applicant: T. D. S. BROKERAGE, INC., 1700 South Wolf Rd., Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant), (312) 298-8800. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166163, filed February 8, 1983. Applicant: NORMAN AND SUSAN FEAZELL, d.b.a. BLUE RIBBON BUS LINES, 3521 W. 75th Pl. Inglewood, CA 90305. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transporting *passengers*, in charter and special operations, beginning and ending at

points in CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–105

Decided: March 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 73133 (Sub-8), filed February 8, 1983. Applicant: MAYFLOWER COACH CORPORATION, 16 Hall Ave., P.O. Box 85, Eastchester, NY 10709. Representative: Nicholas J. Iozzo (same address as applicant), 914–337–2900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166252, filed February 11, 1983. Applicant: BOB D. HOUSE, 1325 East Dewey, Sapulpa, OK 74066. Representative: Bob D. House (same address as applicant), 918–224–9509. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–106

Decided: March 4, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 155292 (Sub-1), filed February 18, 1983. Applicant: BILLY B. CORTNER, INC., 1203 West Fourth, Hutchinson, KS 67501. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443, (804) 224–0773. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166092, filed February 4, 1983. Applicant: A & B TRUCK BROKERS, INC., P.O. Box 497, Rigby, ID 83442. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (a) *general commodities* (except classes A and B explosives and household goods), between those points in the U.S., in and west of OH, IN, IL, MO, AR, and LA (except AK and HI), on the one hand, and, on the other, points in ID, MT, NM, OR, UT, WA, and WY; (b) 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.; and (c) as a *broker of general commodities* (except household goods), between points in the U.S.

Note.—Parts (b) and (c) are published in the **Federal Register**, this issue, with "regular applications."

MC 166133, filed February 8, 1983. Applicant: FREDERICK'S LIMOUSINE SERVICE, INC., 37 Terry Dr., Trevose, PA 19047. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, 215–564–3880. 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 166183, filed February 9, 1983. Applicant: THE BACKHAUL AGENCY, P.O. Box 257, Kearny, NJ 07032. Representative: Louis Trillo, 302 Ivy St., Kearny, NJ 07032, 201–997–9216. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166243, filed February 11, 1983. Applicant: SUFFOLK TRUCK LOADING CORP. 2024 Holland Rd., P.O. Box 1163, Suffolk, VA 23434. Representative: Collis L. Bryant, Jr. (same address as applicant), 804–539–3424. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166293, filed February 15, 1983. Applicant: PRISONER TRANSPORT SERVICE, INC., 4475 State Rd. 405, Titusville, FL 32780. Representative: Robert Calvert (same address as applicant), 305–267–3703. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded, charter and special transportation.

MC 166302, filed February 16, 1983. Applicant: ROBERT E. TANASSE, 212 East Seattle Ave., Moxee City, WA 98936. Representative: Donna Carr, Rt. 8, Box 215, Yakima, WA 98908, 509–966–5724. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other solid conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166303, filed February 16, 1983. Applicant: MEIKO WAREHOUSING, INC., 2220 East Carson St., Long Beach, CA 90810. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, 213–483–4700. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166423, filed February 25, 1983. Applicant: GEO. WM. RUEFF, INC., 107 Camp St., New Orleans, LA 70130. Representative: I. R. Siener (same address as applicant), 504–586–8994. 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 calls to Team 3 at 202–275–5223.

Volume No. OP3–90

Decided: March 7, 1983.

By the Commission, Review Board, No. 1, Members Parker, Chandler, and Fortier.

MC 1934 (Sub-54), filed February 22, 1983. Applicant: THE ARROW LINE, INC., 105 Cherry St., P.O. Box 8807, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant), (203) 289–1531. Over regular routes, transporting *passengers*, between Hartford, CT, and Albany, NY: from Hartford, CT over Interstate Hwy 91, via Springfield, MA to junction Interstate Hwy 90 at West Springfield, MA, then over Interstate Hwy 90 to junction U.S. Hwy 8 at Lee, MA, then over U.S. Hwy 8 to junction U.S. Hwy 7, then over U.S. Hwy 7 via Lenox and Pittsfield, MA to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction Interstate Hwy 90 and U.S. Hwy 9, at Schodack, NY, then over U.S. Hwy 9 to Albany, NY, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(B) over the same route. Applicant intends to tack this authority with its existing authority in MC–1934 Sub 52.

MC 119704 (Sub-10), filed February 23, 1983. Applicant: R.A. HARRIS & SONS, INC., 3501 22nd St., P.O. Box 237, Menominee, MI 49858. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238–3119. 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 148365 (Sub-2), filed February 28, 1983. Applicant: STARLITE BUS SERVICE, INC., 118 Overton Ave., Memphis, TN 38103. Representative: John Ward (same address as applicant), (901) 529–8482. 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 166374, filed February 22, 1983. Applicant: HOT DOGGER TOURS, INC., 12110 E. Philadelphia St., Whittier, CA 90601. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, between points in CA, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166415, filed February 25, 1983. Applicant: AMERICAN FLEET LEASING, INC., 8125 SW. 15th Street, Oklahoma City, OK 73147. Representative: Charles H. White, Jr., 1019 19th Street, NW., Suite 800, Washington, D.C. 20036, (202) 785–3420. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—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 submit an affidavit stating why Commission approval is necessary, or submit a petition of exemption to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 166425, filed February 25, 1983. Applicant: MARGARET J. STEWART, d.b.a. BESTWAY TRAVEL CLUB, 17013 Guava Ave., P.O. Box 14145, Panama City Beach, FL 32407. Representative: Earby J. Stewart (same address as applicant), (904) 235–0563. 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 166454, filed February 28, 1983. Applicant: FANTASY TOURS, INC., Rt. 1, Box 300, Denison, TX 75020. Representative: M. Ward Bailey, 2418 Continental Life Bldg., Fort Worth, TX 76102, (817) 335–2505. Transporting *passengers*, in charter and special operations, (1) beginning and ending at points in Grayson, Cooke, Fannin and Lamar Counties, TX and extending to points in AR, LA, OK, MO, CO and NM and (2) beginning and ending at points in Bryan County, OK and extending to points in AR, LA, MO, CO and NM.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166465, filed February 28, 1983. Applicant: WHITE'S BUS RENTAL, INC., 306 Wallace Lane, Fredericksburg, VA 22104. Representative: Michael White (same address as applicant), (703) 373–7188. 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 166504, filed March 1, 1983. Applicant: ZZZ TRANSPORTATION, LTD., 234 E. 89th St., New York, NY 10028. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–136

Decided: March 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 166537, filed February 22, 1983. Applicant: WESTLUND BUS LINES, INC., 1615 Badger Pkwy., P.O. Box 691, Marinette, WI 54143. Representative: Richard A. Rechlicz, N88 W16414 Main St., Menominee Falls, WI 53051, (414) 251–2245. Transporting *passengers*, in charter operations, beginning and ending at points in Marinette County, WI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166556, filed March 2, 1983. Applicant: M & W TRANSPORTATION, INC., 975 Stovall Ave., Bosque Farms, NM 87068. Representative: Maurice McCarty (same address as applicant), (505) 869–3253. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166567, filed February 28, 1983. Applicant: CHARLES CLARKE, d.b.a. C & C MARKETING, 2538 E. Birchwood Ave., Cudahy, WI 53110. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (211) 263–2078. 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 166607, filed March 4, 1983. Applicant: EARL R. HOLMES, d.b.a. H & F SYSTEMS, 520 NE. F, P.O. Box 851, Grants Pass, OR 97526. Representative: Earl R. Holmes, (same address as applicant), (503) 476–0909. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–139

Decided: March 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 29957 (Sub-101), filed March 2, 1983. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso St., Memphis, TN 38013. Representative: G. W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937.Transporting (A) *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); (B) *passengers*, in charter and and special operations, between points in the U.S. (except HI); and (C) Over regular routes, transporting *passengers*, between Jackson, MS, and New Orleans, LA: from Jackson over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points. Notes: (1) Applicant seeks in (B) above to provide privately-funded charter and special transportation. (2) Applicant seeks in (B) above to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. (3) Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A and B will be published in Vol. No. 139. Part C will be published in Vol. No. 140.

Volume No. OP4–142

Decided: March 8, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 140797 (Sub-4), filed February 25, 1983. Applicant: BLUE & GREY TRANSIT, INC., Route 35, South Amboy, NJ 08879. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166467, filed February 28, 1983. Applicant: JOHN T. JERABEK, Rt. 2, Kewaunee, WI 54216. Representative: Charles E. Dye, Sawn Lake Village, Saddle Ridge No. 832, Portage, WI 53901, (608) 742–3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 166477, filed February 28, 1983. Applicant: INTERNATIONAL FREIGHT DISTRIBUTING SERVICES, 10132 Dunbarton, El Paso, TX 79925. Representative: Robert J. Delgado, 1128 Belen, El Paso, TX 79915, (915) 598–5107. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166517, filed March 1, 1983. Applicant: PACIFIC WESTERN TRAVEL SERVICE, INC., 1100 Glendon Ave., Suite 1127, Los Angeles, CA 90024. Representative: Carl W. Greifzu, 300 S. Mentor, No. 4, Pasadena, CA 91106, (213) 792–9126. Transporting *passengers*, in charter and special transportation, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83-6596 Filed 3-14-83; 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 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, 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 become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition. To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

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 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. OP2–102

Decided: March 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 107012 (Sub-793), filed February 3, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: (same address as applicant), 219–429–2234. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Mattel, Inc., of Hawthorne, CA.

MC 107012 (Sub-794), filed February 9, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant), (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Westinghouse Electric Corporation, of Pittsburgh, PA.

MC 107012 (Sub-795), filed February 9, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30

West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant), (219) 429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Sun Refining and Marketing Company, of Philadelphia, PA.

MC 117322 (Sub-14), filed February 9, 1983. Applicant: LESTER NOVOTNY, d.b.a. CHATFIELD TRUCKING, Route 2, Box 58, Chatfield, MN 55923. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. 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 AFC, Inc., of Chatfield, MN.

MC 126472 (Sub-27), filed February 9, 1983. Applicant: WILLCOXSON TRANSPORT, INC., R.R. No. 2, Kahoka, MO 63445. Representative: Kenneth F. Dudley, 211 E. Second St., Suite 115, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *chemicals and related products, clay, concrete, glass or stone products, rubber and plastic products, furniture and fixtures, pulp, paper and related products, lumber and wood products, machinery, petroleum, natural gas and their products, advertising matter and printed matter*, between points in the U.S. (except AK and HI).

MC 150523 (Sub-3), filed February 8, 1983. Applicant: GRIFFITH TRUCK BROKERAGE, INC., 2705 North Cage, Pharr, TX 78577. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702. Transporting *frozen fruits and frozen vegetables*, between points in Hidalgo County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155793 (Sub-3), filed February 4, 1983. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC., d.b.a. BIG VALLEY EXPRESS, 2201 Branstetter Lane, Redding, CA 96001. Representative: M. D. Burrows (same address as applicant), 916–243–2088. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), (1) between points in Placer and Sacramento Counties, CA., on the one hand, and, on the other, points in Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties, CA, and (2) between points in Washoe County, NV, on the one hand, and, on the other, points in Siskiyou County, CA.

MC 165702, filed January 14, 1983. Applicant: LION, INC, 5210 Ocean Ave., Wildwood, NJ 08260. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, 201–946–2020. Transporting over regular routes, *passengers*, between Ocean City, MD and Atlantic City, NJ: from Ocean City, over MD Hwy 528 to the Maryland-Delaware State line, then over DE Hwy 14 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Cape May-Lewes Ferry Terminal then by Ferry to Cape May-Lewes Ferry Terminal in Cape May, NJ, then over Ferry Access Road to junction Lincoln Boulevard, then over Lincoln Boulevard to junction U.S. Hwy 9, then over U.S. Hwy 9 to junction Garden State Parkway, then over Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and return over the same route, serving all intermediate points.

Note:—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 165753, filed February 11, 1983. Applicant: CHEMICAL TRANSPORTATION MANAGEMENT COMPANY, INC., Mt. Carmel and Roberts Ave., Glenside, PA 19038. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *chemicals*, between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Delmarva Incorporated/Chemicals I, of Baltimore, MD, (2) Intsel Corp., of New York, NY, (3) Vitusa Corp., of Englewood Cliffs, NJ, and (4) Abbit Enterprises, of Moorestown, NJ.

MC 166062, filed January 31, 1983. Applicant: OLYMPIA PETROCHEMICAL TRANSPORT, INC., 3518 Travis, Houston, TX 77002. Representative: Virgil O. Musick, 6220 Gaston Ave., Suite 605, Dallas, TX 75214, 214–824–7870. Transporting *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with Olympia Petroleum, Inc., of Houston, TX.

MC 166063, filed February 4, 1983. Applicant: SPRINT TRANSPORTATION, 10919 Lakewood Blvd., Suite 203, Downey, CA 90241. Representative: Gary W. Wigand (same address as applicant), 213–862–1602. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S., under continuing contract(s) with Coast Carloading Co., of Los Angeles, CA.

MC 166403, filed February 22, 1983. Applicant: BURLINGTON UNITED TRUCKING, INC., 1718 Pease Rd., Burlington, WA 98233. Representative: Gary W. Kupka (same address as applicant), (206) 757–4063. Transporting (1) *lumber and wood products*, between points in the U.S., under continuing contract(s) with Hampton Lumber Sales Company, of Portland, OR; (2) *chemicals and machinery*, between points in the U.S., under continuing contract(s) with Magcobar Group of Dresser Industries, of Houston, TX; (3) *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 Chase Bag, of Oak Brook, IL; and (4) *building materials*, between points in the U.S., under continuing contract(s) with Pacific Wood Products, of Carson, CA.

Volume No. OP2–104

Decided: March 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 16502 (Sub-27) (Correction), filed January 24, 1983, published in the **Federal Register** issue of February 22, 1983, and republished, as corrected, this issue. Applicant: ROBINSON TRUCK LINE, INC., P.O. Box 737, West Point, MS 39773. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant may tack this authority with its existing regular route authority. The purpose of this correction is to add the tacking note that was inadvertently omitted.

MC 147242 (Sub-17), filed February 2, 1983. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Rd., Fair Lawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106, (212) 757–8025. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Knomark, Inc., of Jamaica, NY.

MC 156293 (Sub-1), filed February 3, 1983. Applicant: MADDEN TRUCKING, INC., 805 East 10th St., Leon, IA 50144. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *fertilizer*, between points in AR, CO, IA, IL, KS, MO, NE, NM, OK, SD, and TX.

MC 166002, filed January 31, 1983. Applicant: TRUX ENTERPRISES, INC., 845 East Hunting Park Ave., Philadelphia, PA 19124. Representative: A. David Millner, P.O. Box Y, 7 Becker

Farm Rd., Roseland, NJ 07068; 201–992–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MA, MD, NJ, NY, OH, PA, RI, VA, WV, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of this authority is subject to approval of the petition in MC–F–15110.

Note.—A petition for exemption pursuant to U.S.C. 11343(e) has been filed, docketed MC–F–15110.

MC 166152, filed February 7, 1983. Applicant: ODEN FOLIAGE TRANSPORT, INC. d.b.a. ODEN TRANSPORT, 7916 North Orange Blossom Trail, Orlando, FL 32810. Representative: Roger A. Kirschenbaum, Suite 520, 3390 Peachtree Rd., NE., Atlanta, GA 30326; (404) 262–7855. 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 157303 (Sub-1) (modification) filed November 5, 1982, published in the **Federal Register** issue of December 7, 1982, and republished, as modified, this issue. Applicant: NEAL DAVID HARTZ, d.b.a. HARTZ TRUCKING CO., 216 Lincoln St., Lemont, IL 60439. Representative: William R. Penn, 65 North Chicago St., Suite 211, Joliet, IL 60431; (815) 723–0601. Transporting *metal products, machinery, equipment, and building materials*, between points in Cook and Will Counties, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to modify the original publication.

Volume NO. OP2–107

Decided: March 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1222 (Sub-59), filed February 11, 1983. Applicant: THE REINHARDT TRANSFER COMPANY, 1410 Tenth St., P.O. Box 7, Portsmouth, OH 45662. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602; 502–223–8244. Transporting (1) *chemicals and related products*, (2) *rubber and plastic products*, and (3) *metal products*, between points in the U.S. (except AK and HI).

MC 92633 (Sub-36), filed February 11, 1983. Applicant: ZIRBEL TRANSPORT, INC., P.O. Box 933, Lewiston, ID 83501. Representative: William E. Seehafer (same address as applicant) 208–743–6588. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Gem Chip and Trading Co., LTD., of Clarkston, WA. 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), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority, please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 49052 (Sub-11), filed February 8, 1983. Applicant: MACON TRADING POST, INC., 103 Cherry St., P.O. Box 4032, Macon, GA 31208. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036; 202 785–0024. Transporting *household goods*, between points in the U.S.

Volume No. OP2–108

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–33 (Sub-3), filed February 24, 1983. Applicant: TEXAS SHIPPERS ASSOCIATION, INC., 2311 Butler, Dallas, TX 75235. Representative: D. Paul Stafford, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245; 214–358–3341. *As a freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S.

MC 263 (Sub-244), filed February 15, 1983. Applicant: GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, ID 83201. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226; 313–496–3534. 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 K Mart Corporation, of Troy, MI.

MC 323 (Sub-5), filed January 24, 1983. Applicant: LOU SEIDEN, d.b.a. ROSE TRANSPORTATION CO., 608 New St., Atlantic City, NJ 08401. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 S. 12th St., Philadelphia, PA 19107; 215–WA2–1400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Atlantic County, NJ, on the one hand, and, on the other, Newport News, VA, and points in Union County, NJ, and James City County, VA.

FF–392 (Sub-5), filed February 17, 1983. Applicant: AIRBORNE FORWARDING CORPORATION, 190 Queen Anne Ave. North, Seattle, WA 98111. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006; 202–833–8884. *As a freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

W–1333 (Sub-2), filed February 14, 1983. Applicant: CONAGRA TRANSPORTATION, INC., 5440 West Channel Rd., Catoosa, OK 74015. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036; 202–331–8800. To operate as a *common carrier*, by *water*, by non-self-propelled vessels with the use of separate towing vessels, transporting *general commodities* and by towing vessels in the performance of *general towage*, between ports and points on the Cumberland, Tennessee, Ohio, Mississippi, Mobile, Alabama, Tombigbee, Black Warrior, and Illinois Rivers, the McClellan-Kerr Arkansas Waterway System, the Illinois Waterway, Lake Michigan between Chicago, IL and Burns Harbor, IN, the Gulf of Mexico and the Gulf Intracoastal Waterway between Brownsville, TX and Apalachicola, FL, and all tributary and connecting waterways and channels.

MC 2633 (Sub-70), filed February 15, 1983. Applicant: CROSSETT, INC., P.O. Box 946, Warren, PA 16365. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701; (716) 664–5210. Transporting *petroleum, natural gas and their products and commodities in bulk*, between points in CT, DE, IN, IL, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC

MC 9812 (Sub-24), filed February 24, 1983. Applicant: C. F. KOLB TRUCKING COMPANY, INC., R.R. 1, Box 294, Mt. Vernon, IN 47620. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401; 205–578–3212. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 39973 (Sub-10), filed February 18, 1983. Applicant: STANDARD TRUCKING COMPANY, 225 East 16th St., Charlotte, NC 28230. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773; 501–456–2453. 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 40003 (Sub-3), filed February 7, 1983. Applicant: L.C. HALL'S TRUCK LINE, INC., P.O. Box 277, St. Helens, OR 97051. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210; 503–226–3755. Transporting over regular routes *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Portland and Rainer, OR, over U.S. Hwy 30, serving all intermediate points and off-route points in Columbia County, OR.

MC 42343 (Sub-22), filed February 4, 1983. Applicant: CORPENZA, INC., 310 Chestnut Ave., Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004–1879; 202–737–2188. Transporting *petroleum, natural gas and their products*, between points in DE and NJ, in and south of Hunterdon, Somerset, and Union Counties, and those in PA, in and east of Franklin, Perry, Northumberland, Columbia, Luzerne, Wyoming, and Susquehanna Counties.

MC 104832 (Sub-17), filed February 15, 1983. Applicant: HOLMAN TRANSFER COMPANY, 49 S.E. Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210; (503) 226–3755. Transporting *food and related products*, between points in OR, WA, and CA.

MC 107012 (Sub-797), filed February 17, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant) (219) 429–7234. 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 Mohasco Corporation, of Atlanta, GA.

MC 107012 (Sub-798), filed February 17, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same address as applicant) (219) 429–2213. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Hughes Tool Company, of Houston, TX.

MC 107012 (Sub-799), filed February 17, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same address as applicant) (219) 429–2213. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Digicon Geophysical Corporation, at Houston, TX.

MC 112422 (Sub-14), filed February 4, 1983. Applicant: SAM VAN GALDER, INC., 715 South Pearl St. Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0088; (608) 238–3119. Over regular routes, transporting *passengers*, in interstate or foreign commerce, between Madison WI and O'Hare International Airport at or near Chicago, IL, serving all intermediate points in interstate or foreign commerce, and, in intrastate commerce between Madison and Janesville, WI, and between South Beloit, IL, and O'Hare International Airport, serving all intermediate points in intrastate commerce: from Madison, WI over U.S. Hwy 12 to Interstate Hwy 90 then over Interstate Hwy 90 via Janesville and South Beloit to O'Hare International Airport and return over the same route.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(B) over the same route.

MC 126852 (Sub-1), filed February 18, 1983. Applicant: JERRY D. LANDING d.b.a. JERRY LANDING MOVING SERVICE, 160 North Main, St. Clair, MO 63077. Representative: Stephen G. Newman, 312 East Capitol Ave., P.O. Box 456, Jefferson City, MO 65101; 314–635–7166. 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 Emeco Industries, Inc., of Hanover, PA.

MC 129903 (Sub-52), filed February 24, 1983. Applicant: M.S. CARRIERS, INC., 1727 Florida St., Memphis, TN 38109. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 39103; 901–526–2900. 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 140852 (Sub-10), filed February 10, 1983. Applicant: C.W. MITCHELL, INC. d.b.a. MITCHELL TRANSPORT, 4401 N. Westshore Blvd., Tampa, FL 33684. Representative: Rudy Yessin, 113 West Main St., P.O. Drawer B, Frankfort, KY 40602; 50.2–227–7326. Transporting (1) *food and related products*, between points in NJ and FL, and (2) *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143393 Sub-2), filed February 9, 1983. Applicant: LAKE COUNTRY FARMS, INC., RR 2, Rice, MN 56367. Representative: William J. Bambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402; 612–340–0808. Transporting *food and related products*, between points in MN, WI, ND, SD, IL, and IA.

MC 148613 (Sub-2), filed February 18, 1983. Applicant: I. PETERS TRANSPORT, LTD., 985 Dugald Rd., Winnipeg, Manitoba, Canada R2JOG8. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402; (612) 333–1341. Transporting *commodities in bulk*, between ports of entry on the International Boundary line between the U.S. and Canada in MN, ND, and MT, on the one hand, and, on the other, points in IA, MT, NE, and SD.

MC 149163, filed February 17, 1983. Applicant: PAGERLY DETECTIVE & SECURITY AGENCY, INC., P.O. Box 127, Wernersville, PA 19505. Representative: Calvin Lieberman, 635 Walnut St., Reading, PA 19601. Transporting *cash letters and non-negotiable bank documents*, between points in Reading and King of Prussia, PA, on the one hand, and, on the other, points in Newark, NJ, under continuing contract(s) with American Bank and Trust Co. of PA, of Reading, PA.

MC 149413 (Sub-3), filed February 7, 1983. Applicant: RED RIVER TRAILS, INC., South Highway 75, P.O. Box 474, Moorhead, MN 56560. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108; 701–237–4223. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses or is an operator for such a recipient.

MC 150682 (Sub-4), filed February 18, 1983. Applicant: KEDASHAW, INC., P.O. Box 246, Kensington, KS 66951. Representative: Erle W. Francis, Suite 719, Capitol Federal Bldg., 700 Kansas Ave., Topeka, KS 66603; (913) 232–0601. Transporting *cheese, cheese byproducts, cheese ingredients, and milk*, between points in Dodge and Furnas Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151482 (Sub-5), filed February 8, 1983. Applicant: ROCK VALLEY CONTRACT CARRIER, INC., 3571 Merchandise Dr., Rockford, IL 61109. Representative: Henry M. Wick, Jr., 1610 Two Chatham Center, Pittsburgh, PA 15219; 412–471–1800. Transporting *food*

and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Beatrice Foods Co., of Beloit, WI.

MC 159612, filed February 18, 1983. Applicant: TOM MONTES, 2409 E. Lake Mead Blvd., N. Las Vegas, NV 89030. Representative: Clara Hewitt, 3615 Taylor, N. Las Vegas, NV 89030, (702) 649–1604. Transporting *dairy products, dairy byproducts, plastics, and fiberboard,* between points in NV, AZ, and CA, under continuing contract(s) with (a) Needles Cold Storage, of Needles, CA, and (b) Knudsen Corporation, of Los Angeles, CA.

MC 162213, filed February 10, 1983. Applicant: PACIFIC SHIPPERS SERVICE, 1217 So. 7th St., Modesto, CA 95353. Representative: Truett Yarbrough (same address as applicant), (209) 571–9130. Transporting *foodstuffs,* (1) between points in CA, OR, WA, MN, and WI, and (2) between points in CA, on the one hand, and, on the other, points in AL, AR, AZ, CT, CO, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, ND, NE, NJ, NM, NY, OH, OK, PA, SD, TN, TX, UT, and DC.

MC 164053, filed February 9, 1983. Applicant: OWENS TRUCKING COMPANY, INC., Highway 280 W., Rochelle, GA 31075. Representative: John W. Greer, III, Suite 925, Healey Bldg., 57 Forsyth St., Atlanta, GA 30303, (404) 523–1601. Transporting *fertilizer,* between points in Sumter County, GA, on the one hand, and, on the other, points in Geneva and Baldwin Counties, AL.

MC 165062 (Sub-1), filed February 7, 1983. Applicant: MIM'S MOTORFRATE, INC., 12862 York Rd., North Rayalton, OH 44131. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–43017. 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 165863, filed February 22, 1983. Applicant: STANCH FREIGHT SERVICE, INC., 774 Bedford Ave., Brooklyn, NY 11205. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 166092, filed February 4, 1983. Applicant: A & B TRUCK BROKERS, INC., P.O. Box 497, Rigby, ID 83442. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701; 208–343–3071. Transporting (a) *general commodities* (except classes A and B explosives and household goods), between those points in the U.S., in and west of OH, IN, IL, MO, AR, and LA (except AK and HI), on the one hand, and, on the other, points in ID, MT, NM, OR, UT, WA, and WY; (b) 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.; and (c) as a *broker of general commodities* (except household goods), between points in the U.S.

Note.—Part (a) is published in the Federal Register, this issue, with "fitness applications."

MC 166142, filed February 8, 1983. Applicant: LAMOURE BUILDING MATERIALS & SUPPLY, INC., Box 335, LaMoure, ND 58458. Representative: Leroy Alber (same address as applicant) 701–883–5223. Transporting *lumber and building materials,* between points in AZ, CA, CO, ID, IL, MN, MO, MT, NV, ND, OR, SD, TX, WA, WI, and WY.

MC 166323, filed February 17, 1983. Applicant: DRUG TRANSPORT, INC., 1939 Forge St., Tucker, GA 30084. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237; 404–477–1525. Transporting *such commodities* as are dealt in or used by pharmacies, drug business houses, physicians, hospitals, nursing homes, and clinics, between points in AL, FL, GA, NC, SC, and TN.

MC 166383, filed February 22, 1983. Applicant: LIA EXPRESS LIMITED, 34 Cote St. Louis East, Ste. Therese P.Q. J7C1C2. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375; 212–263–2078. Transporting *lumber, wood products, and construction materials,* between ports of entry on the international boundary line between the U.S. and Canada in MI and NY, on the one hand, and, on the other, points in AL, CA, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NV, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–91

Decided: March 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–674, filed February 23, 1983. Applicant: CARGO CONTAINER INTERNATIONAL, INC., 3555 Torrance Boulevard, Suite 300, Torrance, CA 90503. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036; (202) 783–0024. As a *freight forwarder,* in connection with the transportation of *household goods, baggage,* and *used automobiles,* between points in the U.S.

FF 675, filed February 25, 1983. Applicant: MULTI MODAL FORWARDING SYSTEMS, INC., 43 Hilltop Circle, Rancho Palos Verdes, CA 90274. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036; (202) 785–0024. As a *freight forwarder,* in connection with the transportation of *use household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S.

MC 2934 (Sub-137), filed February 15, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant) (317) 875–1142. Transporting *medical laboratory equipment and reagents* between Houston, TX and Indianapolis, IN, On the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Boehringer Mannheim Corporation, of Indianapolis, IN.

MC 2934 (Sub-140), filed February 23, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC, 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, (same address as applicant) (317) 875–1142. Transporting *computer equipment and components,* between points in the U.S., under continuing contract(s) with Comdisco, Inc., of Rosemont, IL.

MC 2934 (Sub-141), filed February 28, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC, 9998 No. Michigan Road, Carmel, IN 46032.. Representative: W. G. Lowry, (same address as applicant) (317) 875–1142. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Miller Brewing Company of Milwaukee, WI.

MC 2934 (Sub-142), filed February 28, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC, 9998 No. Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, (same address as applicant) (317) 875–1142. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Hughes Aircraft Company of Segundo, CA.

MC 15735 (Sub-71), filed February 25, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680;

(312) 681–8378. Transporting *household goods,* between points in the U.S. (except HI), under continuing contract(s) with Hyatt Hotels Corporation of Rosemont, IL.

MC 15735 (Sub-72), filed February 25, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680; (312) 681–8378. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with ISC Systems Corporation of Spokane, WA.

MC 28905 (Sub-12), filed February 18, 1983. Applicant: RISBERG'S TRUCK LINE, 2339 SE Grand Ave., Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210; (503) 226–3755. (1) Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Newport, OR and Brookings, OR, over US Hwy 101, serving all intermediate points and off-route points in Marion, Tillamook, Polk, Lincoln, Benton, Linn, Lane, Douglas, Coos and Curry Counties, OR; and (2) over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR and WA, on the one hand, and, on the other, points in CA, ID, NV, UT, MT and CO.

MC 42405 (Sub-45), filed February 16, 1983. Applicant: MISTLETOE EXPRESS SERVICE, 111 Harrison Ave., Oklahoma City, OK 73104. Representative: Richard H. Champlin, P.O. Box 25614, Oklahoma City, OK 73125; (405) 239–6510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving points in AR as off-route points in connection with carrier's otherwise-authorized regular-route operations.

MC 44024 (Sub-1), filed February 18, 1983. Applicant: JOE J. DEMPEWOLF TRANSFER & STORAGE, INC., 2101 N. Union, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036; (405) 262–1322. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of bicycles, between points in Kay County, OK, and Cowley County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52914 (Sub-9), filed February 18, 1983. Applicant: FTL, INC., P.O. Box 10799, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210; (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR, WA, CA, ID, NV, MT, NM, WY, AZ, UT, and CO.

MC 65524 (Sub-29), filed February 24, 1983. Applicant: WHITE BROTHERS TRUCKING CO., P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, Suite 1515, 140 So. Dearborn St., Chicago, IL 60603; (312) 580–2210. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in the U.S. (except AK and HI).

MC 117165 (Sub-68), filed February 23, 1983. Applicant: ST. LOUIS FREIGHT LINES, INC., 1111 U.S. Highway 20 West, Michigan City, IN 50312. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312; (515) 274–4985. Transporting *metal products,* between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135725 (Sub-25), filed February 18, 1983. Applicant: FRY TRUCKING, INC., 507 West Fifth Street, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *clay, concrete, glass or stone products,* (2) *metal products,* (3) *Lumber and wood products,* and (4) *such commodities* as are dealt in or used by lumber and hardware dealers, between points in the U.S. (except AK and HI).

MC 140205 (Sub-14), filed February 17, 1983. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 50249. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542–1121. Transporting *pulp, paper and related products,* between points in Osceola County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144195 (Sub-5), filed February 18, 1983. Applicant: QUINCY L. BYRD, INC., 2027 Anchor Lane, Austin, TX 78723. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767; (512) 477–9917. Transporting *metal products* (except classes A and B explosives, household goods and commodities in bulk), between points in Travis County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148325 (Sub-3), filed February 17, 1983. Applicant: ROBERT K. FARR, d.b.a. FARR TRUCKING, Box 144 RR1, Underhill, VT 05489. Representative: (Same as above) (802) 899–2142. Transporting *food and related products,* between points in VT, on the one hand, and, on the other, Claremont, NH, and points in MA, under continuing contract(s) with Koffee Kup Bakery, Inc., of Burlington, VT.

MC 162635 (Sub-1), filed February 7, 1983. Applicant: RON ABRAMS d.b.a. ABRAMS TRUCKING, 743 West 11th St., Rushville, IN 46173. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601; (502) 227–7384. Transporting *food and related products,* (1) between Baton Rouge, LA, on the one hand, and, on the other, Lawrenceburg, IN, points in Baltimore County, MD, Moore and Coffee Counties, TN, Middlesex County, NJ, and points in KY, and (2) between Little Rock, AR, and points in AZ, LA, and TX, on the one hand, and, on the other, New York, NY, Lawrenceburg, IN, and points in Moore County, TN, Baltimore County, MD, Will County, IL and points in KY and NJ.

MC 162804, filed January 26, 1983, and previously noticed in the **Federal Register** issue of February 18, 1983. Applicant: PENNY'S WRECKER SERVICE, INC., 6404 Geyer Springs Rd., Little Rock, AR 72209. Representative: A. R. Pendergrass (same address as applicant) (5011) 565–6641. Transporting *disabled motor vehicles,* in wrecker service, between points in AR, on the one hand, and, on the other, points in LA, MS, TN and AR.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 165175, filed February 22, 1983. Applicant: GOLD BOND BUILDING PRODUCTS, DIVISION OF NATIONAL GYPSUM COMPANY, 800 West Church St., Stockton, CA 95203. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207; (209) 957–6128. Transporting (1) *building materials,* (2) *pulp, paper and related products,* and (3) *clay, concrete, glass and stone products,* between points in CA, ID, OR, and WA.

MC 165355, filed February 22, 1983. Applicant: TOM VIA d.b.a. TOM VIA TRUCKING, Route 1, Box 227, Simpson, IL 62985. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375; (212) 263–2078. Transporting *iron and steel articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Pattin-Marion, Division of Eastern Co., of Marion, IL.

MC 166354, filed February 18, 1983. Applicant: JEFFCO LEASING CO., INC., 4809 Oxford Dr., Imperial, MO 63052. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375; (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis,

MO, on the one hand, and, on the other, points in AL, AR, DE, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NC, ND, NE, NJ, OH, OK, PA, SC, SD, TN, TX, VA, WI, and WV.

MC 166364, filed February 23, 1983. Applicant: MISSION WORLDWIDE MOVING, INC., 2420 Industry Rd., Oceanside, CA 92054. Representative: Robert C. Pellman, P.O. Box 0166, San Diego, CA 92115; (619) 276–2722. Transporting (1) *household goods*, and (2) *furniture and fixtures*, between points in the U.S. (except AK, HI, and VT).

MC 166395, filed February 18, 1983. Applicant: RASMUSSEN ENTERPRISES, INC., 24024 Fillmore St. NE., Bethel, MN 55005. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121; (612) 452–8770. Tranporting *coal and coal products*, between points in MN, ND, SD, IA and WS.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–137

Decided: March 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 166397, filed February 23, 1983. Applicant: NORWALK FURNITURE CORPORATION, Routes 18 and 20 Bypass, Norwalk, OH 44857. Representative: Richard Nickoli (same address as applicant (419) 668–4461. Transporting *cotton and synthetic batting*, between points in Chickasaw County, MS, on the one hand, and, on the other, points in OH, KY, and IN, under continuing contract(s) with Trace Industries, of Houston, MS.

MC 166506, filed February 28, 1983. Applicant: DOUGLAS C. HANSEN, d.b.a. HANSEN TRUCKING, 4104 W. 4835 S., Kearns, UT 84118. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sunchild Forest Products, Ltd., of Winterburn, Alberta, Canada.

Volume No. OP4–135

Decided: March 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 146306 (Sub-6), filed March 4, 1983. Applicant: JOHN D. LARNED d.b.a. J & P TRANSPORTATION, 4902 Smith Rd., Denver, CO 80216. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. 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 Rocky Mountain National Transport Company, Inc., of Denver, CO.

MC 165496, filed February 28, 1983. Applicant: GRACO CARTAGE COMPANY, INC., 437 N. Preston St., Louisville, KY 40202. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223–8244. Transporting *metal products*, between Louisville, KY, on the one hand, and, on the other, Evansville, IN and Nashville, TN and points in Allen and Shelby Counties, IN and Putnam and Kanawha Counties, WV.

MC 166547, filed March 1, 1983. Applicant: FREDERICK INDUSTRIES, INC. d.b.a. APOLLO MOVING & STORAGE COMPANY, 6901 Distribution Dr., Beltsville, MD 20705. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902, (301) 649–5074. Transporting *applicances, television sets, and parts and equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, of Columbia, MD.

MC 166566, filed March 1, 1983. Applicant: CHINOOK FREIGHT SYSTEMS, INC., P.O. Box 3588, Seattle, WA 98124. Representative: Dennis Leach (same address as applicant), (206) 763–4166. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, CA, NV, ID, and MT.

MC 166606, filed March 4, 1983. Applicant: SAMUEL A. J. COLEMAN d.b.a. COLEMAN'S WRECKER SERVICE, 979 Badder, Troy, MI 48084. Representative: Robert D. Shuler, 1000 W. Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013; Transporting *transportation equipment*, between points in Wayne, Oakland, and Macomb Counties, MI, on the one hand, and, on the other points in the U.S. (Except AK and HI).

Vol. No. OP4–140

Decided: March 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 29957 (Sub-101), filed March 2, 1983. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso St., Memphis, TN 38103. Representative: G. W. Hanthorn, 1500 Jackson St., Dallas, TX 75201; (214) 655–7937. Transporting (A) *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); (B) *passengers*, in charter and special operations, between points in the U.S. (Except HI); and (C) Over regular routes, transporting *passengers*, between Jackson, MS, and New Orleans, LA: from Jackson over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points.

Notes.—(1) Applicant seeks in (B) above to provide privately-funded charter and special transportation.

(2) Applicant seeks in (B) above to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

(3) Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A and B will be published in VOL #139. Part C will be published in VOL #140.

Volume No. OP4–141

Decided: March 8, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–676, filed March 1, 1983. Applicant: SIG WOLD INTERNATIONAL, INC., P.O. Box 25501, Seattle, WA 98125. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006; (202) 833–8884. As a freight forwarder, in connection with the transportation of *used household goods, unaccompanied baggage*, and *used automobiles*, between points in the U.S.

W–1367, filed February 28, 1983. Applicant: KVICHAK–ILIAMNA TRANSPORTATION CO., INC., General Delivery, Lovelock, AK 99625. Representative: John M. Stern, Jr., P.O. Box 101672, Anchorage, AK 99510; (907) 276–3402. To operate as a *common carrier*, by water, by self-propelled vessels and non-self propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, (1) between ports and points on the Ugashik Bay, (2) between ports and points on the Bristol Bay east of a line drawn between Cape Constantine and the south point of the mouth the Ugaskik, (3) between ports and points on the Nushagak River south of Dillingham (including Dillingham), and (4) between ports and points on the (a) Kvichak Bay, (b) Kvichak River, and (c) Lake Iliamna. Condition: This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation

modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 96687 (Sub-4), filed February 28, 1983. Applicant: MORRELL TRANSFER, INC., 809 Jackson Ave., Elk River, MN 55330. Representative: Samuel Rebenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household good, and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in Stearns County, MN.

MC 121496 (Sub-84), filed February 23, 1983. Applicant: ENTERPRISE TRANSPORTATION COMPANY, 2727 N. Loop W., P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith II (same address as applicant) (713) 880–6562. Transporting *general commodities* (except classes A and B explosives and household good), between points in the U.S. (except AK and HI), under continuing contract(s) with Shell Oil Company, of Houston, TX.

MC 124887 (Sub-139), filed February 24, 1983. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 219, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202; (904) 632–2300. 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–E Industrial Products, of Valley Forge, PA.

MC 135917 (Sub-7), filed March 3, 1983. Applicant: THE PORTSMOUTH TRUCKING COMPANY, 1200 Stambaugh Bldg., Youngstown, OH 44501. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215; (614) 228–8575. Transporting *general commodities* (except classes A and B explosives and household good), between points in OH, WV, PA, IN, KY, MI, IL, MO, and NY.

MC 139697 (Sub-10), filed March 3, 1983. Applicant: WAGONER TRANSPORTATION CO., INC., P.O. Box 2975, South Bend, IN 46680. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048; (212) 466–0220. Transporting *such commodities* as are dealt in or used by food stores, restaurants, institutions, food manufacturers, and fund raising organizations, between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of the Permits in MC 139697 Sub-Nos. 4, issued November 26, 1980, MC 139697 Sub 6, issued December 5, 1980, MC 139697 Sub 8, issued December 2, 1981, and that portion in the 2nd paragraph in MC 139697 Sub 9X, issued March 9, 1982. This is a conversion application filed under 49. U.S.C. 10923(e).

MC 142186 (Sub-12), filed March 1, 1983. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. 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 General Trailer Co., of Springfield, OR, Beall Trans-Liner, Inc., of Portland, OR, and Columbia Trailer Co., Inc., of Hillsboro, OR.

MC 143257 (Sub-7), filed February 28, 1983. Applicant: EVERMAN'S INC., R.R. #2, Humeston, IA 50123. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309; (515) 244–2329. Transporting *electrical machinery*, between points in Wayne and Polk Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145057 (Sub-2), filed March 1, 1983. Applicant: JOHN A. DI MEGLIO, INC., White Horse Pike, Ancora, NJ 08037. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. Transporting *general commodities* (except Classes A and B explosives, household goods), between points in the U.S (except AK and HI).

MC 146026 (Sub-6), filed March 1, 1983. Applicant: CROSS COUNTRY FARMING CO., INC., P.O. Box 134, Pine Island Turnpike, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. 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 148387 (Sub-10), filed March 1, 1983. Applicant: S.M.P., INC., 166 Sitgreaves St., Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 079349; (201) 234–0301. 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 153987 (Sub-3), filed March 2, 1983. Applicant: MARION SELMAN d.b.a. SELMAN TRUCKING, P.O. B 37231, Omaha, NE 68137. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002; (303) 424–1761. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

Note.—Issuance of a certificate in this proceeding is subject to the coincidental cancellation of PERMITS No. MC–153987 Sub 1 and Sub 2, issued August 14, 1981 and June 24, 1982, respectively. This is an conversion application filed under 49 USC 10925 (e).

MC 157436 (Sub-1), filed March 2, 1983. Applicant: W W TRANSPORT, INC., Buffalo Center, IA 50424. Representative: Larry D. Knox, 600 Hubbell Bldg, Des Moines, IA 50309; (515) 244–2329. Transporting *commodities in bulk*, between points in IA, MN, WI, IL, MO, NE, ND, SD, and KS.

MC 164996 (Sub-1), filed February 24, 1983. Applicant: M. D. TRUCKING, INC., 1855 Feddern Ave., Grove City, OH 43123. Representative: Paul F. Beery, 275 E State St., Columbus, OH 43215; (614) 228–8575. 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 A. P. Parts Co. of Toledo, OH.

MC 166446, filed March 1, 1983. Applicant: RICHARD E. DORAN d.b.a. DORAN TRUCKING, Route 1, Box 70, Harlan, IA 51537. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114; (402) 397–9900. Transporting *such commodities* as are dealt in or used in the manufacture and distribution of machinery and farm equipment, between points in Shelby County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166536, filed March 3, 1983. Applicant: THOMAS A. WAITES AND DENNIS L. WHITTON d.b.a. W. W. TRUCKING, 6702 E Ludlow Dr., Scottsdale, AZ 85254. Representative: Andrew V. Baylor, 337 E Elm St., Phoenix, AZ 85012; (602) 274–5146. Transporting *alcoholic beverages, malt beverages, cocktail mixers and non-alcoholic beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with All American Distributing Co., Inc. of Phoenix, AZ.

[FR Doc. 83-6597 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

Released Rate Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No. FF–456.

SUMMARY: Freight Forwarders Tariff Bureau, Inc., for and on behalf of the freight forwarders for whom it is agent seeks authority under 49 USC 10730 to establish and maintain in its tariffs and individual forwarders in their tariffs, revisions thereto and successive issues thereof, Less-than truckload and Truckload exception ratings from and to all points on Used Agricultural Implements or Parts and Used Machinery or Parts when the value of the property declared by the shipper in writing or agreed upon in writing as the released value thereof is as follows:

a. Released to value not exceeding 10¢ per pound—
92 percent of applicable Class Rates.
b. Released to value exceeding 10¢ per pound but not exceeding $1.00 per pound—
95 percent of applicable Class Rates.
c. Released to value exceeding $1.00 per pound, but not exceeding $2.50 per pound—
97 percent of applicable Class Rates.
d. When consignor declares actual value exceeding $2.50 per pound, shipment will be rated at—
110 percent of applicable Class Rates.

ADDRESS: Mr. H. G. Roeschke, General Manager, Freight Forwarders Tariff Bureau, Inc., 114 Liberty St., Room 600, New York, NY 10006.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Jr., Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275–7390 or 0782.

SUPPLEMENTARY INFORMATION: Relief is sought under 49 U.S.C. 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–6569 Filed 3–14–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15162]

Motor Carriers; Clayton's, Inc.; Purchase Exemption; Shoemaker Trucking Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers,* 367 I.C.C. 113 (1982), Clayton's Inc. (MC–136939) seeks an exemption from the requirement under 11343 of prior regulatory approval for its proposed acquisition of that portion of the operating authority of Shoemaker Trucking Company (MC–138875) which authorizes the transportation of general commodities (except classes A and B explosives), metal products, and prefabricated metal buildings, between points in CO, on the one hand, and, on the other, points in OR and ID.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, or

(2) Petitioners' representative, David E. Wishney, P.O. Box 837, Boise, ID 83701. Comments should refer to No. MC–F–15162.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–6598 Filed 3–14–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15149; OP4F–138]

Motor Carriers; Hayward Trucking, Inc.; Purchase Exemption; Sawyer Transport, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers,* 367 I.C.C. 113 (1982), Hayward Trucking Inc. (No. MC–149283) seeks an exemption from the requirements under 11343 of prior regulatory approval for the purchase portion of the operating rights of Sawyer Transport, Inc. (No. MC–123407), the transportation of farm products, and transportation equipment, between points in the United States. An application for temporary authority has been filed.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners' representative, Carl L. Steiner, 135 South La Salle St., Chicago, IL 60603.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–6600 Filed 3–14–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15154]

Motor Carriers; Milbank Freightways, Inc.; Purchase Exemption; Wintz Transportation Co. and Wintz Motor Freight, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers,* 367 I.C.C. 113, Milbank Freightways, Inc. (MC–161107), Wintz Transportation Co. and Wintz Motor Freight, Inc, (MC–144822 and MC–144681) seek an exemption from the requirement under Section 11343 of prior regulatory approval for the purchase of all of the operating rights of Wintz Transportation Co., and Wintz Motor Freight, Inc.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative, Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-6599 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15159; OP4F-143]

Motor Carriers; Frank Potter Trucking Co., Inc.; Purchase Exemption; Nebraska Carriers, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Frank Potter Trucking Co., Inc., seeks an exemption from the requirement under sectin 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Nebraska Carriers, Inc., a motor carrier (i.e. certificate No. MC-153207 Sub-No. 2) which certificate authorizes the irregular-route motor common carrier transportation of such commodities as are dealt in or used by building material and home improvement stores, between the facilities used by Payless Cashways, Inc., at points in the United States on the one hand, and, on the other points in the United States.

DATES: Comments must be received within 30 days after date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative, Patricia F. Scott, P.O. Box, 1000, Laurie, MO 65038. Comments should refer to No. MC-15159.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-6601 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30118]

Rail Carriers; Burlington Northern Railroad Company; Abandonment Exemption; Franklin County, WA

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. 10903 *et seq.*, the abandonment by the Burlington Northern Railroad Company of 10.13 miles of line in Franklin County, WA, subject to standard labor protection provisions.

DATES: This exemption shall be effective on April 14, 1983. Petitions to stay the effectiveness of this decision must be filed by March 25, 1983. Petitions for reconsideration must be filed by April 4, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representatives: Thomas A. Ehlinger, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101. Pleadings should refer to Finance Docket No. 30118.

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 March 8, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison. Commissioner Simmons did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-6590 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 142)]

Rail Carriers; Chicago and North Western Transportation Co.; Abandonment Between Norwood and Madison, MN; Findings

The Commission has issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its 130.5-mile rail line between milepost 51.3 near Norwood, MN and milepost 181.8 near Madison, MN in Carver, Sibley, Renville, Redwood, Yellow Medicine and La Qui Parle Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued over the line between Madison and the connection with the Burlington Northern Railroad Company at Hanley Falls, MN and (2) it is likely that the assistance would fully compensate the railroad. Since interested parties have had an opportunity to file offers of financial assistance for the line between Madison and Norwood (except between Madison and Hanley Falls), offers of financial assistance for these line segments will not be considered by the Commission. *See* 47 FR 54367 and 47 FR 55538.

Any financial assistance offer described above must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance or continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-6591 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs; Seaboard System Railroad, Inc., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review board [1]	Decided date
845	Seaboard System Railroad, Inc., ICC-SBD-C-0029, (Chemical compounds)	2	3-7-83
847	Consolidated Rail Corp., ICC-CR-C-0038, 0039, 0340, 0341, 0342, 0343, 0344, 0345, 0346, and 0347, (Bituminous coal) via the Ports of Baltimore and Philadelphia	1	3-8-83
850	The Texas Mexican Railway Co., ICC-TM-C-35 (Acroein, sulfuric acid, methyl mercaptan, milk substitutes)	2	3-7-83
852	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0245, (Clay)	2	3-7-83
853	Bessemer and Lake Erie Railroad Co., ICC-BLE-C-0011, (Bulk commodities, various) via the Port of Conneaut, OH	3	3-8-83
854	Southern Pacific Transportation co., ICC-SP-C-0430, (Pulpuboard or fibreboard, not corrugated)	1	3-8-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

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

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-6419 Filed 3-14-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; California Portland Cement Co. et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 7th day of March 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
California Portland Cement Co. (United Cement, Lime Gypsum & Allied Wkrs.).	Colton, CA	3/1/83	2/25/83	TA-W-14,445	Portland cement.
Centre Engineering, Inc. (IUE)	State College, PA	2/16/83	2/10/83	TA-W-14,446	Capacitors, ceramic.
Erik Anders Div. of U.S. Industries, Inc. (company)	Salesbury, NC	3/1/83	2/23/83	TA-W-14,447	Suits, sportcoats—men.
Firestone Tire & Rubber Co. (URW)	Memphis, TN	2/25/83	2/22/83	TA-W-14,448	Passenger tires.
L & S Bearing Company (IAM)	Oklahoma City, OK	2/25/83	2/17/83	TA-W-14,449	Bearings—ball, roller, taper.
P.M. Manufacturing Corp. (workers)	Marianna, AR	2/16/83	2/10/83	TA-W-14,450	Lingerie.
Special Metals Corp. (USWA)	New Hartford, NY	2/24/83	2/17/83	TA-W-14,451	Steel—specialty, products.
Tecumseh Products Co., Acklin Stamping Div. (UAW).	Toledo, OH	2/25/83	2/22/83	TA-W-14,452	Sub-assembled housings—for air-conditioned and refrigeration compressors.
U.S.Steel Fabrication (workers)	Orange, TX	3/1/83	2/25/83	TA-W-14,453	Fabricated steel.
XL Manufacturing Co. (ILGWU)	Gordo, AL	2/24/83	2/15/83	TA-W-14,454	Coats, ladies—government contracts.
American Tool (USWA)	Cincinnati, OH	2/28/83	2/22/83	TA-W-14,455	Turning lathes.
ASARCO, Inc. Hayden Plant (USWA)	Hayden, AZ	2/23/83	2/17/83	TA-W-14,456	Copper ore, smelting and refining.
ASARCO, Inc. Mission Unit (USWA)	Sahuarita, AZ	2/24/83	2/17/83	TA-W-14,457	Copper concentrate.
General Motors Corp., Packard Electric Div. (IUE)	Warren, OH	3/1/83	2/22/83	TA-W-14,458	Wire harnesses and component parts.
General Motors Corp., Delco Products (IUE)	Dayton, OH	2/22/83	2/18/83	TA-W-14,459	Shock absorbers, strut suspension systems, fan clutches, bumper shocks, emission control.
General Motors Corp., Delco Remy (IUE)	New Brunswick, NJ	2/3/83	1/31/83	TA-W-14,460	Car batteries.
Koppers Co., Inc., Engineering & Construction Group (workers).	Pittsburgh, PA	2/22/83	2/9/83	TA-W-14,461	Designs and constructs various steel plant facilities.
Levingston Shipbuilding Co. (company)	Orange, TX	2/28/83	2/22/83	TA-W-14,462	Cargo vessels and mobile offshore drilling platforms.
Morganstern Trousers Co. (workers)	Fredricksburg, VA	3/1/83	2/23/83	TA-W-14,463	Men's trousers.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Otis Elevator Co. (IUE)	Yonkers, NY	2/28/83	2/16/83	TA-W-14,464	Elevators, controllers, selector, switches, drive motors.
U.S. Steel Mining Co., Inc. (USWA)	Jefferson City, TN	2/24/83	2/18/83	TA-W-14,465	Zinc concentrates.
Bradford Plant—Corning Glass Works (American Flint Glass Workers).	Bradford, PA	2/23/83	2/15/83	TA-W-14,466	Resistors
Colquitt Leather Co. (workers)	Moultrie, GA	2/18/83	2/25/83	TA-W-14,467	Tanners—contract.
Niki-Lu Industries, Inc. (workers)	Ops Locka, FL	2/23/83	1/31/83	TA-W-14,468	Sportswear, robes—ladies.
Pro Corporation (workers)	Florence, MA	2/25/83	2/18/83	TA-W-14,469	Personal brushes, combs, and other related items.

[FR Doc. 83-6566 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; New Process Gear Corp., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 28, 1983—March 4, 1983.

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-13,458; New Process Gear Corp., Syracuse, NY

TA-W-13,338; Shure Electronics of Arizona, Phoenix, AZ

TA-W-13,399; Gulf & Western Manufacturing Co., Taylor Forge Div., Cicero, IL

TA-W-13,584; National Mines Corp., National Pocahontas #5 Mine, Wyoming County, WV

TA-W-13,640; Anaconda Minerals Co., New Mexico Operation, Blue Water, NM

TA-W-13,641; Anaconda Minerals Co., New Mexico Operation, Laguna, NM

TA-W-13,671; Westinghouse Electric Corp., Large Power Transformer Div., Muncie, IN

TA-W-13,691; Western Nuclear, Inc., Wellpinit, WA

TA-W-13,707; Anschutz Mining Corp., Madison Project, Fredericktown, MO

TA-W-13,752; Glenoit Mills, Inc., Tarboro, NC

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,461; General Motors Corp., General Motors Assembly Div., Willow Run Plant, Ypsilanti, MI

TA-W-13,684; Cities Service Co., Miami East Div., Miami, AZ

TA-W-13,479; Elizabeth Fashions, Inc., Hoboken, NJ

TA-W-13,633; Max Factor & Co., Hawthorne, CA

TA-W-13,734; Pyramid Manufacturing Co., Brownsville, TX

TA-W-13,670; Union Carbide Caribe, Inc., Ponce, PR

TA-W-13,591; The General Tire & Rubber Co., Akron, OH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,697; Cudahy Foods Co., Phoenix, AZ

Aggregate U.S. imports of fresh and processed beef and pork are negligible.

TA-W-13,682; Beckley Coal Mining Co., Glen Daniel, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA-W-13,762; The Carbon Limestone Co., Lowellville, OH

Aggregate U.S. imports of crushed limestone did not increase as required for certification.

TA-W-13,763; Eastern Associated Coal Corp., Keystone #1 Mine, Keystone, WV

Aggregate U.S. imports of coal or coke did not increase as required for certification.

TA-W-13,703; Kaiser Steel Corp., Eagle Mountain Mine, Eagle Mountain, CA

Aggregate U.S. imports of iron ore are negligible.

TA-W-13,709; Amstar Corp., American Sugar Div., Philadelphia, PA

Aggregate U.S. imports of refined sugar did not increase as required for certification.

TA-W-13,761; Beckley Lick Run Co., Bonny Deep Mine, Clear Creek, WV

Aggregate U.S. imports of coal or coke did not increase as required for certification.

TA-W-13,755; Shenango, Inc., Buffalo, NY

Aggregate U.S. imports of ingot molds are negligible.

TA-W-13,768; The New River Co., Siltix Mine, Mount Hope, WV

Aggregate U.S. imports of metallurgical coal re negligible.

TA-W-13,688; Slab Fork Coal Co., #8 Mine, Slab Fork, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA-W-13,689; Slab Fork Coal Co., #10 Mine, Slab, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA-W-13,679; KMMCO, Inc., East Detroit, MI

Aggregate U.S. imports of automotive exterior moldings did not increase as required for certification.

TA-W-13,680; KMMCO, Inc., Clanton, AL

Aggregate U.S. imports of automotive exterior moldings did not increase as required for certification.

Affirmative Determinations

TA-W-13,727; Brookfield Athletic Shoe Co., Inc., East Brookfield, MA

A certification was issued in response to a petition received on August 17, 1982 covering all workers separated on or after August 13, 1981.

TA-W-13,694; Silver Bell Unit, of ASARCO, Inc., Silver Bell, AZ

A certification was issued in response to a petition received on August 5, 1982 covering all workers separated on or after August 3, 1981.

TA-W-13,719; Regal Bag Co., Inc., Newburgh, NY

A certification was issued covering all workers of the firm separated on or after February 1, 1982 and before June 1, 1982.

TA-W-13,758; RCA Corp., Consumer Electronics Div., Indianapolis, IN

A certification was issued in response to a petition received on August 31, 1982 covering all workers separated on or after August 20, 1981 and before July 31, 1982.

TA-W-13,645; Bethlehem Steel Corp., Johnstown Plant, Conemaugh & Black Lick Railroad, Johnstown, PA

A certification was issued covering all workers of the Johnstown plant of Bethlehem Steel Corp. engaged in employment related to the production of carbon steel wire and wire rod, and basic and semi-finished steel and all workers of the Conemaugh and Black Lick Railroad separated on or after July 8, 1981.

TA-W-13,722; Uniroyal, Inc., Thomson, GA

A certification was issued covering all workers of the firm separated on or after March 21, 1982.

TA-W-13,695; Boss Manufacturing Co., Pine Apple, AL

A certification was issued in response to a petition received on August 4, 1982 covering all workers separated on or after July 30, 1981.

TA-W-13,696; Boss Manufacturing Co., Greenville, AL

A certification was issued in response to a petition received on August 4, 1982 covering all workers separated on or after July 30, 1981.

TA-W-13,696A; Boss Manufacturing Co., Kewanee, IL

A certification was issued in response to a petition received on August 4, 1982 covering all workers separated on or after July 30, 1981.

I hereby certify that the aforementioned determinations were issued during the period February 28, 1983—March 4, 1983. Copies of these determinations are available for inspection in room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 8, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-6583 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on March 1, 1983.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, 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 March 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C., on March 9, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas

March 1, 1983

Labor Surplus Area	*Civil Jurisdictions Included*
Georgia	
Jefferson County	Jefferson County
Iowa	
Des Moines County	Des Moines County
Massachusetts	
Southbridge Town	Southbridge Town in Worcester County
Mississippi	
Calhoun County	Calhoun County
New Mexico	
Hidalgo County	Hidalgo County
North Carolina	
Warren County	Warren County
Rhode Island	
Coventry Town	Coventry Town
East Providence City	East Providence City
North Providence Town	North Providence Town
Tennessee	
Weakley County	Weakley County

[FR Doc. 83-6567 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-30-M

Fiscal Year 1984 Preliminary Planning Estimates for Wagner-Peyser Activities

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces Fiscal Year 1984 Preliminary Planning Estimates for Wagner-Peyser activities.

FOR FURTHER INFORMATION CONTACT: Richard C. Gilliland, Director, United States Employment Service (Attention: TEEPP) 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6289.

SUPPLEMENTARY INFORMATION: Section 6(b)(5) of the Wagner-Peyser Act, as amended by Pub. L. 97–300, October 13, 1982, requires that the Secretary shall provide preliminary planning estimates to all States not later than March 15, of the fiscal year preceding the year in which the funds will be used. This Section also requires that final planning estimates be made not later than May 15 of each such fiscal year.

The revisions to the Act also require that at least 97 percent of the funds appropriated for allotments to States be distributed by the formula provisions contained in Sections 6 (a) and (b) of the Act. An amount not to exceed 3 percent of the sums available for allotment shall be reserved by the Secretary in accordance with Section 6(b)(4).

The law requires that FY 1983 payments available to the States be used to compute each State's relative share of FY 1983 resources. State specific allocation data and fiscal data contained in approved FY 1983 State plans were used for this purpose. Identifiable activities not authorized under the revised legislation were excluded from the data base.

The FY 1984 appropriation request for Wagner-Peyser activities subject to the formula allotment requirements of Section 6 is $707,993,000. Of this amount $21,239,790 (3%) has been reserved pending final decisions on the use of these funds.

The preliminary planning estimates which follow reflect the application of the formula requirements contained in Section 6 to $685,039,951 after first making allotments to Guam and the Virgin Islands.

Further information regarding the allocation methodology is available upon request.

Signed at Washington, D.C., on March 4, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

WAGNER-PEYSER ALLOTMENTS TO STATES FY 1984 PRELIMINARY PLANNING ESTIMATES

	Allotment
Alabma	10,433,607
Alaska	6,606,687
Arizona	7,885,714
Arkansas	7,665,065
California	64,915,364
Colorado	8,942,948
Connecticut	8,857,448
Delaware	1,918,112
District of Columbia	6,026,924
Florida	23,751,271
Georgia	13,181,880
Hawaii	3,215,156
Idaho	5,612,910
Illinois	31,067,390
Indiana	14,707,036
Iowa	10,425,423
Kansas	6,478,278
Kentucky	9,118,291
Louisiana	10,010,661
Maine	3,337,944
Maryland	10,968,018
Massachusetts	15,027,612
Michigan	26,802,669
Minnesota	11,754,627
Mississippi	8,995,170
Missouri	12,613,369
Montana	4,568,360
Nebraska	5,512,551
Nevada	4,456,948
New Hampshire	2,382,316
New Jersey	18,702,373
New Mexico	5,100,326
New York	62,894,427
North Carolina	15,226,923
North Dakota	4,670,835
Ohio	29,515,724
Oklahoma	14,383,616
Oregon	10,067,932
Pennsylvania	30,264,640
Puerto Rico	7,580,160
Rhode Island	2,943,094
South Carolina	8,142,057
South Dakota	4,297,412
Tennessee	12,036,462
Texas	43,542,987
Utah	9,387,052
Vermont	2,022,295
Virginia	13,101,647
Washington	12,381,210
West Virginia	4,617,595
Wisconsin	13,348,152
Wyoming	3,349,281
Guam	314,674
Virgin Islands	1,398,385
Undistributed	21,239,790
National total	707,993,000

[FR Doc. 83-6564 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet in Baltimore, Maryland on March 30 and 31, 1983. The meeting will begin at 9:00 a.m. on Wednesday, March 30 in the Chesapeake Room at the Hyatt Regency Hotel, 300 Light Street, Baltimore, Maryland. The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the Administration of the Act.

The meeting agenda will include a joint session with the Occupational Safety and Health State Plan Association, and discussions of issues relating to State Plans. There will be brief reports on other matters pertaining to OSHA and NIOSH.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairperson of the Committee to the extent which time permits. Those planning to make oral presentations should take notice that the electronic and print media may be present to record and report these proceedings.

For additional information contact: Clarence Page, Division of Consumer Affaris; Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Rm N–3635, Washington, D.C. 20210; Telephone: 202–523–8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 9th day of March, 1983.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 83-6563 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

Grant of Individual Exemptions; G. J. Aigner Co., et al.

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.

Aigner Company Employee Benefit Plan (the Plan) Located in Chicago, Illinois

[Exemption Application No. D-2952; Prohibited Transaction Exemption 83-34]

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: (1) The sale by the Plan of 247,686 shares of G.J. Aigner Company common stock for cash and certain notes of Avery Holding Corporation (Avery Holding), a wholly-owned subsidiary of Avery International Corporation (Avery); and (2) other transactions consummated and continuing in accordance with terms of agreements between the Plan, Avery Holding, and Avery, provided the terms of the transactions were no less favorable to the Plan than those obtainable in arm's-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 January 7, 1983 at 48 FR 900.

Effective Date: This exemption will be effective July 23, 1981.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Rosen's Furniture Co., Inc. Profit Sharing Plan (the Plan) Located in Stroudsburg, Pennsylvania

[Exemption Application No. D-3120; Prohibited Transaction Exemption 83-35]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of a warehouse by the Plan to Rosen's Furniture Company, Inc., as described in the notice of pendency, so long as the rental amount received by the Plan represents the fair market rental value of the warehouse.

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 on January 7, 1983 at 48 FR 911.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Asp Realty Co., Inc. Profit Sharing Plan (the Plan) Located in Fargo, North Dakota

[Exemption Application No. D-3435; Prohibited Transaction Exemption 83-36]

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 contribution to the Plan by Asp Realty Company, Inc. (the Employer), the Plan sponsor, of certain contracts for deed (Contracts), provided that the Internal Revenue Service does not determine that the Employer's Federal tax deduction with respect to such contributions exceeded the fair market value of the Contracts on the date of their contribution to the Plan; and (2) the guarantee by the Employer to replace such Contracts if defaulted upon and indemnify the Plan against any loss suffered due to such default.

Effective Date: The effective date of the exemption will be January 1, 1975.

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 January 21, 1983 at 48 FR 2857.

For Further Information Contact: Robert N. Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

The Sackman-Gilliland Corporation Money Purchase Pension Plan (the Plan) Located in Garden City, New York

[Exemption Application No. D-3514; Prohibited Transaction Exemption 83-37]

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 cash sale by the Plan to Bankers Trust Company of eight mortgage notes (the Mortgages) for their unpaid principal balance plus accrued interest, provided the amount paid for each Mortgage is not less than its fair market value at the time the transaction is consummated.

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 January 21, 1983 at 48 FR 2862.

For Further Information Contact: Ms. Jan D. Broady of the Department,

telephone (202) 523-8971. (This is not a toll-free number.)

The Texas State Optical of Capital Plaza Pension Plan (the Plan) Located in Austin, Texas

[Exemption Application No. D-3630; Prohibited Transaction Exemption 83-38]

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: (1) A loan (the Loan) by the Plan of approximately $96,732 to Texas State Optical of New Braunfels (the Partnership), provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loan by the partners of the Partnership who are principals of Drs. Taylor, Watson, Knowles and Associated Optometrists, P.C., a party in interest with respect to the Plan.

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 January 7, 1983 at 48 FR 906.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Thermo Electric Co., Inc. Employees' Profit Sharing and Retirement Plan and Trust (the Plan) Located in Saddle Brook, New Jersey

[Exemption Application No. D-3658; Prohibited Transaction Exemption 83-39]

Exemption

The restrictions of section 406(a), and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain real property by the Plan to Thermo Electric Co., Inc. (the Employer) in exchange for the Employer's promissory note, provided that the terms of the transaction are no less favorable to the Plan than those obtainable in a similar transaction with an unrelated third 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 January 21, 1983 at 48 FR 2859.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Walter M. Roberts Enterprises, Inc. Employees' Profit Sharing Plan (the Plan) Located in Nelson, New York

[Exemption Application No. D-3691; Prohibited Transaction Exemption 83-40]

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 sale for $33,500 in cash of certain unimproved real property (the Real Property) by the Plan to Three J Company, provided this amount is not less than the fair market value of the Real Property at the time the sale is consummated.

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 January 21, 1983 at 48 FR 2866.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

The Greiver, Skolnick, Stoler & Lloyd Profit Sharing Plan (the Profit Sharing Plan) and the Greiver, Skolnick, Stoler & Lloyd Retirement Plan (the Retirement Plan, collectively the Plans) Located in Louisville, Kentucky

[Exemption Application Nos. D-3716 and D-3717; Prohibited Transaction Exemption 83-41]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed loan of $30,000 by the Profit Sharing Plan to Greiver, Skolnick, Stoler & Lloyd, P.S.C. (the Employer), the sponsor of the Profit Sharing Plan; (2) the proposed loan of $70,000 by the Retirement Plan to the Employer, the sponsor of the Retirement Plan; and (3) the guarantee of such loans (the Loans) by the seven principals of the Employer provided that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in similar transactions with an 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 January 7, 1983 at 48 FR 905.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Restated Pension Plan and Trust Agreement of Winchester Orthopaedic Associates, Ltd. (the Plan) Located in Winchester, Virginia

[Exemption Application No. D-3777; Prohibited Transaction Exemption 83-42]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $189,000 by the Plan to Medical Associates Special Holdings, a party in interest with respect to the Plan, to finance construction of an addition to a building leased to Winchester Orthopaedic Associates, Ltd. and Medical Circle Physical Therapy, both parties in interest with respect to the Plan, provided the terms and conditions of such loan are not less favorable to the Plan than those obtainable in a similar transaction with an 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 January 21, 1983 at 48 FR 2867.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (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 10th day of March, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-6665 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3403]

Proposed Exemption for Certain Transactions Involving the Cincinnati Bell Inc. Pension Plan Trust Located in Cincinnati, Ohio

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 certain past and proposed transactions between the Cincinnati Bell Inc. Pension Plan Trust (the Trust) and American Telephone and Telegraph Company (AT&T) and its susidiaries or affiliates provided certain conditions are met. The proposed exemption, if granted, would affect the Trust, AT&T and its subsidiaries or affiliates, and any other persons participating in the transactions.

EFFECTIVE DATE: If granted, this exemption will be effective January 1, 1975.

DATE: Written comments must be received by the Department on or before May 2, 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, N.W., Washington, D.C. 20216, Attention: Application No. D-3403. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the 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 Bankers Trust Company (Bankers), 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 Trust is comprised of assets contributed on behalf of the Cincinnati Bell Inc. Pension Plan and the Cincinnati Bell Inc. Management Pension Plan (the Plans). The Plans are each defined benefit plans and as of September 30, 1981, had total assets of $186,284,327. The Plans currently have approximately 6,200 active participants.

2. Bankers, a New York corporation, serves as the trustee of the Trust under an Agreement of Trust executed between Bankers and Cincinnati Bell Inc. (the Employer), as amended and restated effective January 1, 1981. Bankers is one of the leading financial institutions in the United States engaged in acting as a fiduciary for employee benefit plans as its trust department, including personal trusts, has more than $40 billion under administration. Bankers also serves as an investment manager with respect to the Trust's fixed income type of investment portfolio, and has maintained sole discretion with regard to these investments from a date prior to January 1, 1975. Putnam Advisory Co., Inc., Cole, Yeager & Wood, Inc., and the Central Trust Co., N.A. serve as investment managers (the Investment Managers) with regard to the Trust's equity type investment portfolio. Bankers and the Investment Managers are not related to or affiliated with the Employer or AT&T, and each excercises independent investment discretion with regard to that portion of the Trust's assets under management.

3. The Employer is the sponsor of the Plan, and is associated with AT&T and its subsidiaries through agreements known as license contracts (the Contracts). Under the Contracts the Employer may purchase telephones and related equipment manufactured under patents owned by AT&T, and AT&T may provide advice and assistance to the Employer concerning aspects of the Employer's business. AT&T and its subsidiaries provide long distance and local telephone service throughout the United States.

4. AT&T owns 100% of the capital stock of all its regional subsidiaries except for its two associated regional companies, the Employer and Southern New England Telephone Company (Southern New England). AT&T owns, respectively, 31% and 22% of the Employer's and New England's outstanding shares of common stock. By virtue of AT&T's percentage ownership of the Employer, the applicant represents that AT&T and its subsidiaries are not "affiliates" of the Employer as described in section 407(d)(7) of the Act. Thus, the applicant represents that securities issued by AT&T and its subsidiaries may not constitute "employer securities" as defined in section 407(d)(1) of the Act, and consequently not "qualifying employer securities" as defined in sections 407(d)(5) and 407(e) of the Act. Accordingly, certain purchases, holding and/or sales by the Trust of securities issued by AT&T or its subsidiaries may result in certain prohibited transactions as described in the Act, not exempt by any other provision of the Act.

5. The applicant requests relief from section 406(a) of the Act for certain past prohibited transactions between the

Plans and AT&T and its subsidiaries. On March 30, 1981 and March 31, 1981, Bankers purchased on the secondary market, on behalf of the Trust, $2,000,000 face amount of 1991 bonds issued by AT&T bearing interest at an annual rate of 13.25%. Bankers purchased $1,777,000 face amount of the bonds through the brokerage firm Merrill, Lynch, Pierce, Fenner and Smith Incorporated (Merrill, Lynch), on March 30, 1981, and the remaining $223,000 face amount of bonds through the brokerage firm Tucker, Anthony & R.L. Day, Inc. (Tucker, Anthony), on March 31, 1981. Neither Merrill, Lynch nor Tucker, Anthony is related to or affiliated with either Bankers, the Employer or AT&T. Bankers was informed in June, 1981, that AT&T was not an affiliate of the Employer, that the bonds were not qualifying employer securities, and thereafter constantly monitored the price of the bonds in order to dispose of them when the market price equalled the price paid for them. On November 12, 1981, the bonds were sold through Tucker, Anthony, at prices equal to the weighted average cost of the bonds with the realization of no gain or loss to the Trust. During the seven month period which the bonds were held by the Trust, interest was earned by the Trust at reasonable, prevailing market rates. The applicant represents that the holding of the bonds by the Trust would constitute an extension of credit between the Trust and AT&T as described in section 406(a)(1)(B) of the Act. Bankers represents that it was not aware when it purchased the bonds that AT&T was not an affiliate of the Employer.

6. As of October 31, 1981, $6,888,000 face amount bonds of AT&T subsidiaries with varying maturities and rates of interest were also owned by the Trust. Approximately one-half of these bonds were acquired for the Trust prior to July 1, 1974, the date specified in the transitional rules under section 414(c) of the Act. The Trust also owns $75,000 face amount of AT&T 4.75% debentures due June 1, 1998, and $100,000 face amount of AT&T 6% debentures due August 1, 2000, which were acquired for the Trust prior to July 1, 1974. The applicant represents that the holding of AT&T subsidiary debt obligations acquired for the Trust after July 1, 1974, may, as of January 1, 1975, constitute extensions of credit between the Plans and AT&T subsidiaries as described in the Act.

7. The applicant also represents that the continued holding of AT&T and/or its subsidiaries debt obligations acquired for the Trust before July 1, 1974, may, upon expiration of the transitional rules under 414(c) on June 30, 1984, constitute prohibited extensions of credit as described in the Act. The applicant represents that if AT&T and its subsidiaries debt obligations were considered to be qualifying employer securities as described in section 407(e) of the Act, the holding of such securities would have complied with the provisions of section 407(a) of the Act. The applicant represents that AT&T and its affiliates debt obligations currently account for approximately 3.03% of the Trust's assets.

8. The applicant also requests exemptive relief from section 406(a) of the Act for future transactions between the Plans and AT&T and its subsidiaries which would be subject to statutory relief if AT&T and its subsidiaries were considered to be affiliates of the Employer. The applicant represents that any transaction subject to this exemption between the Plans and AT&T and its subsidiaries would comply with the provisions of section 408(e) of the Act, but would only be afforded relief from section 406(a) of the Act.[1] Such transactions would include the purchase, holding and sale of debt obligations and equity securities of AT&T and its subsidiaries.

9. The applicant represents that bonds issued by AT&T and its subsidiaries constitute approximately 98% of the new issue AAA utility bond market, and approximately 70% of the new issue AAA taxable non-government bond market, excluding those obligations issued by banks and finance companies. The applicant represents that the exemptive relief requested herein will provide the Plan with a broader range of the highest investment-grade fixed income securities, and allow better diversification of the Trust's fixed income portofoilo.

10. The applicant represents that any transaction between the Trust and AT&T or its subsidiaries will be subject to the sole discretion and control of Bankers or the Investment Managers, parties not related to or affiliated with AT&T, its subsidiaries, and/or the Employer. The employer represents that if Bankers or any of the Investment Managers are replaced, successor trustees or Investment Managers will be independent of AT&T, its subsidiaries and/or the Employer.

With respect to the Plans' investment in equity securities of AT&T and its subsidiaries, the applicant represents that it is unlikely that any intitial purchases would be made directly from AT&T or its subsidiarieis other than pursuant to AT&T's Share Owner Dividend Reinvestment and Stock Purchase Plan (the Program). The Program provides, inter alia, holders of record of AT&T common stock with a method to purchase additional common shares without the payment of any fees or commission expenses. Common shares may be purchased quarterly with reinvested cash dividends on all or less than all of the AT&T common shares registered in the participants's name. The price of common shares purchased with reinvested common share dividends is 95% of the market price average. Market price average is defined as the average of the daily high and low sale prices of the shares on the New York Stock Exchange for the period of five trading days ending on the date of purchase.

The Investment Managers will each maintain sole discretion with respect to Trust investments under the Program. The Investment Managers represent that the possibility of a purchase under the Program resulting in a higher price paid than if the shares were purchased on the open market would be most unlikely and, if it occurred, would represent an isolated incident. The Investment Managers represent that because of the historic stability on the value of AT&T stock, fluctuations in market value of the stock will not be sufficient to offset the benefits to an investor under the Program. The Investment Managers will monitor the Trust's participation in the Program, and in the event an Investment Manager determines that the continued participation by the Trust is inappropriate, the Trust's participation in the Program will be terminated.

13. In summary, the applicant represents that the proposed exemption satisfies the criteria of section 408(a) of the Act because (a) The past purchase and holding of AT&T 1991 bonds were subject to the investment discretion of Bankers, an independent fiduciary unrelated to either the Employer or AT&T; (b) the past holding of debt obligations of AT&T subsidiaries by the Plans was subject to the investment discretion of Bankers; (c) the Plans' assets involved in the proposed transactions between the Plans and AT&T and its subsidiaries will be subject to the investment discretion and control of major corporate fiduciaries who are independent of both AT&T and the Employer; and (d) all transactions

[1] Section 408(e) of the Act, as supplemented by regulations (29 CFR 2510.408(e); 45 FR 51194, August 1, 1980) provides statutory exemptive relief from sections 406(a), 406 (b)(1) and (b)(2) for, inter alia, the acquisition, holding and sale of qualifying employer securities, subject to certain specified conditions.

have been and will continue to be effected at fair market value.

Notice to Interested Persons

Within 10 days after publication of this notice in the **Federal Register**, notice will be provided to all participants in the Plans by conspicuous posting on bulletin boards at all employee locations where notices concerning employees are routinely affixed. Notice will also be provided to all employee organizations of which participants in the Plans are members, the Employer and AT&T. Notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and will inform interested persons of their right to comment on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4979(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).

I. 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) shall not apply to:

A. Effective January 1, 1975, the past extensions of credit by the Plans as a result of the Plans' acquistition of debt obligations of AT&T and its subsidiaries, provided that the transactions have complied with the provisions of section 498(e) of the Act, as if the securities were deemed to be qualifying employer securities as defined in the Act; and

B. Effective upon the date of publication in the **Federal Register** of a grant of this individual exemption, the purchases by the Plans of debt and/or equity securities issued by AT&T or any subsidiary as would be permitted under section 408(e) of the Act if AT&T and its subsidiaries were considered to be affiliates of the Employer, provided that the Plans' assets involved in such transactions are subject to the investment discretion and control of a fiduciary who is independent of both AT&T and the Employer.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of ths proposed exemption.

Signed at Washington, D.C., this 9th day of March, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-6994 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Behavioral and Neural Sciences, Subpanel for Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Neurobiology of the Advisory Panel for Behavioral and Neural Sciences.

Date: April 6, 7, and 8, 1983.

Time: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G St., NW Washington, DC 20550.

Type of meeting: Part Open.—Open 4/8, 2–5:00 p.m.; closed 4/6 & 4/7, 9–5:00 p.m.; closed 4/8, 9–2:00 p.m.

Contact person: Steven E. Kornguth, Program Director for Neurobiology National Science Foundation, Room 320, 1800 G St. NW Washington, DC 20550. Telephone (202) 357–7471.

Summary minutes: May be obtained from Contact Person.

Purpose of panel: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: Open—April 8, 2:00 p.m. to 5:00 p.m. General Discussion of the current status and future trends in Neroscience.

Closed—April 6 and 7, 9:00 a.m. to 5:00 p.m. and April 8, 9:00 a.m. to 2:00 p.m. To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of the proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the

authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 10, 1983.

[FR Doc. 83-6639 Filed 3-14-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Environmental Biology, Subpanel on Marine Biological Laboratories; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Marine Biological Laboratories of the Advisory Panel for Environmental Biology.

Date and time: March 31 & April 1, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James C. Tyler, Program Director, Biological Research Resources (202) 357-7475, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for marine biological laboratories.

Agenda: Review and evaluation of proposals for the purchase of major equipment, refurbishing of facilities, and acquisition of other scientific tools important to research at marine biological laboratories as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 10, 1983.

[FR Doc. 83-6637 Filed 3-14-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular and Molecular Biology, Subpanel on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Panel on Metabolic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: March 31, 1983 (9:00 am to 6:00 pm); April 1, 1983 (9:00 am to 6:00 pm); April 2, 1983 (9:00 am until finished).

Place: Conference Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. William van B. Robertson, Program Director, Metabolic Biology, Room 325, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-7987.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in metabolic biology.

Agenda: To review research proposals and advise the program staff as part of the selection process for awards.

Reason for: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 10, 1983.

[FR Doc. 83-6636 Filed 3-14-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social and Economic Science, Subpanel for Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, The National Science Foundation announces the following meeting:

Name: Subpanel for Economics of the Advisory Panel for Social and economic Science.

Date and time: April 7, 8, & 9, 1983; Thursday, 1:00 pm to 7:00 pm;Friday, 9:00 am to 7:00 pm; Saturday, 9:00 am to 1:00 pm.

Place: Room 338, National Science Foundation, 18th and G Streets N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Daniel H. Newlon, Program Director for Economics, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-9674.

Purpose of subpanel: To provide advice and recommendations concerning support for research in the Economics Program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, of July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 10, 1983.

[FR Doc. 83-6638 Filed 3-14-83; 8:45 am]

BILLING CODE 7555-01-M

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Technology.

Place: Rm. 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Dates: Thursday and Friday, March 31-April 1, 1983.

Time: Thursday, 9-5 p.m.; Friday, 9-3 p.m.

Type of meeting: Open.

Contact person: Mrs. Mary Poats, Executive Secretary of the Committee, National Science Foundation, Rm. 537,

1800 G Street, N.W., Washington, D.C. 20550, Telephone: 202/357-9571.

Purpose of committee: To provide advice to the Foundation on policies and activities of the foundation to encourage full participation of women, minorities and other groups currently underrepresented in scientific, engineering, professional and technical fields.

Summary minutes: May be obtained from the contact person at the above stated address.

Agenda: To review progress by the two subcommittees of the NSF Committee on Equal Opportunities in Science & Technology and to meet with the Director and other NSF staff.

M. Rebecca Winkler,

Committee Management Coordinator.

March 10, 1983.

[FR Doc. 83-6635 Filed 3-14-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

The Consumers Power Company (CPC) (the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes operation of the Big Rock Point Plant located in Charlevoix County, Michigan, at steady state reactor core power levels not in excess of 240 megawatts thermal. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

The licensee has requested exemptions from the requirements of Appendix R to 10 CFR Part 50 for six items. In submittals dated March 19, April 1, May 19, September 24, 1981, February 25, April 30, and July 9, 1982, the licensee provided additional information in support of the requested exemptions, which were proposed in final form in a submittal dated September 28, 1982.

The items for which an exemption was found to be justified are discussed in the following paragraphs. Additional details are contained in the Safety Evaluations, dated March 8, 1983, prepared by the staff in support of these exemptions. These Safety Evaluations have been placed in the Big Rock Point docket file.

1. Section III.G.1 of Appendix R to 10 CFR Part 50 requires that fire protection features be provided for structures, systems, and components important to safe shutdown. One train of systems necessary for hot shutdown must be protected from fire damage. The use of repairs to achieve and maintain hot shutdown is not allowed by Section III.G.1 of Appendix R.

The licensee requested an exemption to Section III.G.1 to allow the use of repairs to make the control rod drive pumps and control rod drive booster pump operable to maintain hot shutdown. The cables to the control rod drive pumps are not properly separated and both pumps could be rendered inoperable by a single fire. In the event that the cables to these pumps were damaged by fire, the licensee states that makeup water for the primary coolant would not be required for at least nine hours and hot shutdown could be maintained without these pumps during that time. During the nine hours, the licensee proposes to return the pumps to an operable status by connecting prefitted, prepared replacement cables which will be stored on-site.

We have reviewed (1) the licensee's analysis which indicates that primary system make-up would not be required for nine hours and (2) repairs planned by the licensee to return the pumps to an operable status. The analysis is appropriately conservative because it considers conditions such as maximum primary system leakage. The replacement cables which would be used to make the necessary repairs will be stored on-site. The cables will be cut to the appropriate size and fitted with plug-in connectors to facilitate a quick repair.

Therefore, reasonable assurance is provided (1) that the pumps would not be needed to maintain hot shutdown for nine hours and, (2) that the licensee has adequately preplanned the repairs to allow them to be performed within the nine hour time span. For these reasons, we conclude that the licensee's request for exemption from Section III.G.1 of Appendix R for the control rod drive pumps and the control rod drive booster pump should be granted.

2. Section III.L of Appendix R requires that during the postfire shutdown the reactor coolant system process variables shall be maintained within those predicted for a loss of normal ac power.

The licensee requested an exemption to Section III.L to allow the reactor coolant system process vairables to vary from those predicted for a loss of normal ac power in the event that the emergency condenser is rendered inoperable. The reactor depressurization system (RDS) and the core spray system (CSS) would be used if the emergency condenser were rendered inoperable. During the postfire shutdown, the reactor coolant system variables would not be maintained within those predicted for a loss of ac power if the RDS and CSS were used. The licensee states that the likelihood of a fire involving the control/power cables of the emergency condenser outlet valves and a coincident random loss of offsite power is extremely remote. A fire involving the control cables of the emergency condenser inlet valves could disable the emergency condenser only if the circuits for both valves were shorted an maloperation of both valves occurred. And while the use of the reactor depressurization and core spray systems to shutdown with the emergency condenser unavailable would not maintain the primary system process variables within those predicted for a loss of normal ac power, the integrity of the fuel cladding would not be adversely affected. Also, the control/power cables of the emergency condenser inlet and outlet valves will be separated from the reactor depressurization and core spray systems except for the areas of the control room and the emergency condenser deck.

We have evaluated the use of the reactor depressurization and core spray systems as an alternate method to maintain the postfire shutdown if the emergency condenser is rendered inoperable. There is appropriate separation between the cables of the emergency condenser and reactor depressurization and core spray systems except for two areas which are discussed in items 3 and 4 of this exemption. We have already concluded that the use of the reactor depressurization and core spray systems for safe shutdown is acceptable in our Safety Evaluation of Systematic Evaluation Program Topic VII-3, "Systems Required for Safe Shutdown," for Big Rock Point dated September 10, 1982. The use of the reactor depressurization and core spray systems to maintain the postfire shutdown would not maintain the primary system variables within those predicted for a loss of normal ac power; however, the reactor would be maintained in a safe condition and the integrity of the fuel cladding would be maintained. For these reasons, we conclude that the licensee's request for exemption from Section III.L of Appendix R for the situation where the emergency condenser is rendered inoperable should be granted.

3. Section III.G.2 of Appendix R to 10 CFR Part 50 requires the proper separation of cables, equipment and associated non-safety circuits of redundant trains. Inside a non-inerted containment, a non-combustible radiant energy shield is one way of providing proper separation.

The licensee requested an exemption to the Section III.G.2 requirement for separation of cables and equipment for the emergency condenser inlet valve circuitry and the reactor depressurization and core spray systems circuits on the emergency condenser deck. The licensee has committed to protect one emergency condenser inlet valve with a non-combustible radiant energy shield. The emergency condenser is functional with one of the two condenser tube bundles operational. Also, the licensee states that the amount of combustible material available on the emergency condenser deck is negligible.

The non-combustible radiant energy shield proposed by the licensee meets the requirements of Section III.G of Appendix R for one train of the emergency condenser inlet valves. We have evaluated the fire hazard on the emergency condenser deck. The probability of an exposure fire from the accumulation of transient combustibles on the emergency condenser deck is low because the personnel access to the deck and to the containment is restricted. This combination of features provides reasonable assurance that one train will be maintained free of fire damage (one train is one loop of the emergency condenser or the combination of the reactor depressurization and core spray systems). Therefore, the level of fire protection for the emergency condenser inlet valves and the reactor depressurization and core spray systems is equivalent to the technical requirements of Section III.G of Appendix R and the exemption should be granted.

4. Section III.G3 of Appendix R to 10 CFR Part 50 requires that fire detection and a fixed fire protection system be installed in fire areas requiring alternative shutdown capabilities.

The licensee requested an exemption to the Section III.G.3 requirement for a fixed fire suppression system in two fire areas—The containment and the control room.

Containment

The licensee requested an exemption to the Section III.G.3 requirement for a fixed fire suppression system inside the containment fire area. The containment fire area is the entire containment exclusive of the reactor recirculating pump room. The licensee states that several modifications have been made inside containment to allow rapid fire detection and fire brigade action. Also, the licensee has committed to install an alternate safe shutdown system.

We have evaluated the fire hazard in the containment fire area. The probability of a significant accumulation of transient combustibles inside the containment is low because personnel access to the containment is restricted. Therefore, a fire in this area would be of limited severity and duration. The installed early warning dection system would provide prompt detection of incipient fire conditions and fire hose stations are distributed throughout containment. These features would allow the fire to be quickly extinguished. Also, the proposed alternate power supply for the emergency condenser will provide reasonable assurance that one train of equipment necessary for safe shutdown will be maintained free of fire damage. Because of these features and the low fire hazard, installation of a fixed fire extinguishing system inside the containment would not enhance the fire protection capability in this area. Therefore, we conclude that the level of existing protection for this area in conjuction with the proposed alternate shutdown capability will provide a level of fire protection equivalent to the technical requirements of Section III.G of Appendix R and the exemption should be granted.

Control Room

The licensee requested an exemption to the Section III.G.3 requirement for a fixed fire suppression system inside the control room fire area. The licensee states that a fixed fire suppression system is not necessary for the control room for the following reasons. The control room is continuously manned by operators who are trained to deal with control room fires. The control room is monitored by smoke detectors and several types of fire extinguishers are immediately available to the operators. Therefore, a control room fire would be quickly contained and suppressed.

We have evaluated the fire hazard in the control room fire area and conclude the hazard is low. The control room is continuously manned and monitored by a fire detection system. Fire extinguishing equipment is provided. Therefore, we conclude that a fire in the control room would be promptly extinguished. Also, an alternate safe shutdown system will be available for the control room. Because of these features and the low fire hazard, installation of a fixed fire extinguishing system inside the control room would not enhance the fire protection capability in this area. Therefore, we conclude that the level of existing protection for this area in conjunction with the proposed alternate shutdown capability will provide a level of fire protection equivalent to the technical requirements of Sectiion III.G of Appendix R and the exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest. Therefore, the Commission hereby grants the following exemptions:

1. An exemption to Section III.G.1 to allow the use of repairs to the control rod drive pumps and the control rod drive booster pump to maintain hot shutdown. Fire protection features will not be required on these pumps to maintain them free of fire damage.

2. An exemption to Section III.L to allow during postfire shutdown the reactor coolant system process variables to vary from those predicted for a loss of normal ac power in the evcent that the emergency condenser is rendered inoperable and use if the reactor depressurization and core spray systems become necessary.

3. An exemption to Section III.G.2 such that required separation between the control/power cables of one of the two emergency condenser inlet valves and the reactor depressurization and core spray systems is not necessary.

4. Two exemptions to Section III.G.3 such that a fixed fire suppression systems will not be required in the containment and the control room. This exemption for the containment does not include the recirculation pump area.

The Commision has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 8th day of March 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-6684 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[ASLBP Nos. 78-389-03 OL, 80-429-02 SP; Docket Nos. 50-329 OL, 50-330 OL; Docket Nos. 50-329 OM, 50-330 OM]

Consumers Power Co. (Midland Plant, Units 1 and 2); Evidentiary Hearings; Limited Appearance Statements

March 9, 1983.

Notice is hereby given that hearings on operating license issues in this consolidated OL/OM proceeding have been scheduled for March 29–April 1, 1983.

Any person who has not been admitted as a party in the OL proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in an operating license proceeding, as specified by 10 CFR 2.104(c). Oral limited appearance statements will be permitted at the commencement of the hearing on March 29, 1983, within such limits and on such conditions as may be fixed by the Board. The Board will accept such statements only during the morning of March 29 but, to the extent necessary, the Board may establish other dates for such statements. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, as soon as possible.

The hearings listed above will commence at 9:00 a.m. each day and will be held at Room E, Quality Inn, 1815 S. Saginaw Road, Midland, Michigan.

Dated at Bethesda, Maryland, this 9th day of March, 1983.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 83-6685 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 118, 118 and 115 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to require yearly review of the Station Emergency plan and the Station security plan by the Nuclear Safety Review Board.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 21, 1982, (2) Amendments Nos. 118, 118, and 115 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's letter to the licensee dated March 4, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. 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 4th day of March 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-6686 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the license for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of its date of issuance and is to be fully implemented within 60 days of Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan as a part of the license.

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 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.

The licensees' filing dated March 19, 1982, consists of Safeguards Information required to be protected from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see (1) Amendment No. 62 to License No. DPR–72 and (2) the Commission's related letter to Florida Power Corporation dated March 4, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida. A copy of the amendment and the Commission's related letter 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 4th day of March 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-6658 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL, 50-323 OL]

Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Rescheduling of Oral Argument

Notice is hereby given that the oral argument in this proceeding previously scheduled for Wednesday, March 16, 1983, has been rescheduled for 9:30 a.m. on Thursday, April 14, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: March 9, 1983.

For the Appeal Board.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 83-6667 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado (Fort St. Vrain Nuclear Generating Station); Exemption

I

Public Service Company of Colorado (the licensee) is the holder of Facility Operating License No. DPR–34 which authorized the operation of the Fort St. Vrain Nuclear Generating Station (the facility) at reactor power levels not in excess of 842 megawatts thermal (rated power). The facility consists of a high temperature gas-cooled nuclear reactor and associated equipment located at the licensee's site near Platteville in Weld County, Colorado.

The license is subject to all rules and regulations of the Commission.

II

By letter dated November 8, 1982, the licensee requested an exemption from the requirements of 10 CFR Part 11, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material," relative to Material Access Authorizations for personnel at the Fort St. Vrain facility.

The provisions of Part 11 specify that all jobs with unescorted access to the Protected Area require an NRC–R Material Access Authorization (basically a National Agency Check); and that certain, more sensitive jobs require an NRC–U Material Access Authorization (complete background investigation).

Although Fort St. Vrain is a power reactor facility licensed under 10 CFR Part 50, the special protection measures of the Physical Protection Upgrade Rule related to Strategic Special Nuclear Material must be provided whenever formula quantities of high enriched fresh fuel are on site. 10 CFR Part 11 Material Access Authorizations, in turn, are required for licensees subject to the Upgrade Rule (10 CFR 73.20, 73.45 and 73.46).

Fort St. Vrain possesses fresh fuel configured only in large blocks of graphite weighing approximately 300 lbs., unlike fuel facilities where readily divertible forms of special nuclear material are processed. The commitments of the licensee to protect these blocks of fresh fuel include measures specifically designed to prevent theft, or diversion by conspiracies. The licensee has also implemented an extensive personnel screening program for all individuals granted unescorted access to the reactor facility. In addition, all individuals who would be subject to the Part 11 "U" requirement have undergone National Agency Checks pursuant to 10 CFR Part 25.

The licensee's approved protective measures, augmented by the existing screening program and National Agency Checks, provide a level of protection against the insider threat for the material at Fort St. Vrain comparable to that envisioned under 10 CFR Part 11. We therfore conclude that the licensee's request for exemption should be granted, provided that Chapter 9 of the Security Plan for the facility is revised to require obtaining National Agency Checks for all individuals occupying positions identified in 10 CFR 11.11(a)(1).

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 11.9, the exemption requested by the licensee's letter of November 8, 1982, as discussed above, is authorized by law and will not constitute an undue risk to the common defense and security. The requested exemption is hereby granted, subject to the following condition:

That within thirty days of the date of this Exemption, Chapter 9 of the facility Security Plan be modified to require obtaining National Agency Checks for all individuals occupying positions identified in 10 CFR 11.11(a)(1).

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 2nd day of March, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-6669 Filed 3-14-83; 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. 12 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. The amendment changes the Technical Specifications to add a containment penetration conductor overcurrent protective device for the steam cleaning machine permanent power source. The amendment was 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 hazard 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 December 17, 1982, (2) Amendment No. 12 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. 12 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 4th day of March, 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-6690 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station); Exemption

I

The Vermont Yankee Nuclear Power Corporation (the licensee) is the holder of Facility Operating License No. DPR–28 which authorizes operation of the Vermont Yankee Nuclear Power Station. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section IV.F of Appendix E to 10 CFR Part 50 requires that an emergency preparedness exercise be conducted (at least) annually. The last full-scale emergency preparedness exercise at Vermont Yankee occurred February 18, 1982.

By letter dated December 16, 1982, the licensee stated that a schedule for the emergency exercise of no later than June 30, 1983, was developed at a meeting on September 14, 1982, between the licensee and representatives for the States of Vermont, New Hampshire, and Massachusetts. Earlier proposed dates interfered with the licensee's annual refueling outage, scheduled to begin in March 1983, or was unacceptable to a particular state. Additionally, the licensee stated that within the past month, recent discussions with all parties including the Federal Emergency Management Agency (FEMA) identified the week of September 19, 1983, as a mutually acceptable date. Accordingly, the licensee requested a one-time exemption so that the Vermont Yankee 1983 Annual Emergency Plan Exercise may be conducted during the week of September 19, 1983.

The licensee has committed to continual training of personnel as outlined in the Vermont Yankee Nuclear Power Corporation Emergency Plan to ensure that personnel remain familiar with emergency response duties. Therefore, the Vermont Yankee emergency plan will remain fully functional during the period of this one-time delay in performing the emergency preparedness drill. Based on this; and on the fact that the last full-scale exercise was held on February 18, 1982 and that the exercise demonstrated an acceptable level of preparedness; and our belief that the most effective and beneficial annual exercises are those involving full-scale participation of State and local government organizations, we find that a delay in performing the licensee's annual emergency preparedness exercise will not adversely affect the overall state of emergency preparedness at the Vermont Yankee Nuclear Plant. We therefore conclude that an exemption should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt from the requirement of Section IV.F of Appendix E to 10 CFR Part 50 with respect to the requirement for conducting an annual emergency preparedness exercise and is required to conduct the next emergency preparedness exercise no later than September 30, 1983.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action

Dated at Bethesda, Maryland, this 1st day of March 1983.

For the Nuclear Regulatory Commission.

Robert A Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc 83-6691 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on March 30, 1983, Room 1046, 1717 H Street NW., Washington, D.C. The Subcommittee will continue its review of the application from the Department of Energy for a permit to construct the CRBR.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 30, 1983—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be

considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 8, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-6681 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittees on Metal Components/Combination of Dynamic Loads; Meeting

The Combined ACRS Subcommittees on Metal Components/Combination of Dynamic Loads will hold a meeting on March 29, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittees will review the reevaluation of double-ended guillotine pipe break design requirements for Westinghouse PWR plants. Notice of this meeting was published February 23, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommitttees finds it necessry to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 29, 1983—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordane with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(3), (4).

Dated: March 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-6682 Filed 3-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Seabrook Nuclear Power Station Units 1 and 2; Meeting

The ACRS Subcommittee on Seabrook Nuclear Power Station Units 1 and 2 will hold a meeting on March 31 and April 1, 1983 at the Ashworth By The Sea, 295 Ocean Blvd., Hampton Beach, NH. The Subcommittee will visit the plant and review the application of the Public Service Company of New Hampshire for an operating license. Notice of this meeting was published February 23, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, March 31, 1983—1:00 p.m. Until the Conclusion of Business

Friday, April 1, 1983—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Public Service Company of New Hampshire, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 8, 1983.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 83-6683 Filed 3-14-83; 8:45 am]
BILLING CODE 7590-01-M

POSTAL SERVICE

Privacy Act of 1974; Annual Publication

AGENCY: Postal Service.

ACTION: Annual Report and advance and final notices of records systems changes.

SUMMARY: As required by 5 U.S.C. 552a(e)(4), the Privacy Act of 1974, Pub. L. 93-579, this is the annual notice of the systems of records that are maintained by the Postal Service. The full text of the Postal Service's systems of records last appeared at 46 FR 1970, January 7, 1981 and at 47 FR 1199, January 11, 1982. This notice contains the systems amended since the January 11, 1982 publication along with those systems that were not published in the January 11, 1982 issue of the **Federal Register**. As a matter of reader convenience, it also provides the titles and numbers of those systems that appeared in the January 11, 1982 issue of the **Federal Register** that have not been amended. In addition, in the interest of providing complete, current information to the public in an easily accessible format, this document also provides final notice of several systems of records changes, and provides advance notice of certain other changes.

DATE: Parts 1, 2, and 4 are effective March 15, 1983. Comments on the proposed new routine uses in Part 3 must be received on or before April 14, 1983.

ADDRESS: Comments may be mailed to the Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West S.W., Washington, D.C. 20260, or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in Room 8121.

FOR FURTHER INFORMATION CONTACT: Martha Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The full text of the Postal Service's systems of records last appeared in part at 46 FR 1970, January 7, 1981, with the remainder appearing at 47 FR 1199, January 11, 1982. Also, on October 6, 1982 (47 FR 44183) an additional routine use to one system of records was proposed. In accordance with provisions of Privacy Act Implementaton guidelines issued by the Office of Management and Budget (40 FR 28961), the Postal Service has instituted a regular program of review of its recordkeeping practices. As a result of the latest review, the Postal Service has determined it is necessary to: (1) Publish final notice of the October 6, 1982 proposal; (2) make minor editorial corrections and revisions to several systems descriptions; and (3) provide notice of several proposed routine uses; and (4) delete a previously published system from the list of systems of records. To afford the reader the opportunity to view the proposed routine uses in the context of the total system description, the proposed routine uses (as set forth in Part 3) also appear in italics in the appropriate systems description listing. In addition, for purposes of continuity, proposed routine use 26 of USPS 050.020 which was published for comment in **Federal Register** notice 48 FR 2615, dated January 20, 1983, and has not yet been adopted is included in the systems description listing of this notice. Anyone wishing to comment on this proposed routine use should do so in accordance with the invitation for comments found in the 48 FR 2615 notice.

Postal Service regulations concerning the privacy of information appear in 39 CFR Part 266. The Postal Service systems of records which are exempt from certain provisions of the Privacy Act are listed in 39 CFR 266.9(b).

1. Final Notice—Routine Use of System of Records

On October 6, 1982, the Postal Service published for comment in the **Federal Register** (47 FR 44183) advance notice of a proposed routine use to replace present routine use No. 22 of system USPS 050.020, Finance Records—Payroll System. No comments on the proposal were received. The final notice of the adoption of this routine use follows:

In accordance with an Agreement reached between the Postal Service and the Office of Personnel Management (OPM) that discontinues Postal Service submission of data to OPM's Central Personnel Data File, the Postal Service will provide to OPM's Compensation Group certain personnel data elements to statistically project Federal retirement and insurance system costs and to produce summary statistics for reports of Federal employment. The final revision and the system to which it applies follows:

USPS 050.020, Finance Records—Payroll System, 050.020

Routine Uses of Records Maintained in the System, including categories of users and the purposes of such uses:

CHANGE ROUTINE USE 22 to READ: "22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group. Data collected are not for the purpose of making determinations about specific individuals, but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment."

2. Editorial Corrections and Revisions

(a) The Postal Service has determined that it is necessary to make certain editorial corrections and revisions to various systems of records descriptions. These revisions do not reflect changes in the operations or functions of the systems. They are only changes to the descriptions themselves for the purpose of more accurately describing the records maintained. The following constitutes final notice of the necessary changes:

USPS 010.010

System name:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

Categories of individuals covered by the system:

CHANGE TO READ: "Postal customers requesting mail forwarding services from their local postal facilities and any postal customers who are victims of a disaster who have requested mail forwarding services through the Red Cross."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

CHANGE PURPOSE TO READ: "(1) To provide mail forwarding and address correction services to postal customers who have changed address; and (2) To provide address information to the Red Cross about a postal customer who has been relocated because of a disaster."

USPS 050.020

System name:

Finance Records—Payroll System, 050.020.

Categories of individuals covered by the system:

CHANGE TO READ: "Current and former USPS employees and postmaster relief/replacement employees."

System manager:

CHANGE TO READ: "APMG, Finance Department and APMG, Employee Relations Department at Headquarters."

USPS 070.040

System name:

Inquiries and Complaints—Customer Complaint Records, 070.040.

Retrievability:

CHANGE TO READ: "For correspondence and computerized complaint cards, by chronological sequence within subject category as derived from correspondence and the name of inquirer or complainant. For complaint cards, chronologically by retrieval code and preprinted complaint card serial number.

Retention and disposal:

CHANGE TO READ: "Correspondence records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Complaint cards are retained for 30 days. Computer records are retained for one year. Paper records are destroyed by shredding. Computer records are destroyed by erasing."

USPS 080.010

System name:

Inspection Requirements—Investigative File System, 080.010.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

CHANGE ROUTINE USE 2 to READ: "2. In the course of conducting any official investigation or during the course of a trial or hearing or the preparation of a trial or hearing, a record may be disseminated to an agency, organization, or individual when reasonably necessary to elicit information relating to the investigation, trial, or hearing or to obtain the cooperation of a witness or informant."

USPS 090.020

System name:

Non-Mail Services—Passport Application Records, 090.020.

Retention and disposal:

CHANGE TO READ: "Applicants' names and telephone numbers are retained at the post office for three months following the close of the postal quarter in which application was made."

USPS 100.050

System name:

Office Administration—Localized Employee Administration Records, 100.050

Record Source Categories:

CHANGE TO READ: "Individuals of Record."

USPS 110.010

System name:

Property Management Records—Accountable Property Records, 110.010

INCLUDE SYSTEM NUMBER TO READ: "110.010."

USPS 120.035

System name:

Personnel Records—Employee Accident Records, 120.035

Categories of individuals covered by the system:

CHANGE TO READ: "All postal employees who have an accident that results in property damage and/or an occupational injury or illness.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

CHANGE ROUTINE USE 4 TO READ: "4. Disclosure may be made to a court, claimant, party in litigation, or counsel for a claimant or party when necessary to facilitate settlement or attemps at settlement of claims involving the accident."

Safeguards:

CHANGE TO READ: "Maintained in closed file cabinets within secured facilities, and are also protected by computer password and tape or disk library physical security."

Retention and disposal:

CHANGE TO READ: "Records are disposed of when five years old following the end of the calendar year to which they relate (as required by OSHA).

USPS 120.070

System name:

Personnel Records—General Personnel Folders (Official Personnel Folders and records related thereto), 120.070

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DELETE ROUTINE USE 2, and renumber remaining routine uses.

USPS 120.090

System name:

Personnel Records—Medical Records, 120.090.

Categories of records in the system:

CHANGE TO READ: Name, address and pertinent drug abuse and medical information, i.e., history, findings, diagnosis, and treatment, and medical findings related to employees' exposure to toxic substances.

Retention and disposal:

CHANGE TO READ: "Medical records considered to be permanent are maintained until employee is separated and then are sent to the nearest Federal Records Center for storage, or to another Federal agency to which the individual transfers employment. The records are maintained for 30 years from the date the employee separates from Federal service. Failed Eligibles—Retained for two years and destroyed by shredding."

USPS 120.098

System name:

Personnel Records—Office of Workers' Compensation Program (OWCP) Records Copies, 120.098

Retention and disposal:

CHANGE TO READ: "OWCP case files are maintained in the inactive file at the injury compensation unit for five years after employee has left the Postal Service. After the five-year period, the OWCP file will be placed in an inactive file until there are enough folders to fill a box and forward to the nearest Federal Records Center where they will be maintained for 25 years.

USPS 120.190

System name:

Personnel Records—Supervisors Personnel Records, 120.190

Categories of records in the system:

CHANGE TO READ: "Records consist of summaries or excerpts from the following other USPS personnel

systems: 120.036, 120.070, 120.151, 120.152, 120.153, 120.180, 120.210, as well as records of discipline. In addition, copies of other Postal Service records and records originated by the supervisor may be included at the supervisor's discretion."

USPS 120.240

System name:

Personnel Records—Garnishment Case Files, 120.240

System location:

CHANGE TO READ: "Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters and the Minneapolis, New York, and San Bruno Postal Data Centers."

USPS 200.230 CHANGE TO READ: USPS 200.030

System name:

Non-Mail Monetary Claims—Tort Claims, Records, 200.030

(b) An editorial change is made to the routine use, as indicated, for each of the following systems of records to accurately reflect the organizational change resulting in the establishment of the Equal Employment Opportunity Commission and made pursuant to the Civil Service Reform Act. Each routine use is changed by deleting "United States Civil Service" and "5 CFR 713" and inserting "Equal Employment Opportunity" and "29 CFR 1613" in lieu thereof, respectively, for USPS 010.030 routine use 7; USPS 010.040 routine use 6; USPS 030.020 routine use 6; USPS 100.010 routine use 6; USPS 120.035 routine use 1; USPS 120.040 routine use 6; USPS 120.110 routine use 8; USPS 120.130 routine use 4; USPS 120.153 routine use 8; USPS 120.190 routine use 5; and USPS 120.210 routine use 7. In all cases, the routine use reads: "Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested records are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint."

3. PROPOSED ROUTINE USES

The Postal Service has determined that a few cases exist in which notice of long-standing routine uses have not previously been published for public comment. The notice of these routine uses and the systems to which they apply follows:

Transfer of Information to Carriers of Union-Sponsored Insurance Plans:

The Postal Service proposes to adopt and add a routine use "27" to system 050.020, Finance Record—Payroll System, which will permit the disclosure of records relating to individual union employees who have elected to participate in union-sponsored insurance plans. This new routine use will enable the Postal Service to disclose to the insurance carriers any relevant payroll information needed to implement such plans. The proposed routine use reads as follows: "27. To union-sponsored insurance carriers for the purpose of determining eligibility for coverage and payment of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate."

Transfer of Information to NIOSH and OSHA:

Executive Order 12196 directed the Secretary of Labor to issue various rules for Federal employee occupational safety and health programs (29 CFR Part 1960). Consequently, a rule was issued that requires the Postal Service to make available to NIOSH and OSHA any relevant records needed for the purpose of administering its program in accordance with the Executive Order. In order to comply, the Postal Service proposes to add routine use "10" to system 120.035, Personnel Records—Employee Accident Records. The proposed routine use reads as follows:

"10. May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities."

Transfer information to foreign government officials:

From time to time, the Postal Service has received requests from foreign government officials for information from system 010.020, Collection and Delivery Records—Boxholder Records for the purpose of enabling them to carry out the law enforcement responsibilities of their government. The Postal Service, therefore, proposes to add a new routine use "9" to system 010.020 to permit disclosure of address information in response to legitimate foreign government requests for such purposes but only when such information is an address that is (1) outside of the United States and its territories and (2) within the territorial boundaries of the requesting foreign government. This routine use is permissive in nature—i.e., at the discretion of the Postal Service, and it is anticipated most likely to be of interest to neighboring governments. The proposed routine use reads as follows:

"9. Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government."

4. Deletion of One System of Records

The Postal Service has, at the request of the Treasurey Department, discontinued over-the-counter sales of Series E Savings Bonds. Therefore, effective immediately, the systems of records concerning savings bonds application records, USPS 090.030, Non-Mail Service—U.S. Savings Bonds Application Records is deleted from the list of Postal Service systems of records. This constitutes the final notice of the deletion of this system.

Accordingly, the postal Service adopts the final changes made in Parts 1, 2, and 4 of this document and incorporates them in the text of the appropriate system of records below. For the sake of convenience, the routine use changes proposed in part 3 of the document also appear in the text of the appropriate system of records.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Annual Notice of Systems of Records

The following points are relevant to the annual notice of Postal Service systems of records provided in this document.

a. Most systems containing contract records, as well as other legal records relating to those contracts, are considered business records by the Postal Service, rather than systems of personal records, as that term is defined in the privacy Act. Accordingly, these systems are not listed.

b. All Postal Service records described in this list are subject to:

1. An order of a court of competent jurisdiction.

2. Review by Congress or one of its Committees or subcommittees upon request.

3. Disclosure only when relevant to the recipient's need and purpose.

c. The "routine use" portion of each system notice contains, as the first item, the system's "purpose." The "purpose" is included to provide clarity and promote understanding of the system by the layman. It may be defined as that activity performed by those officers and employees of the Postal Service who have a need for component records of the system in the performance of their duties. Disclosure accounting is not maintained by the Postal Service for any activity listed as a "purpose."

A complete description of the following systems of records was published in the **Federal Register** on January 11, 1982, [47 FR 1199]. These systems have not been revised since that publication:

USPS 010.080, Collection and Delivery Records—Rural Carrier Routes, 010.080
USPS 030.010, Equal Employment Opportunity—EEO Discrimination Complaint Investigations, 030.010
USPS 030.030, Equal Employment Opportunity—EEO Administrative Litigation Case Files, 030.030
USPS 040.020, Customer Programs—Sexually Oriented Advertisements, 040.020
USPS 050.005, Finance Records—Accounts Receivable File Maintenance, 050.005
USPS USPS 050.010, Finance Records—Employee Travel Records (Accounts Payable), 050.010
USPS 050.040, Finance Records—Uniform Allowance Program, 050.040
USPS 070.010, Inquiries and Complaints—Correspondence Files of the Postmaster General, 070.010
USPS 080.020, Inspection Requirements—Mail Cover Program, 080.020
USPS 080.030, Inspection Requirements—Vehicular Violations Record System, 080.030
USPS 110.020, Property Management—Possible Infringement of USPS Intellectual Property Rights, 110.020
USPS 120.020, Personnel Records—Blood Donor Record System, 120.020
USPS 120.036, Personnel Records—Discipline, Grievance and Appeals Records for Non-Bargaining Unit Employees, 120.036
USPS 120.050, Personnel Records—Employee Suggestion Control, 120.050
USPS 120.060, Personnel Records—Employment and Financial Interest Records, 120.060
USPS 120.099, Personnel Records—Injury Compensation Payment Validation Records, 120.099
USPS 120.100, Personnel Records—Performance Awards System Records, 120.100
USPS 121.051, Personnel Records—Recruiting, Examining and Appointment Records, 120.151
USPS 120.170, Personnel Records—Safe Driver Award Records, 120.170
USPS 120.220, Personnel Records—Arbitration Case Files, 120.220
USPS 130.020, Philately—Educators Stamp Fun Mailing Lists, 130.020
USPS 150.025, Records and Information Management Records—Privacy Act Appeals System, 150.025
USPS 170.010, Statistical (Cost) Systems—Workload Reporting Records, 170.010
USPS 190.010, Litigation Records—Civil Action Case Files, 190.010
USPS 190.020, Litigation Records—National Labor Relations Board Administrative Litigation Case Files, 190.020
USPS 200.230, Non-Mail Monetary Claims—Tort Claims Records, 200.030
USPS 210.010, Contractor Records—Architect Engineers Selection Records, 210.010
USPS 210.030, Contractor Records—Employee Fingerprint Records, 210.030

The following are complete descriptions of those systems that have changed since the January 11, 1982 **Federal Register** publication and of those systems which last appeared in the January 7, 1981 **Federal Register**.

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers requesting mail forwarding services from their local postal facilities and any postal customers who are victims of a disaster who have requested mail forwarding services through the Red Cross.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) To provide mail forwarding and address correction services to postal customers who have changed address; and (2) To provide address information to the Red Cross about a postal customer who has been relocated because of a disaster, and address correction services to postal customers who have changed address.

Use—

1. Records about any named individual are made available to any member of public upon request.

2. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

RETRIEVABILITY:

This system of records is indexed by name and address. Information may be retrieved by route number or ZIP Code where a computerized system is in use.

SAFEGUARDS:

Access to an use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Source document retained for 1 year from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 1 year from effective date. At the end of that period, the tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department, headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholder Records, 010.020.

SYSTEM LOCATION:

Post Office

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosed to public when box is being used for purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Public Law 93–647.

9. *Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government.* (Proposed)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETRIEVABILITY:

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

SAFEGUARDS:

Acess limited to employees working in the boxholder section.

RETENTION AND DISPOSAL:

a. Billing forms are destroyed by shredding 2 years after closeout of the last entry.

b. Boxholder applications are retained for 2 years after termination of the rental.

c. Lockbox preference questionnaire forms are retained for six months after termination of survey.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department.

APMG, Finance Department, Headquarters.

APMG, Rates & Classification Department, headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.030

SYSTEM NAME:

Collection and Delivery Records—Carrier Drive-Out Agreements, 010.030.

SYSTEM LOCATION:

District Offices, Sectional Centers, Post Offices, Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Letter carriers who use privately owned vehicles to transport the mails pursuant to a valid agreement with the local postmaster.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in these records contain Route Number, name and address of carrier, social security number and effective dates of the agreement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1206.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide reimbursement to carriers driving their own vehicles.

Use—

1. Provide necessary tax information to Internal Revenue Service.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. May be disclosed to the Office of Management and Budget in connection with the review of private relief

legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is contained on preprinted forms, magnetic tape and computer printout reports.

RETRIEVABILITY:

The system is indexed by employees' social security number, pay location number and pay period.

SAFEGUARDS:

Normal precautions of filing equipment and limited access and the physical security measures of the computer facility.

RETENTION AND DISPOSAL:

Magnetic tape records are retained for two calendar years (January–December) and then deleted. Source forms are retained until a new or changed agreement and then destroyed by shredding or burning after 1 year.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

A carrier wishing to know if there is information in this system of records concerning him should notify the post office worked of the pay periods the agreement was in force, the route worked, give his name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.040

SYSTEM NAME:

Collection and Delivery Records—City Carrier Route Records, 010.040.

SYSTEM LOCATION:

Postal Service Headquarters, Regional Headquarters, District Offices, Sectional Centers, Post Offices, Automatic Data Processing Centers, Postal Data Centers and ADP Contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Letter carriers, substitute carriers and flexible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, social security account number, age, route number, length of service, leave time and whether or not a transportation agreement exits. It also includes information pertaining to work load, work schedule, performance analysis and individual's work habits. Inspection reports of employees, work load and work load adjustments. Employee and Examiner's comments on route adjustments and inspections. Statistical engineering record of carrier and route characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To assist management in evaluating mail delivery and collection operations and administering these functions efficiently.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is contained on printed forms, computerized media, computer printouts.

RETRIEVABILITY:

The system is indexed by route number, employee name, or postal facility name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Route inspection records are retained for 2 years where inspections are made annually or more frequently, and for 5 years where inspections are made less than annually. Disposal of records is by shredding or burning.

b. Other records in system are retained for a period of up to 1 year depending upon the criticality of the information and then destroyed by shredding or burning.

c. Statistical engineering records are retained for 5 years and then further retained on a year-by-year basis as specifically justified.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters; SAPMG Operations Group, Headquarters (Statistical Engineering Records).

NOTIFICATION PROCEDURE:

Inquiries should contain employees name and social security number, specify the type of information being requested, and forwarded to post office where employed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

From employees, carrier supervisors, and route inspectors.

USPS 010.050

SYSTEM NAME:

Collection and Delivery Records—Delivery of Mail Through Agents, 010.050.

SYSTEM LOCATION:

Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customer requesting delivery of mail through an agent and the agent to whom the mail is to be delivered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name and address of customer, name and address of agent and the signatures of both parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—It serves as the written authority for the delivery of mail other than as addressed.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file cabinets on pre-printed forms.

RETRIEVABILITY:

Forms are filed by customer name.

SAFEGUARDS:

Access is limited to postal employees in the delivery section.

RETENTION AND DISPOSAL:

Records are maintained until contract is terminated then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department.

NOTIFICATION PROCEDURE:

Submit to local postmaster proof of personal identity and name.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Co-signers of the request for delivery of mail through an agent.

USPS 010.070

SYSTEM NAME:

Collection and Delivery Records—Mailbox Irregularities, 010.070.

SYSTEM LOCATION:

District Offices, Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Service customers whose mailbox does not comply with USPS standards and regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information consists of the reports of irregularities as submitted by the carrier or route inspector, the name and address of customer and the date and signature of the postmaster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide for the efficient delivery of the mail.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is recorded on pre-printed forms.

RETRIEVABILITY:

Information is organized around route number.

SAFEGUARDS:

File in cabinets and access is limited to those USPS personnel having a working requirement.

RETENTION AND DISPOSAL:

Retained for one year after completed action and destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURES:

Information may be obtained from the local postmaster, by presenting

identification as to name and address and zip code.

RECORD ACCESS PROCEDURES:

Make request of the local postmaster.

CONTESTING RECORD PROCEDURES:

Make request of the local postmaster.

RECORD SOURCE CATEGORIES:

Carrier or route inspector.

USPS 020.010

SYSTEM NAME:

Communications (Public Relations—Biographical Summaries of Management Personnel for Press Release, 020.010.

SYSTEM LOCATION:

Office of Public and Media Relations, Headquarters.

Office of Communications and Public Affairs, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS executives, directors and managers to include regional staff officers, division directors, district managers, sectional center managers and other key management officials who may have frequent contact with news media or public speaking engagements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical summaries on sheets of paper plus photographs. Summaries include information as to present title and responsibility, length of service, age, place of birth, marital status and participation in local community activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose and Routine.

Use—

1. To provide the public with background information on postal management personnel in connection with public relations matters such as speaking engagements, media appearances, appearances before civic, fraternal, and employee organizations.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on regular bond paper in file cabinets.

RETRIEVABILITY:

Information is filed by name and title.

SAFEGUARDS:

File cabinets are located in communications offices where information is available only to individuals having a need for access.

RETENTION AND DISPOSAL:

a. Biographical sketches maintained at regions are retained while the individual is assigned within the region. If individual is promoted to or assigned to a position within the USPS outside the Region, biographical information is forwarded to the appropriate Public Affairs office; if employment with the USPS is terminated, the sketch is destroyed by shredding.

b. Biographical sketches maintained at USPS, Washington, D.C., are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee and Public Communications, Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should contain name and position held and presented to the Manager of Communications and Public Affairs where currently, or previously, employed.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 030.020

SYSTEM NAME:

Equal Employment Opportunity—Equal Employment Opportunity Staff Selection Records, 030.020.

SYSTEM LOCATION:

Employee Relations Department, Headquarters, Regional Headquarters, Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates considered by Promotion Boards for EEO staff position.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of candidate, level, address, service computation date, date of birth, Social Security Number, postal background, personal information required to assess employee qualifications for position, estimate of potential and record of members of Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 1001, Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide headquarters with information needed to complete selection process.

Use—

1. USPS Promotion Board reviews these records to determine applicant's eligibility for appointment.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any state of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal compliant of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Inactive records may be transferred to a GAS Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms, paper files.

RETRIEVABILITY:

Name of applicant and pay location.

SAFEGUARDS:

Maintained in locked file cabinets within secured facility.

Name of applicant and pay location.

RETENTION AND DISPOSAL:

Records are transferred to the Federal Records Center and maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the head of the facilities where application was made. Inquiries should contain full name, position applied for, the date the Promotion Board met and Social Security Number.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Employee, and employee personnel data.

USPS 040.010.

SYSTEM NAME:

Customer Programs—Memo to Mailers Address File, 040.010.

SYSTEM LOCATION:

USPS Headquarters, Customer Services Department and at a contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subscribers to Memo to Mailers monthly newsletter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subscribers' mailing addresses and status of membership in Postal Customers Councils.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To prepare mailing labels for the monthly mailing of Memo to Mailers.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and computer printout.

RETRIEVABILITY:

Records are maintained by subscriber's name, city, state and ZIP Code.

SAFEGUARDS:

The list contractor is forbidden by contract to use the list for any other means than to produce mailing labels for the U.S. Postal Service.

RETENTION AND DISPOSAL:

The master file is maintained indefinitely, and is updated each month.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER and supply their name and address.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

RECORD SOURCE CATEGORIES:

Subscribers, Postmaster, USPS Customer Service Representatives.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 USC, Section 8334, along with a check.

2. Tax information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizaions—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS act for all casual employees not under retirement.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Progarms, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive reccords may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group. Data collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93-647.

26. *(Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files. (Note: this routine use will be in effect for a period of one year from its effective date.)* (Proposed)

27. *To union-sponsored insurance carriers for the purpose of determining eligibility for coverage and payment of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate.* (Proposed)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 060.010

SYSTEM NAME:

Fraud and False Representation Records—Consumer Protection Case Records, 060.010.

SYSTEM LOCATION:

Consumer Protection Office, Law Department, USPS Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents in proceedings initiated pursuant to 39 U.S.C. 3005; names of attorneys representing parties; assigned Postal Inspectors; and promoter of scheme.

CATEGORIES OF RECORDS IN THE SYSTEM:

Describes and provides history of the above and identifies interested parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 3005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Ready reference source for determining status of pending case and identification of postal employees most familiar therewith.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on printed forms.

RETRIEVABILITY:

Records are maintained by an alphabetic indexing by name of respondent.

SAFEGUARDS:

Records are maintained in closed filing cabinets under general scrutiny by personnel of the Law Department.

RETENTION AND DISPOSAL:

Records in this system are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Consumer Protection Office, Law Department, USPS Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name, name by which respondent in proceeding may have been designated; approximate time period in which proceedings may have been initiated.

RECORD ACCESS PROCEDURES:

See SYSTEM MANAGER above.

CONTESTING RECORD PROCEDURES:

See SYSTEM MANAGER above.

RECORD SOURCE CATEGORIES:

Complaints, correspondence between parties involved and Postal Inspection Service investigative reports.

USPS 060.020

SYSTEM NAME:

Fraud and False Representation Records—Prohibitory Order, 060.020.

SYSTEM LOCATION:

Consumer Protection Office, Law Department, Headquarters, Postal Service Centers, Regional Headquarters, Sectional Management Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting prohibitory orders, the mailers against whom such orders are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for prohibitory orders, the mailing upon which request is predicated, the issued order and the registered mail receipt signed by mailer against whom order was issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 3008.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process request of an order to prohibit pandering advertisement and to determine whether violations of orders have occurred. Used by Consumer Protection Office and Regional Counsel to investigate violations of postal statutes.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in letter form, handwritten and typed.

RETRIEVABILITY:

Data may be found by prohibitory order number or by name of person requesting order.

SAFEGUARDS:

Records are maintained in closed filing cabinets.

RETENTION AND DISPOSAL:

Information is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Consumer Protection Office, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Name and address of person requesting prohibitory order should be furnished the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Persons requesting prohibitory orders.

USPS 070.020

SYSTEM NAME:

Inquiries and Complaints—Government Officials' Inquiry System 070.020.

SYSTEM LOCATION:

Government Relations Department, USPS Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, applicants for employment, contractors, lessors, and customers who have written to nonpostal government officials, congressmen and other government officials corresponding with the USPS in behalf of postal customers/employees and various individuals to whom Postal Service announcements/greetings are directed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information stemming from correspondence described above, and lists of individuals for announcements/greetings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide USPS officials with the means of responding to inquiries from and/or for other government officials and to serve as a work load reporting system for which a description appears as USPS 170.010.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In original, typed, printed, or handwritten form and on magnetic tape/disk and computer printouts.

RETRIEVABILITY:

Subject category as derived from correspondence and the name of the inquirer and/or official inquiring in his/her behalf.

SAFEGUARDS:

Records are maintained in closed file cabinets under general scrutiny of personnel of Government Relations Department. Computer readable media are maintained in a secured data processing facility.

RETENTION AND DISPOSAL:

Paper records are maintained for four years and then destroyed by shredding; magnetic tape/disk records are kept for three years and then erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Government Relations Department, USPS Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above System manager. Inquiries should contain full name, the name of the government official to whom he wrote, the nature of his inquiry and the approximate date.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Nonpostal government officials.

USPS 070.040

SYSTEM NAME:

Inquiries and Complaints—Customer complaint records, 070.040.

SYSTEM LOCATION:

Consumer advocate USPS, Regional and National Headquarters, District Officers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS customers who have initiated complaints against the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The complainant's name, address, and nature of the specific complaint, and resolution of same. Includes general correspondence and complaint cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process USPS customer complaints regarding mail services.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation, or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in original typed, printed, handwritten or computer printed form and on magnetic tape.

RETRIEVABILITY:

For correspondence and computerized complaint cards, by chronological sequence within subject category as derived from correspondence and the name of inquirer or complainant. For complaint cards, chronologically by retrieval code and preprinted complaint card serial number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room.

RETENTION AND DISPOSAL:

Correspondence records retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Complaint cards are retained for 30 days. Computer records are retained for one year. Paper records are destroyed by shredding. Computer records are destroyed by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquires to the same facility to which they submitted their complaint. Inquiries concerning complaint cards should include the date and card serial number.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

USPS customers.

USPS 080.010

SYSTEM NAME:

Inspection Requirements Investigative File System 080.010.

SYSTEM LOCATION:

Chief Postal Inspector, Headquarters; Inspection Service Regional Headquarters; Division Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons related to investigations, including subjects of investigations, complainants, informants, witnesses, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigations conducted in criminal, civil, and personnel suitability background matters, and information in various forms received from individuals, other law enforcement agencies and from the public, including information compiled for the purpose of identifying criminal offenders and reports identifiable to individuals. Personal information in this system may include fingerprints, handwriting samples, reports of confidential informants, physical identifying data, voiceprints, polygraph tests, photographs, and individual personnel and payroll information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide information related to investigation of criminal matters: employee and contractor background investigations or other inspection service activities. Use—A record maintained in this system of records may be disseminated as a routine use of such records as follows:

1. In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementating such law;

2. In the course of conducting any official investigation or during the course of a trial or hearing or the preparation of a trial or hearing, a record may be disseminated to an agency, organization or individual when reasonably necessary to elicit information relating to the investigation, trial or hearing or to obtain the cooperation of a witness or informant.

3. A record relating to a case of matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

4. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

5. A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

6. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

7. A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction may be disseminated to a Federal, State, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation or release of such a person.

8. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

9. A record may be disseminated to a Federal, State, local, foreign or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

10. A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

11. A record from this system may be disclosed to the public, news media, trade associations, or organized groups to provide information of interest to the public concerning the activities and the

accomplishment of the Postal Service or its employees;

12. A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

13. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

14. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

15. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

16. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

17. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

18. To provide members of the American Insurance Association Index System with certain information relating to accidents and injuries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Information is collected on handwritten documents and certain investigative material is automated.

RETRIEVABILITY:

Information is located by the name of the individual.

SAFEGUARDS:

Investigative records are maintained in locked file cabinets, safes, or secured areas under the scrutiny of Inspection Service personnel who have been subjected to security clearance procedures. Access is further restricted by computer passwords.

RETENTION AND DISPOSAL:

1. Case records are maintained for 1 to 15 years depending upon type. Exceptions may be granted in specific instances for longer retention. Paper case records are destroyed by burning, pulping or shredding. Computer tape/disk records are erased or destroyed. Duplicate copies of investigative memoranda maintained by postal officials other than the Inspection Service are retained in accordance with official but not Inspection Service disposition schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Postal Inspector, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is contained in this system of records or if they were the subject of an investigation should furnish the SYSTEM MANAGER sufficient identifying information to distinguish them from other individuals of like name; identifying data will include name, address, type of investigation, dates, places and the individuals involvement.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Personal interviews, written inquiries, and other records concerning persons involved with an investigation whether subjects, applicants, witnesses, references, or custodians of record information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 090.020

SYSTEM NAME:

Non-Mail Services—Passport Application Records, 090.020.

SYSTEM LOCATION:

Eight-hundred (800) Post Offices in all states except New Jersey.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons applying for passports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Passport applications, name, telephone number and services rendered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 411, 22 U.S.C. 214.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process the application of passports.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Records may be transferred to the State Department.

3. Pursuant to the National-Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on printed forms in hard copy.

RETRIEVABILITY:

By name of applicant and by postal accounting quarter.

SAFEGUARDS:

Information in this system of records is maintained in file cabinets in the Accounting Unit.

RETENTION AND DISPOSAL:

Applicants names and telephone numbers are retained at the post office for three months following the close of the postal quarter in which application was made.

SYSTEM MANAGER(S) AND ADDRESS:

APMG Delivery Services Department.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address

inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application. (NOTE: The original case file is maintained by Department of State and must be requested from that organization as provided for under Department of State Privacy Act system for passport information.)

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the applicant.

USPS 100.010

SYSTEM NAME:

Office Administration—Carpool Coordination/Parking Records System, 100.010

SYSTEM LOCATION:

Procurement and Supply Department, Headquarters and various field installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees, other building tenants, and other individuals who are members of carpools with USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, letters of violations, letters of suspensions, payment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Provide parking and carpooling services to employees.

Use—

1. To provide each employee of Headquarters, USPS, who desires to join or establish a carpool with the listing of employees who live in his/her ZIP Code area.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms and magnetic tape/disc.

RETRIEVABILITY:

Carpool member name and ZIP Code, space or license number.

SAFEGUARDS:

Folders containing paper documents are maintained in locked file cabinets to which only authorized personnel have access. Computer equipment is located in secured area, and magnetic tape/dics files are kept in locked steel cabinets.

RETENTION AND DISPOSAL:

All carpool and parking service records are retained for a period of six months following termination of service. At the end of retention period, paper records are destroyed by shredding and tape/disc records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

AMPG, Procurement and Supply Department Headquarters, Executive Manager, PST & DI Center.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager where employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

From carpool and parking service applicants/users.

USPS 100.020

SYSTEM NAME:

Office Administrative—Customer Services Communicator Letter, 100.020.

SYSTEM LOCATION:

Customs Services Department, Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Headquarters and Regional Customer Services personnel, District Managers, District Directors of Customer Services, Sectional Center Directors of Customer Services, BMC General Managers and Customer Engineers, selected postmasters and requesters, Customer Services representatives, Sectional Center Managers of Retail Sales and Services, Post Office Managers of Customer Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and home/business address of employees receiving newsletter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To distribute a sales and marketing newsletter to Postal Service Customer services employees.

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Services is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Addressograph plates, magnetic tape, computer printouts and paper forms.

RETRIEVABILITY:

Name of recipient of communicator letter.

SAFEGUARDS:

Addressograph plates and paper forms are kept in closed file cabinets

accessible only by authorized customer services personnel. Magnetic tapes and computer printouts are maintained in a secured ADP facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded, computer records are erased, and addressograph plates are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Postmaster General, Customers Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where they are employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from payroll system and in-house listings of interested readers.

USPS 100.050

SYSTEM NAME:

Office Administration—Localized Employee Administration Records, 100.050.

SYSTEM LOCATION:

Western Region Headquarters and other field facilities as designated by the facility head.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Facility employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, various information associated with work location, home address, emergency contact point, and other information as locally required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes—Provides readily available information on employees for various routine administrative purposes such as work location identification, emergency locating and home mailings. Use—

1. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computer disc.

RETRIEVABILITY:

Employee name, organization, pay location, finance number, others as locally required.

SAFEGUARDS:

Paper records kept in locked files, computerized disk files password protected.

RETENTION AND DISPOSAL:

Records about individual employees will be destroyed within 6 months of employment termination at that facility. Lists generated from computerized systems will be destroyed upon the generation of a subsequent more current list.

SYSTEM MANAGER(S) AND ADDRESS:

Facility head.

NOTIFICATION PROCEDURE:

Inquiries should contain employee's name and be addressed to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individuals of record.

USPS 110.010

SYSTEM NAME:

Property Management Records—Accountable Property Records, 110.010.

SYSTEM LOCATION:

All USPS Components.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees assigned accountable property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records controlling the issuance of accountable Postal Service Property, such as equipment credentials and controlled documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide a record of accountable property on hand and to whom it has been assigned.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate law enforcement agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative

coordination and clearance process as set forth in that Circular.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on printed forms.

RETRIEVABILITY:

Name of recipient of accountable property and types of equipment.

SAFEGUARDS:

Physical security.

RETENTION AND DISPOSAL:

As long as individual is charged with equipment, records are returned to individual when he is no longer accountable.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief Postal Inspector, Headquarters, (2) APMG, Procurement and Supply Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in the system should address inquiries to the Custodian in the facility where assignment was made. Headquarters employees should submit request to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained by the individual to whom the record pertains.

USPS 120.035

SYSTEM NAME:

Personnel Records—Employee Accident Records, 120.035

SYSTEM LOCATION:

Safety offices in any USPS facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All postal employees that have an accident that involves 100 dollars or more damage and/or an occupational injury or illness

CATEGORIES OF RECORDS IN THE SYSTEM:

All postal employees who have an accident that results in property damage and/or an occupational injury or illness

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 91–596 and 94–82, Executive Orders 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide data for analytical studies.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of Worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. Disclosure may be made to a court, claimant, party in litigation, or counsel for a claimant or party when necessary to facilitate settlement or attempts at settlement of claims involving the accident.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

10. *May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities.* (Proposed)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on index cards, magnetic tape, preprinted forms and computer print-outs.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Maintained in closed file cabinets with insecured facilities, and are also

protected by computer password and tape or disk library physical security.

RETENTION AND DISPOSAL:

Records and disposed of when five years old following the end of the calendar year to which they relate (as required by OSHA).

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

USPS Accident Reports and OWCP claim forms

USPS 120.040

SYSTEM NAME:

Personnel Records—Employees Job Bidding Records, 120.040

SYSTEM LOCATION:

Most departments, facilities and certain contractor sites of the Postal Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have made a "Bid for Preferred Assignment" with the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Knowledge of schemes, vacant position characteristics, seniority of the employee, level of the candidate, and craft.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001,1206.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide the Office of Personnel with fair and impartial information to match vacant position to the most qualified candidate.

Use—

1. To provide information for official bulletin boards and release to various employee organizations.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

This system is indexed by employee name and Social Security Number.

SAFEGUARDS:

Computer center access control and limitation within offices to those employees maintaining the system.

RETENTION AND DISPOSAL:

Computer records are saved two years, then automatically deleted. Paper records are kept six months after a vacancy is filled, then destroyed. Some records are retained until employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

APMG. Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

The employee should state the position of bid and identify himself with name, Social Security Number, closing date of the bid notice, and forward this information to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

RECORDS ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Employee personnel data, scheme knowledge, qualifications of the job and of the candidate, successful bidders notices from vacant duty assignment postings.

USPS 120.070

SYSTEM NAME:

Personnel Records—General Personnel Folder (Official Personnel folders and records related thereto), 120.070.

SYSTEM LOCATION:

Personnel Offices of all USPS facilities; St. Louis Personnel Records Centers, E&LR Information Centers and National Test Administration Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, resumes, merit evaluations, promotion/salary change and other personnel actions, letters of commendation, records of disciplinary actions, letters of commendation, records of disciplinary action, health benefit and life insurance elections and other documents pertaining to preemployment, prior Federal employment and current service as prescribed by USPS directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 1005 42 U.S.C. 2000e–16. Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by administrators in Personnel Office and by individual employee superviors to perform routine personnel functions.

Use—

1. To provide information to a prospective employer of a USPS employee or former USPS employee.

2. To provide statistical reports to Congress, agencies, and the public on characteristics of the USPS work force.

3. To provide information or disclose to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary.

4. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

6. To provide data for the compliation of a local seniority list that is used by management to make decisions pertaining to appointment and assignments among craft personnel. The list is posted in local facilities where it may be reviewed by USPS employees.

7. Transfer to the OPM upon retirement of an employee for processing retirement benefits.

8. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

10. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressinal office made at the request of that individual.

11. Disclosure may be made from the record of an individual, where pertient, in any legal proceeding, to which the Postal Service is party before a court or administrative body.

12. Disclosure of relevant and necessary information pertaining to an employee's participation in health, life insurance and retirement programs may be made to the Office of Personnel Management and private carriers for the provision of related benefits to the participant (also see USPS 050.020).

13. Disclosure of minority designation codes may be made to the Equal Employment Opportunity Commission for the oversight and enforcement of Federal EEO regulations.

14. Disclosure of records of discipline relating to individual employees may be made to State Employment Security Agencies at the initial determination level of the unemployment compensation claim process.

15. Disclosure may be made to the Merit Systems Protection Board from the record of an individual to the extent that the information is relevant and necessary to a decision on appeal over which the Board has jurisdiction.

16. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the request record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

17. Inactive folders are transferred to the GSA National Personnel Records Center for storage.

18. Information pertaining to an employee who is a retired military officer will be furnished to the appropriate service finance center as required under the provisions of the Dual Compensation Act.

19. May be disclosed to a Federal or State agency, providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

20. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, preprinted forms, Official Personnel Folders, magnetic tape and other computer storage devices.

RETRIEVABILITY:

Employee name and location of employment and social security number.

SAFEGUARDS:

Folders are maintained in locked cabinets to which only authorized personnel have access and are also protected by computer passwords and tape or disc library physical security.

RETENTION AND DISPOSAL:

(1) Official Personnel Folder (OPF) Records considered to be permanent are maintained until employee is separated, and then are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment. Most records considered to be temporary are destroyed one year after creation. (2) Records Related Thereto—Refer to official Postal Service disposition schedules.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to gain access to their Official Personnel Folders should submit requests to the facility head where employed. Headquarters employees should submit requests to the System Manager. Former Postal Service employees should submit request to any Postal Service facility head giving name, date of birth and social security number. Former Post Office Department employees having no Postal Service employment (prior to July 1971) should submit the request to the Office of Personnel Management (formerly the U.S. Civil Service Commission).

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual employee, personal references, former employers and USPS 050.020 (Finance Records—Payroll System).

USPS 120.090

SYSTEM NAME:

Personnel Records—Medical Records, 120.090.

SYSTEM LOCATION:

Postal Service medical facilities and designee offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees present and former and individuals who have been offered

employment but failed the medical examination before being placed on the rolls, and employees of other agencies that have entered into an agreement with the Post Service to perform medical services for the agencies employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Name, address, and pertinent medical and drug abuse information, i.e., history findings, diagnosis, and treatment, and medical findings related to employees' exposure to toxic substances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of system: 39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide employees with necessary health care and to determine fitness for duty.

Use—

1. Information in these records may be provided to the Office of Personnel Management in making determinations related to:

a. Veterans Preference

b. Disability Retirement

c. Benefit Entitlement

2. Information on these records may be provided to officials of the following Federal agencies responsible for administering benefit programs:

a. Office of Workers' Compensation Programs

b. Retired Military Pay Centers

c. Veterans Administration

d. Social Security Administration

3. Information in these records is used or a record may also be used:

a. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

b. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

c. Used as a record in line of duty injury cases and referred to Public Health Service, HEW.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Records in this system may be disclosed to an employee's private treating physician and to medical personnel retained by the Postal Service to provide medical services in connection with an employee's health or physical condition which is related to his or her employment.

8. May be disclosed to an outside medical service when that organization performs the physical examinations and submits the evaluation to the Postal Service pursuant to a contract with the USPS as part of an established Postal Service health program; for the purpose of determining a postal employee's fitness for duty.

9. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

10. May be disclosed to the Occupational Safety and Health Administration, Department of Labor when needed by that organization to perform properly its duties in accordance with 29 CFR Part 19.

11. May be disclosed to the National Institute of Occupational Safety and Health when needed by that organization to perform properly its duties in accordance with 29 CFR Part 19.

12. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms and paper files.

RETRIEVABILITY:

Records are retrieved by employee name.

SAFEGUARDS:

Maintained in locked files.

RETENTION AND DISPOSAL:

Medical records considered to be permanent are maintained until employee is separated and then are sent to the nearest Federal Records Center for storage, or to another Federal agency to which the individual transfers employment. The records are maintained for 30 years from the date the employee separates from Federal Service. Failed Eligibles—Retained for two years and destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

An employee wishing to know whether information about him is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager. Failed eligibles should address inquiries to the head of the facility where application for employment was made. Inquiries should contain full name.

RECORD ACCESS PROCEDURE:

Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

USPS employees, selected eligibles, Veterans Administration and USPS medical staff.

USPS 120.098

SYSTEM NAME:

Personnel Records—Office of Workers' Compensation Program (OWCP), Record Copies 120.098.

SYSTEM LOCATION:

All postal facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal employees who have voluntarily filed for injury compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim;

automated payment and accounting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide injury compensation to qualifying employees and to maintain a record of the events as a basis for managerial decisions.

Use—

1. To provide information to the Department of Labor for the purpose of determining whether a claimant qualifies for compensation and to what extent qualification applies.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly it duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court on administrative body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms and correspondence (Note: In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL charge-back information is stored on computer media.

RETRIEVABILITY:

Records are retrieved alphabetically by name and social security number.

SAFEGUARDS:

Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security, encryptions, and/or a computer software security system.

RETENTION AND DISPOSAL:

OWCP case files are maintained in the inactive file at the injury compensation unit for five years after employee has left the Postal Service. After the five-year period, the OWCP file will be placed in an inactive file until there are enough folders to fill a box and forward to the nearest Federal Records Center where they will be maintained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department and APMG, Finance Department Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility—where employed. Headquarters employees should submit requests to the System manager.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above. (Note: The original case file (in most cases) is maintained by OWCP and must be requested from that organization as provided for under Department of Labor Privacy Act System DOL/EAS–13.)

CONTESTING RECORD PROCEDURES:

The contents of OWCP records may be contested only by contacting OWCP as provided for under the Department of Labor Privacy Act System DOL/EAS–13.

RECORD SOURCE CATEGORIES:

Information is obtained from the claimant, the supervisor, witnesses, physicians, and Department of Labor.

USPS 120.110

SYSTEM NAME:

Personnel Records—Preemploy Investigation Records, 120.110.

SYSTEM LOCATION:

Post Offices/Facilities; Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Replies from character references, former employers and local police records, drug history records and other investigative reports used to determine suitability for employment. Other records filed with these are: Civil Service Commission records (privacy system—CSC/GOVT–4) compiled through a National Agency Check and Inquiry (NACI) and forwarded to the USPS for assistance in making a hiring decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 410(b), 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To determine suitability for employment.

Use—

1. To any agency from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

2. In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; such referral shall also include, and be deemed to authorize (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other interagency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties.

3. To a Federal agency, in response to its request, in connection with the letting of a contact, or the issuance of a license

grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on matters.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform property its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal compliant of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on preprinted forms and correspondence.

RETRIEVABILITY:

Information is indexed alphabetically by name.

SAFEGUARDS:

Information is stored in locked file cabinets accessible to those with an appropriate security clearance.

RETENTION AND DISPOSAL:

a. If an applicant is found unsuitable for employment, or if an employee is found unsuitable after he has begun work, all local investigative records which support the decison of unsuitability will be retained for a period of two years from the date action was taken to deny or terminate employment. b. If an employee is initially found suitable for employment as result of a local investigation, and is ultimately retained upon receipt of the NACK report from the Civil Service Commission, the local investigative reports will be retained for a period of two years from the date the employee is initially found suitable for employment. c. CSC NACI reports are retained in the same fashion as local investigative records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Apply to the head of the postal facility where employed giving name. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

a. Local Investigative records—Apply to the head of the postal facility where employed. Headquarters employees should submit requests to the System manager. b. CSC NACI reports—Apply to the Civil Service Commission as instructed by privacy system. CSC/GOVT–4.

CONTESTING RECORD PROCEDURES:

See Record access procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained primarily from local police records, former employees, and character reference.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.120

SYSTEM NAME:

Personnel Records—Personnel Research and Test Validation Records, 120.120.

SYSTEM LOCATION:

USPS National Tests Administration Center, Los Angeles, CA; USPS National and Regional Headquarters; Bulk Mail Centers; District Offices; and the Oklahoma City Computer Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for postal employment and USPS employee applicant for reassignment and/or promotion.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer scannable information and the applicants' answers to the test questions. Reports and analyses that have resulted from comparison of information from this system and from system USPS 120.121.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide verification of the applicants' test score. Data are collected whenever an examination is given and are used for construction, analysis and validation of written tests; for research on personnel measurement and selection methods and techniques and research on personnel management practices such as performance evaluation or productivity. Race and national origin data are used to evaluate any adverse impact of the selection process. Use of these race and national origin data is limited to research projects and test validation conducted by the Postal Service. No personnel decisions are made in the use of these research records. Many data are collected under conditions assuring their confidentiality. This confidentiality will be protected. Personnel information in this system of records is used by the personnel research staff in the Office of Personnel Management of the U.S. Postal Service.

Use—

1. To disclose information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

3. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or

retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Answer sheets in handwritten form and computer storage media.

RETRIEVABILITY:

This system of records is indexed by employee name, batch number or employee's date of examination and examination center administering the examination.

SAFEGUARDS:

These records are maintained in closed file cabinets in a secure facility.

RETENTION AND DISPOSAL:

Records are maintained for five years. Paper records are destroyed by shredding and computer records by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether this system of records contains information on them should address inquiries to the head of the Test Administration Center where they were examined. Inquiries should contain full name, social security number, date of examination, examination number, and place of participation in the examination.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD RESOURCE CATEGORIES:

Applicant's test answers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.121

SYSTEM NAME:

Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records, 120.121.

SYSTEM LOCATION:

USPS National Test Administration Center, Los Angeles, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for USPS entry-level examinations, including USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, date of birth, lead office installation number, race, sex, national origin and disability status data:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 101 and 5 U.S.C. 7201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide the Postal Service with the ability to assess the impact of personnel selection decisions on applicants in each racial, sex, national origin and disability category. Note: These data are maintained only on those applicants who voluntarily provide it and under conditions assuring that the individual's self-identifications as to race, sex, national origin, and disability status does not accompany that individual's application when it is under consideration by a selecting official. Data are collected via a research questionnaire on an applicant-by-applicant basis and used to produce summary descriptive statistics and analytical studies to evaluate personnel/organizational measurement and selection methods; implement and evaluate USPS affirmative action programs; determine any adverse impact in the overall personnel selection process; identify categories of individuals for personnel research; and for related work force studies.

Use—

1. To disclose information to the Equal Empoyment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Disclosure may be made in response to the order of a court of competent jurisdiction.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

6. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative and clearance process as set forth in that Circular.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

POLICIES AND PRACTICES FOR STORING, REVIEWING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, magnetic tape and disks.

RETRIEVABILITY:

Records are retrieved by name and Social Security Number.

SAFEGUARDS:

Records are maintained in lockable filing cabinets in a secured room. Access is further restricted by computer passwords.

RETENTION AND DISPOSAL:

Records are retained for five years. Manual records are shredded or burned and magnetic tapes or disks are erased.

Statistical records (without individual identifiers) are maintained for as long as needed for the purpose of conducting longitudinal studies.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether this system of records contains information about them should address inquiries to the head of the Test Administration Center where thay are examined. Inquiries should be written, signed, and contain full name, Social Security Number, type of examination, examination number, and the date and place of participation in the examination.

RECORDS ACCESS PROCEDURE:

See Notification procedure above. Requests for access must also follow the USPS Privacy Act regulations regarding access to records and verification of identity (39 CFR 266.6).

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is provided by applicants taking entrance examination.

USPS 120.130

SYSTEM NAME:

Personnel Records—Postmaster Selection Program Records. 120.130.

SYSTEM LOCATION:

USPS Headquarters; Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees desiring to be considered for promotion to Postmaster position.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, date of birth, social security number, education summary, postal background other employment experience. Postal Inspector's Investigative Memorandum, and other pertinent personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide Regional Management Selection Board and the National Management Selection Board with fair and impartial information to match requirements for Postmaster position to the best qualified candidate.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed, typed or handwritten forms.

RETRIEVABILITY:

Applicant's name and post office for which application was made.

SAFEGUARDS:

Locked file cabinets in a secured facility.

RETENTION AND DISPOSAL:

Records for positions 24 and above are maintained at National Headquarters for two years. All records are maintained at Regional Headquarters for five years. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Employees wishing to know whether this system of records contains information on them should address inquiries to the Regional Postmaster General of the region in which the application was made. Inquiries should contain full name, the postal facility to which application was made, title and place of employment.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained from the employee, postal background personnel data, and from forms completed by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.140

SYSTEM NAME:

Personnel Records—Program for Alcoholic Recovery (PAR), 120.140.

SYSTEM LOCATION:

PAR offices, regional headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees who volunteer for or are referred to the Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Number of counseling contracts and leave usage while participant in the Program, name and personal information necessary to assist employees in a Program of recovery.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide Counselors with information to maintain caseload and follow-up counseling of individuals under the Program. Used as a management date source for statistical reporting on the Program.

Use—

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms and paper files. Sick leave and Leave Without Pay information is stored on computer media.

RETRIEVABILITY:

Employee name and case number.

SAFEGUARDS:

These restricted files are maintained in locked file cabinets with limited access to PAR personnel and in secured facilities. Automated records are

protected through computer password security and encoding of personal identifiers.

RETENTION AND DISPOSAL:

1. Case card is destroyed six years following close of file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Dept., Headquarters.

NOTIFICATION PROCEDURE:

Employees participating in the Program should address inquiries to the head of the facility where participating in the Program. Inquiries should contain employees name and location of employment. Headquarters employees should submit requests to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The participating employee, PAR counselor and the referring source.

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development and Training Records, 120.152.

SYSTEM LOCATION:

Postal Education and Development Centers (PEDCs) and other facilities within the Postal Service where career development and training activities are conducted or authorized.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Career development records and applications for and records of postal and non-postal training. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge, career goals; education and work histories or summaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 US.C. 401.1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers and supervisors with decisionmaking information to employee career development, training and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty in investigating a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designed managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for a period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed. Certain records of examinations are maintained as part of USPS 120.120. Personnel Records—Personnel Research and Test Validation Records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, APMG, Real Estate and Buildings Department, and APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Current and former field employees wishing to know whether information is contained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject, subject's employment records and his/her supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.153

SYSTEM NAME:

Personnel Records—Individual Performance Evaluation/Measurement, 120.153.

SYSTEM LOCATION:

U.S. Postal Service facilities where individual performance evaluation/measurement activities are conducted.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual performance evaluation and measurement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401,1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers and supervisors with decision making information for training needs, promotion and assignment considerations, or other employee/job related actions.

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 129 CFR Part 1613, and the contents of the requested record are needed by the investigator in the preformance of his duty to investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper filed, index cards, magnetic tapes, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. PES Merit Evaluation forms are physically maintained on the left side of the Official Personnel Folder (USPS 120.070) for a period of two years. At the end of the period of usefulness records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Postmaster General having jurisdiction over the functional or administrative area which developed the particular performance evaluation/measurement procedure.

NOTIFICATION PROCEDURE:

Current and former field employees wishing to know whether information is maintained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject subject's employment records and his/her supervisor, or program director.

USPS 120.180

SYSTEM NAME:

Personnel Records—Skills Bank (Human Resources Records), 120.180.

SYSTEM LOCATION:

Maintained by various postal facilities as determined by management.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Skills bank records are maintained on different categories of USPS employees, Women, PCES and employees in various job categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, social security number, address, job position, sex, educational background, work history, salary history, skills, licenses, language, career preferences, geographical preferences, special achievements, merit awards, project assignments, benefits, and other personal information. (The various systems in existence may

contain more or less information than specified herein.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92-261, 39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by USPS management to place employees in new positions, and to assist in career planning and training in general; also used by management to provide statistics for management of personnel.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape and disk files, computer reports, and microfiche

RETRIEVABILITY:

Name and social security number

SAFEGUARDS:

Locked file cabinets, controlled access, computer password authentication, magnetic tape library, physical security.

RETENTION AND DISPOSAL:

Paper records will be destroyed 1 or 2 years after information is successfully entered into the system depending upon the particular program involved, by shredding or burning. Automated information will be erased 1 year after employee is terminated or is no longer in the particular job category.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether such a system exists at their place of employment or whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name, social security number, and place of employment.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURES above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURES above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from employee and USPS personnel forms and reports.

USPS 120.190

SYSTEM NAME:

Personnel Records—Supervisors Personnel Records, 120.190

SYSTEM LOCATION:

Any Postal facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of summaries or excerpts from the following other USPS personnel systems: 120.036, 120.070, 120.151, 120.152, 120.153, 120.180, 120.210; as well as records of discipline. In addition copies of other Postal Service records and records originated by the supervisor may be included at the supervisor's discretion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable supervisors to efficiently manage assigned personnel.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiriry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. Disclosure of records of discipline may be further made to a labor organization pursuant to the National Labor Relations Act upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Records of discipline may become part of USPS 120.070 and would therefore be subject to disclosure under the routine uses of that system of records.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 2613, and the contents of the requested record are needed by the investigator in the performance of his duty of investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, index cards, magnetic tape and disk, computer printouts.

RETRIEVABILITY:

Indexed by employee name.

SAFEGUARDS:

Paper documents/index cards are locked in supervisors desk or filing cabinets. Computer readable media are maintained in secured data processing facilities.

RETENTION AND DISPOSAL:

1. Except for those records of discipline described in subparagraph 2, 3, and 4 below, supervisor's personnel records may be retained for the duration of the supervisor-employee working relationship. Upon separation of an employee from the Postal Service, the entire file pertaining to that employee is destroyed by burning or shredding within 30 days.

2. Counseling Records shall be destroyed after one year if there has been no disciplinary action initiated against the employee during that period.

3. Letters of Warning shall be destroyed after two years if there has been no disciplinary action initiated against the employee during that period.

4. A record of counseling, a letter of warning, or other disciplinary record, which has been relied upon in a subsequent suspension or discharge, will be retained in this system in accord with subparagaphs 1 through 3 above. Such records also will be permanently filed in USPS 120.070, if the subsequent suspension or discharge ultimately is sustained or modified in a manner requiring the preparation of a Form 50.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether this sytem of records contains information on them should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Other personnel records systems, supervisor notes, employees, postal customers.

USPS 120.210

SYSTEM NAME:

Personnel Records—Vehicle Maintenance Personnel and Operators Records, 120.210.

SYSTEM LOCATIONS:

Vehicle Service Operations at Post Offices, Sectional Centers, District Offices, Regional Offices, Headquarters, Bulk Mail Centers, Postal Data Centers and Automatic Data Processing Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee workload, work schedule, performance analysis and work habits. Employee name, age, length of service, physical condition, vehicle accidents, driving citation, safety awards records, driver license revocation and suspension, driving habits, vehicle training, results of driving tests, qualifications to drive vehicles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide local post office managers, supervisors and Director of Fleet Management Operations with information to adjust workload, change schedules, change type equipment operated, lists of equipment assigned to employee, and used as a basis for corrective action or safe driving awards.

Use—

1. To provide GSA and USPS driver credentials.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–10 at any state of the legislative coordination and clearance process as set forth in that Circular.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, and computer tapes.

RETRIEVABILITY:

Employee name, vehicle number route number, work order number and facility name.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilities.

RETENTION AND DISPOSAL:

a. Records pertaining to postal-owned vehicle driver's individual testing and driver's records are retained for three years after separation of the employee and destroyed by shredding.

b. Accident reports are retained for three years and destroyed by shredding.

c. Inspection reports are retained for two years after the date of the report and destroyed by shredding.

d. Other records are retained as long as the individual is employed as a vehicle operator, held for one year from the date of reassignment and destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Inquiries should contain employee's full name, social security number, route number, work station and facility where employed.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The employee, medical doctors, driver examiner/instructor state vehicle departments and supervisors.

USPS 120.230

SYSTEM NAME:

Personnel Records—Adverse Action Appeals (Administrative Litigation Case Files) 120.230

SYSTEM LOCATION:

Law Department, Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in Veterans' Appeal and other adverse action appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d). Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401. 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—1. Pursuant to the National Labor Relations Act records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known to the General Counsel, Law Department National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in Veterans Appeals and other adverse actions appeals; (b) Counsel(s) or other representative(s) for parties in administrative litigation other than Postal Service; (c) Other individuals involved in appeals. Source documents include the formal case file, and other records relevant to the case.

USPS 120.240

SYSTEM NAME:

Personnel Records—Garnishment Case Files, 120.240

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters, and the Minneapolis, New York, and San Bruno Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees invloved in garnishment cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressioanl office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s) of case and State of court action.

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All

other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in garnishment cases; (b) Counsel(s) or other representative(s) for parties other than Postal Service; (c) Other individuals involved in garnishment cases. Source documents include internal memoranda and court related documents.

USPS 130.010

SYSTEM NAME:

Philately—Ben Franklin Stamp Club Sponsors and Direct Mail Responders List, 130.010

SYSTEM LOCATION:

Customer Services Department Headquarters, and at a contractor computer center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adult sponsors of stamp clubs for youth groups as well as club presidents of adult groups

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of club sponsors or presidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.404

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—As an adjunct to a philatelic program, lists of club sponsors or presidents of stamp clubs are used by Sectional Center personnel and District personnel as well as individual postmasters as follows:

1. To assist sponsors in forming stamp clubs.

2. Making contact with clubs to assist in program presentation and USPS cooperation at stamp shows and philatelic exhibits.

3. Responsiveness to philatelic sales requests.

4. Determining USPS needs for films, graphics, and publications related to philately.

5. To mail newsletters to stamp club sponsors and club presidents.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer tape/disk.

RETRIEVABILITY:

Indexed by name of individual and ZIP Code within the club or stamp group to which he/she is associated.

SAFEGUARDS:

Paper records are maintained in locked steel file cabinets in a secured facility; computer media are stored in a fire resistant and secured facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded and computer tape/disk records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMB, Customer Services Department Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name, address, and the club or stamp group with which he/she is associated.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to which the record refers.

USPS 130.040

SYSTEM NAME:

Philately—Philatelic Product Sales and Distribution, 130.040

SYSTEM LOCATION:

USPS Headquarters, Customer Services Department and at a contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who have initiated correspondence expressing an interest in philately by (1) reponding to various philatelic product sales promotion programs by submitting order forms, business reply cards, or cut outs from posters and promotional literature, (2) providing postal clerks with name and address information to receive future philatelic product announcements, (3) opening subscription accounts for philatelic products, or (4) requesting products in unsolicited correspondence, such as letters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer/subscriber name and account number, address, funds on deposit, remittance type and amount order/product specifications, order history; also, special lists identifying individuals who have submitted bad checks, and special services customers/subscribers, and individuals who have registered multiple service complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) to operate a subscription service for customers who remit money for a particular philatelic product or products; (2) to maintain a file to send philatelic product announcements and sales literature to customers or subscribers: (3) to serve, as a source for statistical data for research and market analysis, billing and inventory data, and mailing basis for product shipment and (4) to identify discrete groups of customers/subscribers for better order control and service.

Use—

1. Disclosure may be made where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the reponsibility of investigating or prosecuting such violation or charged with enforcing or implementing the

statute, or rule, regulation or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in repsonse to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in original typed or handwritten form, or microform, and on magnetic tape or disk and computer printouts.

RETRIEVABILITY:

Records are indexed by customer/subscriber name and by account number, if assigned.

SAFEGUARDS:

Paper and microfrom records are maintained in closed filing cabinets under general scrutiny of personnel of the Philatelic Sales Division and the Building Security Guard Force, and when maintained on magnetic tape and disk, the information is protected by ADP physicial, technical software and administrative security of the Headquarters Data Center or by contractors providing similar protection which is subject to the audit and inspection of the USPS Inspection Service.

RETENTION AND DISPOSAL:

ADP and microform records are maintained for three years after the individual has failed to make a purchase or has indicated no other interest. ADP records are obliterated after their period of usefulness; microform records are incinerated. Correspondence and other paper documents are retained for 3 years and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name and address.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual as is described in "Category of Individuals Covered by the System" above.

USPS 140.020

SYSTEM NAME:

Postage—Postal Meter Records, 140.020.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Meters users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer name and address, meter update activity, schedule for meter upgradings for on-site meter settings, license application, and transaction documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable responsible administration of postal meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. To disclose identity and address of meter user and identity of agent of user to any member of public upon request.

3. Pursuant of the National Labor Relations Act records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms.

RETRIEVABILITY:

Records are indexed by customer name and by numeric file of postage meters.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained for one year after final entry or the duration of the license and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and officials making entries to reflect activities.

USPS 150.010

SYSTEM NAME:

Records and Information Management Records—Information Disclosure Accounting Records [Freedom of Information Act], 150.010.

SYSTEM LOCATION:

Records Officer, USPA Headquarters, and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees and citizens requesting information under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of requestor and the type of information requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 412, 5 U.S.C. 552; Pub. L. 93–502.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Those records are kept in order to determine the status of information requested and to facilitate the processing of requests.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

Individuals name and date of request.

SAFEGUARDS:

Locked file drawers and access control.

RETENTION AND DISPOSAL:

Records are maintained by Custodians and the Records Officer for a period of two years. The Headquarters Library and General Counsel keep permanently copies of legal proceedings and appeals related to these records.

SYSTEM MANAGER(S) AND ADDRESS:

Postal Service Records Officer, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name and date of request.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual making the request.

USPS 150.015

SYSTEM NAME:

Records and Information Management Records—Freedom of Information Appeals System. 150.015

SYSTEM LOCATION:

USPS National Headquarters. Law Department.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses all individuals who submit appeals under the Freedom of Information Act from denials of access to or copies of records maintained by the Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of copies of all correspondence relating to appeals from the denials of requests for access to or copies or records pursuant to the Freedom of Information Act of pleadings on civil actions arising under the Act, and of other documents incidential thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable the General Counsel to carry out his duties as appellate authority and to comply with reporting requirements, Use—

1. These records are used to provide information and records to the Department of Justice in its coordination of responses to requests for information and its representation of the Postal Service in civil actions, and to prepare reports required by 5 U.S.C. 552(d).

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in paper folders.

RETRIEVABILITY:

Alphabetically, by name of the requester except in those instances where a requester has an appeal filed on his behalf by an attorney. In those cases, the attorney's name might appear as the requester appellant.

SAFEGUARDS:

These records are stored in locked filed cabinets.

RETENTION AND DISPOSAL:

These records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, National Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager above and should contain the name of the requester and the name of that person's attorney.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, and that person's attorney.

USPS 150.020

SYSTEM NAME:

Records and Information Management Records—Information Disclosure Accounting Records (Privacy Act), 150.020.

SYSTEM LOCATION:

Records Officer, USPS Headquarters and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any USPS employee or citizen who makes an inquiry under the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of inquirer and the type of information requested and USPS response thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401; Pub. L. 93–579.88 Statute 1896.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—These records are to provide information related to requestors of personal information under the Privacy Act.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files.

RETRIEVABILITY:

Requesters' name and date of inquiry.

SAFEGUARDS:

Locked filed drawers and access control.

RETENTION AND DISPOSAL:

Request letters and related correspondence are retained for two years. Accountings of disclosures are retained for five years or the life of the disclosed record, whichever is longer. All records are destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Postal Service Records Officer, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name, and date of the request.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual making the request.

USPS 160.010

SYSTEM NAME:

Special Mail Services—Insured and Registered Domestic Mail Inquiry and Application for Indemnity Records, 160.010.

SYSTEM LOCATION:

Rates and Classification Department, Headquarters, Postal Data Center, St. Louis, MO, and Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insured and registered domestic mail claimants/inquiries including mail senders and addresses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of mail sender and addressee: declaration of claimant/inquirer, claim/inquiry status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in responding to inquiries on the status of domestic insured and registered mail, and in the adjudication of claims related to such mail.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to be appropriate agency, whether Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Handwritten and typed forms, microfilm, computer readable media and printouts.

RETRIEVABILITY:

Claimant/inquirer name, case number, registered article number.

SAFEGUARDS:

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

RETENTION AND DISPOSAL:

Domestic inquiries are maintained for two years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered domestic claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

RECORD ACCESS PROCEDURE:

NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information from the individual completing the claim/inquiry form.

USPS 160.020

SYSTEM NAME:

Special Mail Services—Insured and Registered International Mail Inquiry and Application for Indemnity Records, 160.020.

SYSTEM LOCATION:

Rates and Classification Department, USPS Headquarters; Postal Data Center, St. Louis, MO; and International Adjusting Offices in Chicago, New York, New Orleans and San Francisco.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insured and registered international mail claimants/inquirers, including mail senders and addresses, declaration of claimants/inquirers, claim/inquiry status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in responding to inquiries regarding international mail, and in the adjudication of insured and registered international mail claims.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local

charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. To refer an international mail inquiry or claim to the appropriate foreign postal authority when required for claim resolution.

6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Handwritten and typed forms, microfilm, computer readable media and printouts.

RETRIEVABILITY:

Claimant/inquirer name, case number, registered article number.

SAFEGUARDS:

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

RETENTION AND DISPOSAL:

International inquiries are maintained for three years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rate and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered foreign mail claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information from the individual completing the claim/inquiry form.

USPS 160.030

SYSTEM NAME:

Special Mail Services—Express Mail Service Insurance Claims for Loss Delay and Damage, 160.030.

SYSTEM LOCATION:

St. Louis Postal Data Center, St. Louis, MO.

CATEGORIES OF RECORDS IN THE SYSTEM:

Postal Service forms and correspondence related to the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in the adjudication of express mail service claims for loss, delay and damage.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file cabinets in original typed, handwritten, copied or printed form.

RETRIEVABILITY:

Claims are ordered by date of mailing but are retrieved by name of claimant through visual scanning.

SAFEGUARDS:

Maintained in steel file cabinets within the exclusive custody of Express Mail Marketing personnel in the Customer Services Department and Claims Personnel in the Rates and Classification Department.

RETENTION AND DISPOSAL:

Records are retained for one year then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the claimant or designated representative.

USPS 190.030

SYSTEM NAME:

Litigation Records—Labor Law Topic Files, 190.030.

SYSTEM LOCATION:

Law Department, National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in employee and labor relations matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Miscellaneous notes, memoranda of law, and case analyses prepared by

Postal Service attorneys and personnel; (b) Other relevant documents; (c) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By topic title or name of individual.

SAFEGUARDS:

Topic folders are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific files should submit their name and file topic title, if known, to the General Counsel, Law Department, Headquarters.

RECORD ACCESS PROCEDURE:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

(a) Individuals involved in employee and labor relations matters; (b) Counsel(s) or other representative(s) for parties in an action other than the Postal Service; (c) Other individuals involved in this mattrer. Source documents include internal memoranda, court related documents, case files and other relevant records.

USPS 200.010.

SYSTEM NAME:

Non-Mail Monetary Claims—Relocation Assistance Claims, 200.010.

SYSTEM LOCATION:

USPS National Headquarters (Real Estate and Buildings Department), Washington, D.C. 20260, and all Regional Real Estate and Buildings Departments.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners and tenants of real property purchased or leased by the U.S. Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Completed claim forms and other documents related to indemnifying occupants of property acquired by the U.S. Postal Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) and 39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to adjudicate claims for reimbursement of relocation expenses incurred by owners and tenants of real property acquired by the U.S. Postal Service.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body, or in connection with the settlement of any claim or the resolution of any dispute.

4. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

5. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

6. May be disclosed to a Federal compliance investigator for case or program review.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Stored in file cabinets in original, typed, printed, or handwritten form.

RETRIEVABILITY:

Claims are ordered and retrieved alphabetically by claimant name within project file.

SAFEGUARDS:

Maintained in locked file cabinets within the executive custody of Real Estate and Buildings Department management personnel.

RETENTION AND DISPOSAL:

Records are retained for the life of the facility and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

APMC, Real Estate and Buildings Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether and what information about them is maintained in this system of records should address inquiries to the same facility to which they applied for relocation benefits.

RECORD ACCESS PROCEDURE:

See NOTIFICATION procedure above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION Procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained from previous dwelling owner or tenant claimant and Postal Service claim reviewers and adjudicators.

USPS 200.020

SYSTEM NAME:

Non-Mail Monetary Claims—Monetary Claims involving Present or Former employees (case files), 200.020.

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual involved in monetary claims cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Person interested in reviewing records within specific case files should submit their name, and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Individuals involved in monetary claim cases, (b) Counsel(s) or other representatives for parties in litigation other than Postal Service. Source documents include records relevant to the case.

USPS 200.030

SYSTEM NAME:

Non-Mail Monetary Claims—Tort Claims, Records, 200.030

SYSTEM LOCATION:

Law Department at Headquarters and regions, Postal Inspection Service.

Division Headquarters, Post Offices and Post Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in accident as a result of postal operations or alleging money damages under the provisions of the Federal Tort Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accident reports, tort claims filed, documentary evidence in support of tort claims and litigation arising out of tort claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2671–80, 39 U.S.C. 409(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by attorneys and other employees of the Postal Service to consider, settle and defend against tort claims made against the USPS under the Federal Tort Claims Act. To refer to accident prevention and safety officers, manufacturers of equipment and supplies and their insurers.

Use—

1. Transferred to Department of Justice, other governmental agencies, and other persons involved in a claim against the Postal Service, or use in adjudication, civil litigation and criminal prosecution.

2. To provide members of the American Insurance Association Index System with certain information related to accidents and injuries.

3. Provide information to USPS accident prevention and safety officers.

4. Furnish information to insurance companies that have named the United States as an additional insured or coinsured in liability insurance policies.

5. Provide information to equipment manufacturers and their insurers for claims considerations and possible improvement of equipment.

6. To respond to a subpoena dueces tecum and other appropriate court order and summons.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

10. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper form, original or copies, preprinted or handwritten forms.

RETRIEVABILITY:

Information may be retrieved by person's name or Postal Inspection Service case number.

SAFEGUARDS:

Records are maintained in ordinary filing equipment under general scrutiny of postal personnel.

RETENTION AND DISPOSAL:

Paid claims records are retained for seven years after payment. All other files are retained for five years after closing. All records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

(1) General Counsel, Law Department, Headquarters; (2) Chief Postal Inspector, Headquarters.

NOTIFICATION PROCEDURE:

Furnish person's name, data and place of occurrence giving rise to a claim under the Federal Tort Claims Act, to the head of the facility where the claim was filed.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Claimants making demands for money damages, reports, of postal employees involved in accidents, local police reports, Inspection Service investigative reports and American Insurance Association Index reports.

USPS 210.020

SYSTEM NAME:

Contractor Records—Driver Screening System Assignment Records, 210.020.

SYSTEM LOCATION:

Mail Processing Department, Headquarters, Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Center; and Transportation Management Offices (TMOs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons under a highway contract with the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and highway contract to which assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To ascertain employees having an assignment requiring access to mail or postal premises under contract with the USPS.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Originally typed, printed or handwritten form; magnetic tape and computer printed reports.

RETRIEVABILITY:

Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name.

SAFEGUARDS:

Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract.

RETENTION AND DISPOSAL:

Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Mail Processing Department, Headquarters.

NOTIFICATION PROCEDURE:

Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager. Inquiries should contain full name and highway contract number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from the contractor.

List of U.S Postal Service Facilities Referenced Herein.

The address of each Postal Service facility to which requests may be sent (referred to in systems descriptions), other than post offices and the geographical area served, is provided below. The addresses of individual post offices are not provided because of their large number and because that information is available locally to all concerned individuals.

The addresses of all Postal facilities, including locations in Puerto Rico, and the Virgin Islands are contained in THE NATIONAL ZIP CODE AND POST OFFICE DIRECTORY, Publication 65, STOCK NUMBER, 039-00-00261-2, available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Postmasters, upon request, will supply the addresses of the Management Sectional Centers and District Offices to which they report.

The following excerpt to addresses and areas serviced is provided for convenience of Privacy Act correspondents, and obviates the repetition in each notice. All "Headquarters" addresses are:

(Office), U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

POSTAL SERVICE REGIONAL OFFICES

Regional Postmaster General Central Region, Main P.O. Bldg., Chicago, IL 60699. (States serviced: IL, MI, OH, IN, HY, WI, MN, IA, MO, ND, SD, NE, KS, (except 679).)

Regional postmaster General, Eastern Region, P.O. Box 8601, Philadephia, PA 19101. (States serviced: VA, WV, MD, DE, PA, DC, and those portions of New York State and New Jersey outside the Greater New York City Metropolitan area.)

Regional Postmaster General, Southern Region, 5100 Popular Ave., Memphis, TN 38166. (States serviced: TN, AL, MS, TX, LA, GA, FL, NC, SC, OK, AR, and KS (679).)

Regional Postmaster General, Northeast Region, 1633 Broadway (at 50th Street) New York, NY 10098. (States serviced: New York City, RI, MA, NH, VT, ME, and those portions of New York State, Connecticut, and New Jersey within the New York City Metropolitan area, also Puerto Rico and Virgin Islands.)

Regional Postmaster General, Western Region, 850 Cherry St., San Bruno, CA 94099. (States serviced: CA, NV, HI, AK, WA, OR, MT, ID, WY, UT, CO, AZ, NM, EL Paso, TX Dist. and Guam.)

INSPECTION SERVICE

Chief Postal Inspector, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

TRAINING INSTITUTE

Postal Service Training and Development Institute, 10000 Kentsdale Drive, Potomac, MD 20854

NATIONAL TEST ADMINISTRATION CENTER

National Test Administration Center, / U.S. Postal Service, Federal Building, Room 2001, 300 North Los Angeles Street, Los Angeles, California 90012.

BULK MAIL CENTERS

Atlanta, 1805 Bolton Road, NW., Atlanta, GA 30369.

Chicago, 7500 West Roosevelt Road, Building No. 1, Forest Park, IL 60130.

Cincinnati, 3055 Crescentville Road, Cincinnati, OH 45235.

Dallas, P.O. Box 21106, Dallas, TX 75211.

Denver, 7755 East 56th Avenue, Commerce City, CO 80022.

Des Moines, 4000 NW., 109th Street, Des Moines, IA 50395.

Detroit, 17500 Oakwood Boulevard, Allen Park, MI 48101.

Greensboro, 3701 West Wendover Avenue, Greensboro, NC 27495.

Jacksonville, 7515 Commonwealth Avenue, Jacksonville, FL 32099.

Kanses City, 4900 Speaker Road, Kansas City, KS 66106.

Los Angeles, 4701 South Eastern Avenue, Bell, CA 90201.

Memphis, 1921 Elvis Presley Boulevard, Memphis, TN 38136.

Minneapolis-St. Paul, 3165 South Lexington Avenue, St. Paul, MN 55121.

New York, 80 County Road, Jersey City, NJ 07307.

Philadelphia, 1900 Byberry Road, Philadelphia, PA 19116.

Pittsburgh, R.D. No. 2, Wexford, PA 15090.

St. Louis, 5800 Phantom Drive, Hazelwood, MO 63042.

San Francisco, 2501 Rydin Road, Richmond, CA 94850.

Seattle, P.O. Box 5000, Federal Way, WA 98002.

Springfield, 190 Fiberloid Street, Springfiled, MA 01151.

Washington, 9201 Edgeworth Drive, Washington, D.C. 20027.

[FR Doc. 83-6433 Filed 3-14-83; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22872; 70-6846]

Kingsport Power Co.; Short-term Notes

March 8, 1983.

In the matter of; Kingsport Power Company, 40 Franklin Road, Roanoke, Virginia 24011 (70-6846); proposed issuance and sale of short-term notes to banks.

Kingsport Power Company, ("Kingsport"), an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(2) promulgated thereunder.

Kingsport proposes to issue and sell short-term notes to banks in an aggregate principal amount not to exceed $3.5 million outstanding at any one time. The notes will mature not more than 270 days after the date of issuance or renewal, and will be issued from time to time and be renewed from time to time prior to January 1, 1984, as funds may be required, provided that none of the notes shall mature later than June 30, 1984.

Kingsport has credit arrangements with several banks totaling $4 million. The arrangement with one bank does not require Kingsport to maintain additional balances as compensation for the line of credit made available by the bank since Kingsport maintains deposit balances at the bank for its operational and financial needs in amounts sufficient to satisfy any compensating balances required. Borrowings from this bank would generally bear interest at an annual rate not greater than the banker's prime commercial rate in effect from time to time.

The credit arrangements with the remaining banks generally require Kingsport to maintain compensating balances and to pay a fee which together are generally equivalent to a compensating balance not in excess of 10% of the line of credit. Borrowings from these banks would generally bear interest at an annual rate not greater than 108.5% of the bank's prime commercial rate in effect from time to time. The total cost of borrowings from these banks would not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line of credit and 10% of the amount borrowed.

Kingsport shares certain lines of credit with several other electric utility subsidiaries of AEP and with AEP itself. Fees and balances for shared lines of credit are borne by Kingsport and participating associate companies in proportion to their respective projected maximum need for such credit facilities. It is represented that if the balances maintained and fees paid by Kingsport were maintained and paid solely to fulfill requirements for borrowings by Kingsport, the effective annual interest rate to Kingsport, assuming full use of the lines of credit, would not exceed 125% of the prime commerical rate in effect from time to time, or not more than 15% on the basis of a prime commercial rate of 12%.

Proceeds of the short-term debt incurred by Kingsport, together with other funds availabe to Kingsport from cash capital contributions up to $1,500,000 in the aggregate from AEP (subject to Commission authorization in File No. 70-6666) will be added to the general funds of Kingport and used to pay the maturing and general obligations of Kingsport, to provide needed working capital and for other corporate purposes.

The application and any amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 4, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-6714 Filed 3-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13085; 811-1959]

O.N. Fund, Inc.; Filing of Application

March 8, 1983.

In the matter of: O.N. Fund, Inc., 237 William Howard Taft Rd., Cinicinnati, OH 45219, (811-1959); Notice of Filing of Application for an order pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company.

Notice is hereby given that O.N. Fund, Inc. ("Applicant") registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 13, 1983, requesting an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states, that pursuant to an Agreement of Merger and Plan of Reorganization dated June 3, 1982, Applicant was merged into O.N. Market Yield Fund, Inc. ("Market Yield Fund"), whose name was changed to Ohio National Fund, Inc. Applicant states that on March 18, 1982, Applicant's board of directors unanimously approved a proposed merger of Applicant into Market Fund, including changing the name of surviving corporation to Ohio National Fund, Inc., and operating the surviving corporation as a series company. Applicant represents that on June 3, 1982, its board of directors unanimously approved the plan of merger and authorized the filing of an application for an order of the Commission pursuant to Sections 17(b) and 26(b) of the Act permitting certain transactions.[1] At the same time, the board of directors resolved that the proposal be submitted for consideration at a special meeting of shareholders to be held October 15, 1982, and recommended that the merger be approved by the shareholders. Applicant further represents that, at a shareholders meeting held on October 15, 1982, the proposed merger was approved by a vote of two-thirds of the votes entitled to be cast on the matter, as required by Maryland law.

Applicant states that, in accordance with Maryland law, Market Yield Fund, the surviving fund, assumed all of Applicant's assets and liabilities. According to the application, the merger plan provided that the Articles of Incorporation of Market Yield Fund, whose name was changed to Ohio National Fund, Inc. (the "Fund"), would be amended as of the effective date of the merger to divide the Fund's capital stock into three portfolios: and equity portfolio, consisting of the assets of Applicant; a money market portfolio, consisting of the assets of Market Yield Fund; and a newly-created bond portfolio. On the effective date of the merger, each share of fractional part thereof of Market Yield Fund then outstanding, including (as the surviving fund) shares held by it as treasury stock, were converted into an became an equal number of shares of the money market portfolio. Finally, Applicant states that it is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

[1] Such relief was granted by the Commission in an order dated November 1, 1982 (Investment Company Act Released No. 12777).

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 1, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant of the request should be served personally or by mail upon Applicant at the address stated above. Proof or service (by affidavit or, in the case of an attorney-law by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-6716 Filed 3-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13082; 812-5399]

Pruco Life Insurance Co.; Application

March 8, 1983.

In the matter of: Pruco Life Insurance Company, Pruco Life Variable Insurance Account, Pruco Securities Corporation, Pruco Life Series Fund, Inc., 213 Washington Street, Newark, New Jersey 07102, (812-5399); Notice of Application, Pursuant to Section 6(c) of the Act, for an Order Granting Exemption From the Provisions of Section 12(d)(1) of the Act and, Pursuant to Section 11 of the Act, for Approval of the Terms of Certain Offers of Exchange.

Notice is hereby given that Pruco Life Insurance Company ("Pruco Life"), Pruco Life Variable Insurance Account (the "Account"), Pruco Securities Corporation ("Prusec"), and Pruco Life Series Fund, Inc. (the "Series Fund") filed an application on December 16, 1982, and an amendment thereto on March 4, 1983, for an order of the

Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemption from the provisions of Section 12(d)(1) of the Act to the extent necessary to permit transactions described in the application, and for an order pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application and amendment on file with the Commission for a statement of the representations contained therein which are summarized below, and are referred to the Act for a statement of the relevant provisions.

The Account is a separate investment account of Pruco Life established for the purpose of funding certain variable life insurance contracts (the "Contracts") issued by Pruco Life. Applicants state that the Account is a "separate account" as defined by Section 2(a)(37) of the Act and Rule 0-1(e) under the Act, meets the requirements of Rule 6e-2(a) under the Act, and is registered under the Act as a unit investment trust. Prusec will act as the principal underwriter for the Contracts and for the shares of the capital stock of the Series Fund.

The Series Fund is registered under the Act as an open-end, diversified management investment company. Applicants state that all securities issued by the Series Fund will be sold at their net asset value, without any sales charge, only to the Account and to a separate account of Pruco Life Insurance Company of New Jersey.

The assets of the Account will be derived from premium payments made pursuant to the Contracts. At present, the Account has three sub-accounts: the Money Market Sub-account, the Bond Sub-account, and the Common Stock Sub-account, each of which invests its assets exclusively in a corresponding portfolio of the Series Fund. Interests in each of the three portfolios of the Series Fund are represented by a separate class of capital stock. Contractowners may designate the sub-account of the Account to or among which their net premiums will be allocated, and may transfer all or a portion of the assets relating to their Contracts from one sub-account to another, without any charge, up to four times in each Contract year if no premiums are in default. Applicants state that the interests of contractowners in the sub-accounts of the Account are not held in the form of shares or units so that the concept of net asset value is inapplicable in this context but that the transfers should be deemed to be made on the basis of relative net asset value, for purposes of Section 11, because the value of the interests of contractowners after a transfer will be equal to the value of their interests prior to the transfer.

Relief Requested

Section 12(d)(1) of the Act, as here relevant, generally restricts the ability of a registered investment company to acquire the securities of any other investment company, and of a registered open-end investment company to sell its securities to any other investment company. However, Section 12(d)(1)(E) removes such restrictions if, *inter alia*, the acquired securities are the only securities held by a registered unit investment trust that issues two or more classes of securities, each of which provides for accumulation of shares of a different investment company. Applicants assert that the Account's acquisition of the securities of the various portfolios of the Series Fund is within this exception, but because each sub-account holds a different class of stock issued by the Series Fund (rather than securities issued by different investment companies), Applicants wish to remove any doubt about the matter and request an exemption from Section 12(d)(1), to the extent necessary, to permit the Account to acquire the shares of the Series Fund.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants also request an order pursuant to Section 11 of the Act, to the extent necessary, approving the terms of the offer of exchange described above. Section 11(a) generally makes it unlawful for any registered open-end investment company to make an offer to the holders of its securities to exchange their securities on any basis other than relative net asset values unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) apply to any type of exchange offer involving the securities of a registered unit investment trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 29, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-6717 Filed 3-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19571; File No. SR-MCC-83-1]

Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Clearing Corporation

March 7, 1983.

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 February 4, 1983, the Midwest Clearing Corporation ("MCC"), filed the proposed rule change. The proposed rule change amends MCC Rule 6, Section 5, concerning money payment obligations between MCC and its participants. The proposed rule change clarifies MCC's rights when MCC ceases to act for a participant and, in particular, MCC's right to reverse certain book-entry securities movements to the account of another participant at the Midwest Securities Trust Company when payment by the receiving participant to MCC, although required by the deliverer's instructions, does not occur. The proposed rule change, however, would not authorize MCC to reverse book-entry movements if that reversal would adversely affect fully-paid positions maintained by participants.

Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register.** Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference

should be made to File No. SR–MCC–83–1.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-6715 Filed 3-14-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2077; Amendment #1]

Declaration of Disaster Loan Area; Washington

The above numbered Declaration (See 48 FR 6065) is hereby amended to include the adjacent County, of Pierce, Washington. All other information remains the same, i.e,, the termination date for filing applications for physical damage is close of business on April 1, 1893, and for economic injury until the close of business on October 31, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 7, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-6543 Filed 3-14-83; 8:45 am]

BILLING CODE 8025-01-M

California; Region IX; Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 10:00 a.m. on April 21, 1983, at the Public Enterprise Center, 1505 West Highland Avenue, San Bernardino, California, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gerold Y. Morita, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles California 90071, (213) 798–2977.

Dated: March 7, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-6544 Filed 3-14-83; 8:45 am]

BILLING CODE 8025-01-M

Missouri; Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VII Adivsory Council, located in the geographical area of Kansas City, will hold a public meeting at 9:30 a.m. on Wednesday, March 30, 1983, at the Scarritt Building, 818 Grand Avenue, (Third Floor), Kansas City, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present. For further information, write or call Patrick E. Smythe, District Director, U.S. Small Business Administration, Fourth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, (816) 374–5557.

Dated: March 7, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-6545 Filed 3-14-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM 8/611]

Integrated Services Digital Network (ISDN) Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on three consecutive days beginning March 29, 1983 at 10:00 a.m. in Room 1105, March 30, 1983 at 9:00 a.m. in Room 1105 and March 31, 1983 at 9:00 a.m. in Room 1406 Department of State, 2201 C Street, N.W., Washington, D.C. This Working Party deals with the evolution of ISDN as it is being considered by CCITT Study Group XVIII.

This meeting will review the report of the Kyoto meeting of the ISDN Group of Experts and work towards contributions for the upcoming Study Group XI and Study Group XVIII meetings. Among the topics that will be considered are: (1) Layer I characteristics, including power feeding, activation/deactivation and outstanding problems identified in the report of Working Team 2; (2) numbering plan technical consideratings, noting problems arising from transition from the telephone and data network numbering plans; sub-addressing, record opening, including private network user identification, record closing and user routing choice implications; (3) technical aspects of networks and interfaces as discussed in the reports of Working Teams III and IV of the Kyoto meeting; (4) technical aspects related to signalling and switching as discussed in the reports of Working Team V and VI of the Kyoto meeting.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to March 29, members of the general public who plan to attend the meeting so advise Mr. William Lowell, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–6583. All attendees must use the C Street entrance to the building. Entry will be facilitated 15 minutes before and after the meeting begins.

Dated: March 7, 1983.

William J. Lowell,

Chairman, U.S. CCITT National Committee.

[FR Doc. 83-6701 Filed 3-14-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-61]

Bayer Co.; Recordation of Trade Name

AGENCY: Customs Service, Treasury.

ACTION: Notice of Recordation of Trade Name: The Bayer Company.

SUMMARY: On September 14, 1982, a notice of application for the recordation under section 42 of the Act of July 15, 1946, as amended (15 U.S.C. 1124), of the trade name "The Bayer Company" was published in the Federal Register (47 FR 40519). The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than November 14, 1982. No responses were

received in opposition to the application.

The name "The Bayer Company" is hereby recorded as the trade name used by Sterling Drug Inc., a corporation organized under the laws of the State of Delaware, 90 Park Avenue, New York, New York 10016. The trade name is used in connection with pharmaceuticals manufactured in Canada, West Indies and the United States. Sterling Drug Ltd. of Aurora, Canada, is authorized to use the trade name.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: March 10, 1983.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 83-6693 Filed 3-14-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Art Print Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Print Advisory Panel.

SUMMARY: A closed meeting of the Art Print Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:C:E:V, 1111 Constitution Avenue, NW., Room 5553, Washington D.C., 20224, Telephone No. (202) 566-4196, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Print Advisory Panel will be held on April 12, 1983, beginning at 9:30 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals and allocations of value of the assets in art print publishing ventures involved in federal income tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978. (43 FR 52122.)

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83-6724 Filed 3-14-83; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Department Circular Public Debt Series—No. 7-83

TREASURY NOTES OF MARCH 31, 1985 SERIES S-1985

March 10, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,750,000,000 of United States securities, designated Treasury Notes of March 31, 1985, Series S-1985 (CUSIP No. 912827 PG 1). The securities will be sold at action, 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 March 31, 1983, and will bear interest from that date, payable on a semiannual basis on September 30, 1983, and each subsequent 6 months on March 31 and September 30 until the principal becomes payable. They will mature March 31, 1985, 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. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not 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, March 16, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 15, 1983, and received no later than Thursday, March 31, 1983.

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, an interest 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. 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 Thursday, March 31, 1983. 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, March 29, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms diffenent 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)." 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. 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, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-0673 Filed 3-14-83; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 51
Tuesday, March 15, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Mine Safety and Health Review Commission	2
National Credit Union Administration	3, 4
Securities and Exchange Commission	5, 6

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., March 16, 1983.

LOCATION: Third floor hearing room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Physicians' Samples
The Commission will consider whether to issue a previously proposed rule that would require all oral prescription drugs in consumer packages that are distributed by manufacturers to physicians to be in child-resistant packaging.

STATUS: Closed to the public.

2. Enforcement Matter
The Staff will brief the Commission on an enforcement matter.

For a recorded message containing the latest agenda information, call: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301–492–6800.

[S-358-83 Filed 3-11-83; 12:42 pm]

BILLING CODE 6355-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 9, 1983.

TIME AND DATE: 10 a.m., Wednesday, March 16, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Carbon County Coal Company, Docket No. WEST 82–106; Petition for Interlocutory Review. (Issues include whether the judge erred in denying the operator's motion for summary decision.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-359-83 Filed 3-11-83; 12:43 pm]

BILLING CODE 6735-01-M

3

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 10 a.m., Monday, March 21, 1963.

PLACE: Los Angeles Marriott Hotel, 5855 W. Century Blvd., Los Angeles, CA 90045.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Final Rule: Part 710, NCUA Rules and Regulations, Membership Vote in Voluntary Liquidation.
4. Bylaws for Corporate Federal Credit Unions.
5. Proposed Interpretive Ruling and Policy Statement, Federal Credit Union Services for Retired Persons.
6. Report of the National Credit Union Administration Share Insurance Fund.
7. Progress Report on Studies Mandated by the Garn-St Germain Depository Institutions Act of 1982: Share Insurance and Compensation of Directors.
8. Progress Report on Credit Union Expansion—84 Program.

TIME AND DATE: 5 p.m., Sunday, March 20, 1983.

PLACE: Los Angeles Marriott Hotel, 5855 W. Century Blvd., Los Angeles, CA 90045.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

[S-361-83 Filed 3-11-83; 3:56 pm]

BILLING CODE 7535-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting.

TIME AND DATE: 5 p.m., Thursday, February 10, 1983.

PLACE: Quality Inn—Central, 1190 North Courthouse Road, Arlington, VA.

STATUS: Closed.

MATTER CONSIDERED:

1. Proposed mergers.

BACKGROUND: The Board voted that the Agency business required that a meeting be held with less than 7 days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The Deputy General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S-362-83 Filed 3-11-83; 3:58 pm]

BILLING CODE 1535-01-M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the Provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of March 21, 1983, at 450 5th Street, NW., Washington, D.C.

A closed meeting will be held on Monday, March 21, 1983, at 3 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject mater of the closed meeting scheduled for Monday, March 21, 1983, at 3 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal order of investigation.

Institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2014.

March 10, 1983.

[S–360–83 Filed 3–11–83; 3:58 pm]

BILLING CODE 8010–01–M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meetings.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, March 9, 1983.

CHANGES IN THE MEETING: Additional items. The following additional item will be considered at a closed meeting scheduled for Tuesday, March 15, 1983, at 10 a.m.:

Institution of administrative proceedings of an enforcement nature.

The following additional item will be considered at a closed meeting scheduled for Thursday, March 17, 1983, following the 10 a.m. open meeting.

Regulatory matter bearing enforcement implications. Consideration of amicus participation.
Litigation matter.

Commissioners Evans, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

March 11, 1983.

[S–363–83 Filed 3–11–83; 3:59 pm]

BILLING CODE 8019–01–M

federal register

Tuesday
March 15, 1983

Part II

Department of the Treasury

Customs Service

Customs Bond Structure; Proposed Revision

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, and 174

Customs Bond Structure; Proposed Revision

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes extensive amendments to the Customs Regulations to revise the current bond structure by consolidating and reducing the number of bond forms now in use. The purpose of the proposal is to simplify transactions between Customs and the importing public and to facilitate establishment of an efficient computerized bond control system.

DATE: Comments must be received on or before June 13, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addresssed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Joseph C. Goody, Regulatory Audit Division (202–566–2812). Legal Aspects: William Rosoff, Carriers, Drawback and Bonds Division (202–566–5856). Legal and Operational Aspects Relating to Delinquent Sureties: Ron Gerdes, Office of Chief Counsel (202–566–2482) U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

When merchandise other than noncommercial merchandise accompanying a traveler arrives in the United States, it ordinarily remains in Customs custody until the importer, consignee, or the authorized agent of either establishes ownership and complies with the applicable Customs laws and regulations or laws and regulations enforced by Customs for other Federal and state agencies. In some instances, especially in the case of duty-free noncommercial importations, the merchandise may be released to the importer, consignee, or an authorized agent merely upon furnishing proof of ownership, and no formal documentation is required. However, in most cases involving commercial importations, formal documentation is required to obtain release of the merchandise. The Customs transaction releasing the merchandise to the importer is referred to as an "entry".

As a part of the entry documentation the importer, consignee, or an authorized agent usually is required to file a bond with Customs. The bond, among other things, guarantees that proper entry summary, with payment of estimated duties and taxes when due, will be made for imported merchandise and that any additional duties and taxes subsequently found to be due will be paid. The bond also guarantees redelivery of imported merchandise to Customs custody for examination or inspection if found not to comply with applicable laws and regulations. Redelivery may be required as a result of a failure to properly mark, label, clean, or fumigate the imported merchandise; or a failure to destroy or export the imported merchandise, if appropriate.

A bond also may provide, as a condition of its satisfaction, for the production of any missing invoices, declarations, certificates, or other documents required in connection with the entry of imported merchandise, in the form and within time required.

Bonds are used to secure other Customs transactions besides those of importers. For example, carriage of imported merchandise that has not been examined or appraised by Customs must be secured by a Customs bond to guarantee performance of various Customs obligations. Those performance bonds are required from bonded carriers, bonded cartage and lighterage operators, and persons who are authorized to carry merchandise when bonded carrier facilities are not reasonably available. Among other things, those persons are contractually bound to safely deliver that merchandise to Customs at the destination. They are also bound to report arrival of the merchandise to Customs at the destination so that it can be examined for Customs purposes. Further, they are bound not to deliver that merchandise to the ultimate consignee until Customs determines that it can be released. If the bond principal fails to perform as agreed, the principal and surety become liable to Customs for payment of liquidated damages.

A similar situation exists for operators of Customs bonded warehouses, container stations, and foreign-trade zones. A bond is needed to protect the Government from any loss as a result of the operation. Generally, imported merchandise is placed in such places before the amount of duty due has been determined. Moreover, until that merchandise is withdrawn for consumption no duty is paid by the importer. The bond given by the operators serves as a guarantee that the stored merchandise will be kept safely and that it will be released only when authorized by Customs.

Other bonds are required in special instances. For example, persons who use the accelerated drawback program are required to file a bond to guarantee repayment of any money paid in excess of what is finally determined to be due. Another special bond is that required of copyright owners who claim that an imported article infringes their copyright and requests Customs to detain that article pending a final determination on the infringement claim. That bond insures that any damage caused to the importer by detention will be reimbursed.

Presently, there are approximately 50 different forms of Customs bonds and 16 bond riders in use (see Appendix E). Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds and the general requirements applicable to Customs bonds. It contains the general authority and powers of the Commissioner of Customs to require bonds, the classes of bonds, procedures for their approval and execution, general and special bond requirements, requirements which must be met to be either a principal or a surety, requirements concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond.

In an effort to (1) modernize the current bond structure by reducing and consolidating the number of bond forms now is use, (2) modify the archaic bond language, (3) simplify transactions between Customs and the importing community, and (4) facilitate establishment of an efficient computerized bond control system, Customs published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on May 26, 1981 (46 FR 28172) to afford the public a meaningful opportunity to participate at an early stage in the revision process by submitting comments on the merits of the proposal and by suggesting alternatives to the proposed bond format, coverages, and conversion approaches. Numerous comments were received in response to the ANPRM. The comments overwhelmingly supported the revision concept. Before discussing the comments and the changes made as a result of those comments, a review of the proposal as set forth in the ANPRM may prove beneficial to a complete

understanding of the concept and the comments received.

Review of ANPRM

Under the proposal as set forth in the ANPRM, two types of Customs bonds, designated "single transaction" and "multi-transaction", would have been established.

1. *Single Transaction:* The single transaction bond under the ANPRM was to be used for one transaction at a specific port under the same conditions as a single entry bond currently is being used and would require the approval of the district director at the port where filed.

2. *Multi-Transaction:* The multi-transaction bond under the ANPRM was to replace present term, blanket and consolidated bonds and be used for many transactions over a definite period of time. It also was to replace the continual type bonds which cover conditions of a continuing nature, such as, carriage of merchandise and establishment of warehouses.

It was proposed that an amount associated with each condition referred to on the multi-transaction bond would represent the liability limit for that specific condition. It was anticipated that each condition would be self-contained and appear in a separate section or subsection of the regulations.

The bond contract was to remain in full force and effect for one year commencing on the effective date shown on the bond and for each succeeding annual period, or until terminated. Current Customs policy prohibiting the discontinuance of bond coverage before the end of the initial term unless good cause is shown and Customs concurs would not have been changed under the proposal.

At least 60 days before the bond anniversary date, Customs proposed to issue a courtesy notice advising the proncipal that the bond would terminate on the anniversary date unless the principal notified Customs by returning the notice, or otherwise advised Customs in writing, at least 30 days before the bond expiration date, of its intent to continue the contract. Thus, notification of premium payment on the bond would have been sufficent under the proposal to renew a bond contract for another term.

If a party to the bond contract intended to terminate the contract, that party would have been required to notify the other parties to the contract and Customs in writing at least 30 days before the effective date of the termination.

It was proposed to create two classes of coverage within the multi-transaction type bonds, the national class and the district class. The national class, at the option of the principal, would have included all or specific transactions of a particular principal on a nationwide basis. The district class, at the option of the principal, would have included all or specific transactions of a particular principal within one district. For example, term bonds which currently are filed on a port level would have been consolidated into one district bond. The conditions of this class of bond would have been the same as those of a national bond except that the scope of coverage would be limited to one district and the minimum amount of bond required would generally be less than the minimum amount required on a national bond. In keeping with Treasury Department directives and Customs policy, customhouse brokers would not have been approved as principals on a national class bond to be used in their capacity as brokers.

Under the proposal, there would have been one standardized bond form for the single transaction and multi-transaction bonds. A space would have been provided on the bond form where the conditions covered by the bond and the related surety liability limit would have been indicated. It was proposed that standardized conditions would be enumerated in the regulations and incorporated by reference into the bonds. This procedure would eliminate repeating the similar conditions contained in the various bonds.

In the ANPRM it was indicated that Customs Form 53, "Bond Transcript", would continue to be required in a modified form. Under the proposal Customs Form 53 would have been filed with each bond submitted for approval whether the bond was supported by surety, cash, or other acceptable security.

It was also indicated that based on the comments received and if Customs continuing analysis indicated it was feasible, the specific information unique to the Customs Form 53 might be incorporated into the proposed standardized bond form. If this approach was adopted the "Bond Transcript" would be discontinued.

Under the proposal, current Customs policy permitting the addition of principals to bonds and name and address changes after bond approval would not change. Any other bond contract change would require the termination of the old bond and filing of a new bond, as currently prescribed in § 113.23(d), Customs Regulations (19 CFR 113.23(d)).

It was indicated in the ANPRM that a computerized bond control system would be implemented in conjunction with the proposal. The number of bonds required by a principal to conduct Customs business would be reduced. Under the computerized system, data would be verified and validated, and computer files would be updated soon after a transaction was entered into the system via a terminal.

In the ANPRM it was proposed that each bond would be assigned a nine digit control number. The first two digits would identify the district where the bond was filed. The last seven digits would be a serial number control uniquely identifying the bond within the district plus a check digit. It was proposed that this bond number would appear on all copies of the bond, whether it was a Customs bond form or an approved privately printed bond form.

Two possible approaches for converting from the current system to the revised bond system were set forth in the ANPRM.

The first approach would have provided for a 90 or 120-day transition period suring which all bonds would be terminated and replaced by bonds using the new format. Existing term-type or continual-type bonds not replaced by bonds using the new format would not be considered valid by Customs at the end of the 90 or 120-day transition period.

The second approach set forth in the ANPRM would have consisted of the following:

1. If a party had only a continual-type bond filed with Customs, a transition period would be provided during which a bond using the new format would be filed in accordance with the procedure stated in the first approach.

2. If a party had more than one term-type bond in effect, the expiration date of the existing bond with the latest termination date would become the replacement control date. Customs would announce the date principals would be required to determine the replacement control date. Applicable replacement control dates thus would be established for the entire importing community at the same time.

Once a replacement control date was established for an individual or firm, Customs would not approve any bond submitted under the old bond format when the term of that bond would be effective beyond the replacement control date.

3. If a party had a term and continual-type bond in effect, the continual-type bond would be terminated as of the replacement control date established for the term-type bond. A bond in the new

format would be filed after the replacement control date.

Discussion of Comments

In response to the ANPRM, numerous comments were received from individuals and organizations representing the full spectrum of the importing community. The commenters touched upon all aspects of the ANPRM. The overwhelming majority of the commenters were in favor of reform of the existing bond structure. There was not total agreement, however, on the best way to accomplish the reform. For discussion purposes, the comments have been grouped together topically as follows:

Bond Policy

Two commenters requested that Customs reconsider its position which forbid use of a General Term Bond by a customhouse broker in its brokerage business. One commenter agreed with the position set forth in the ANPRM that Customs should continue the policy of not allowing brokers to have a national type bond in their capacity as brokers. The policy which dates back to 1952 exists, in part, because the amounts for General Term Bonds are based on 10-percent of the importers prior year's duty payments. A broker, unlike an importer, can radically change its business by changing its clients. This could thus result in inadequate coverage during the current year. Another reason for not allowing brokers to have a national type bond is that a broker, unlike a corporation, often lacks sufficient assets to go against in case of a loss. Since under the proposal set forth in this document Customs will be in a better position to monitor bond sufficiency, the basis for continuing the policy appears to be unnecessary. Accordingly, Customs proposes to eliminate the prohibition agaihst brokers having a national type bond in their capacity as brokers.

A broker commented that in addition to district and national multi-transaction bonds, Customs should have port multi-transaction bonds. Another commenter recommended that brokers operating in less than all ports in a district list the ports they intend to serve on the bond. Two commenters recommended that the multi-transaction bond be on a port basis in lieu of a district level basis.

After a complete review of the comments and further evaluation of the bond system, Customs is of the opinion that no valid reason exists for having a bond limited by any geographic boundary. The rationale under the present bonding system for having port level bonds is the limited scope of control available under a manual bond system. However, in today's computerized environment this constraint is eliminated. Thus, to require the filing of the same bond document at each port or district in which a firm carries on business is an undue burden on the public. A bond which is good nationwide will reduce the number of bond forms required by Customs. This will be beneficial to all parties-in-interest by easing the burden of document control and recordkeeping, and facilitate the collection of information pertinent to particular bonds, principals or sureties. Accordingly, this document provides for a bond which is valid nationwide. The requirement for a nationwide bond will, in addition to reducing the number of bond forms that a party involved with Customs will have to file, eliminate the associated administrative time and cost burden associated with the existing port and district bonds. To require a broker to file, with its bond, a list of the ports in which it intends to conduct Customs busines is not necessary. Providing this information is a function of broker licensing and thus is outside the scope of this proposal.

It should be noted that under the ANPRM Customs proposed both single entry and multi-transaction bonds. Under the ANPRM and this document the single transaction bond would be used for one transaction at a specific port under the same conditions as a single entry bond currently is being used. Bond approval authority would be with the district director unless delegated by the district director to the port director. This aspect has not been changed by this notice.

Under the ANPRM it was proposed that a multi-transaction bond would replace the present term, blanket, continual and consolidated bonds and be used for multiple transactions over a one year period of time. It was proposed that an amount associated with each condition referred to on the multi-transaction bond would represent the liability limit for that specific condition. It was anticipated that each condition would be self-contained and appear as a specific section in the regulations.

After a review and analysis of the comments received and further refinement of the proposal, the concept has been modified. The bond, while still multi-transactional, will be a continuous bond and identified as a continuous bond. The bond will be on Proposed Customs Form 301, a sample of which can be found in Appendix A of this document. Once approved the continuous bond will be in effect until terminated (see section I, Appendix A). Bond conditions will be grouped by activity (see section II, Appendix A). An importer or broker, for example, will be required to have a continuous bond containing the "Basic Importation and Entry Bond Conditions" set forth in proposed § 113.62. To obtain the foregoing coverage an importer or broker will check off block 1 in section II of proposed Customs Form 301. Generally, a principal will not, as proposed in the ANPRM, be able to check off multiple conditions with specific liability limitations for each condition. Exceptions exist for the "Repayment of Erroneous Drawback Payment Bond Conditions" (proposed § 113.65) and "Control of Containers and Instruments of International Traffic Bond Conditions" (proposed § 113.66). "Repayment of Erroneous Drawback Payment Bond Conditions" may be taken in conjunction with the "Basic Importation and Entry Bond Conditions (See activity codes 1 and 1a, section II, Appendix A). "Control of Containers and Instruments of International Traffic Bond Conditions" may be taken in conjunction with the "'International Carrier Bond Conditions" (see activity codes 3 and 3a, section II, Appendix A).

One commenter raised an unrelated issue on cancelling bonds securing temporary importations. The commenter was specifically concerned with the provisions of § 10.39, Customs Regulations (19 CFR 10.39) which states that merchandise entered temporarily under bond may not be entered for consumption without assessment of liquidated damages for breach of the bond. The change in procedure requested by the commenter would require a modification of the statute (item 864.05, TSUS, 19 U.S.C. 1202). Since the bond merely secures an importation made under the terms of the statutory provision the change requested is beyond the scope of this proposal.

One commenter stated that districts located on the northern U.S. border are authorized to accept bonds executed in Canada by Canadian surety companies so long as the company is licensed to operate a surety business in Canada. That commenter urged that the requirement for bonds executed in Canada be incorporated into the new bond format.

The existing Customs policy concerning acceptance of bonds executed in Canada is set forth in Customs Headquarters Circular BON-3-R:CD:D, dated July 20, 1976. This proposal will not change that policy. The circular states that it is permissible to accept bonds executed in Canada. Under the conditions set forth in the

circular, the surety company must provide evidence that it is licensed to operate a surety business in Canada, and that it meets the general requirements established for all surety companies doing business with the U.S. Government. In addition, the company must be authorized by the Treasury Department to act as surety on bonds executed in favor of the U.S. Government under 6 U.S.C. 6 *et seq.* and 31 CFR 233 *et seq.*

Bond Form

One commenter recommended that the proposed consolidation of the present bonds be done on a gradual basis and initially only a few bonds included in the multi-transaction bond.

Over the years a number of Customs bonds were written in a piecemeal fashion in response to specific problems. This approach led to repetition of bond conditions in numerous bonds and repetition in other aspects of the bonding procedure. This repetition, while acceptable with a manually controlled bonding process, is unnecessary and unacceptable in a computerized environment. With this bond proposal Customs has a unique opportunity to completely modernize the bonding process at one time and take advantage of the current data processing state of the art. Such a comprehensive change in the bonding process would be complicated and made far more difficult for both Customs and the importing community if it were made in a piecemeal fashion.

Another commenter recommended that the bond conditions be printed on the bond form.

One of the objectives of this bond simplification project was to devise a form which could be printed on one piece of paper. Another objective of the project was to keep the bonding process simple. In an attempt to accomplish these objectives, all bond conditions have been placed in one part of the Customs Regulations (see proposed subpart G, Part 113 of this document). This provides an easily accessible reference to bond obligations and the consequences of failure to meet those obligations. This approach benefits both Customs personnel responsible for any one of the various aspects of bonding and the import and export community which must satisfy the bonding requirements. In contrast, the current bond structure has this vital bond information located in the various files containing the bond contracts, various sections of the Customs Regulations, Treasury Decisions, and Customs Policy and Procedures Manual Issuances. In order to know what is current and available and locate this information an individual is required to have some degree of bond expertise. This will be minimized under the proposed revision. In addition, having the text of the bond conditions in one part of the regulations will be less costly for Customs to maintain and amend, should that become necessary. Further, Customs and the public will not have to destroy existing stocks of forms when bond conditions change as has been the case under the current structure in which the bonds have the actual bond conditions printed on the bond form.

Bond Format

One commenter recommended that the current Customs bond form numbers which identify the existing bond forms be retained and incorporated into the proposed regulations to ease the transition to the new bond conditions.

Customs will not retain the current bond form numbers. These form identification numbers and forms will be eliminated as a part of Customs paperwork reduction objectives under the Paperwork Reduction Act. As stated, the new proposed Customs bond form will be Customs Form 301, a copy of which is set forth in Appendix A. To ease the transition to the new bond structure, Appendix B contains a cross reference listing existing bond forms and conditions, the proposed new bond conditions, reason for the bond condition, statutory authority for the bond condition and related Customs Regulations.

Another commenter recommended that the bond form be in a one page format which will not impede the use of pin-fed paper stock as used by computers.

Customs has been mindful of the advantages of a one page form and the needs of computerized as well as non-computerized businesses. In consolidating the numerous bond forms into one form, there is an inherent space constraint. However, Customs believes that the proposed 8½ inch by 11 inch bond form printed on both sides satisfies, statutory, regulatory and information requirements and still is amenable to both computerized and non-computerized use.

Bond Type/Class

Two commenters believe that the multi-transaction bond coverage requires a principal to obtain all of its coverage from one surety.

There is nothing inherent in the nationwide bond which would require a principal to obtain all of its coverage from one surety. A principal could obtain bonds from different sureties for each set of bond conditions.

One commenter stated that under the type of bonds proposed (single transaction and multi-transaction) it was important to define "transaction."

Each section within proposed subpart G, Part 113 in effect defines "transaction" for bonding purposes. For example, the provisions of proposed § 113.62, which contains the "Basic Entry and Importation Bond Conditions" establishes a class of transactions for Customs purposes for which a bond is required.

One commenter stated it did not understand how the reduction in the number of bonds required by a principal would facilitate the efficient operation of a computerized system.

Under the proposal all Customs bonds will be entered into the computer system, except for single transaction bonds. All of the bond information entered into the bond system will be used by other Customs data processing systems which interface with the bond system. These other systems will access the bond system files to verify and validate information entered into those other systems. Thus, when these systems access the bond system files, the fewer number of file queries they need to make because of fewer bonds in the file the greater the efficency of the entire system. Even though each query of the system is measured in fractions of a second, in the context of an on-line system where fractions of a second are very long periods of time, the accumulated effect of numerous queries can lead to a degradation in response time.

Bond Number

One commenter inquired as to how a surety can print its bond forms without knowing the bond numbers in advance. The commenter further stated that sureties and importers will have to adjust their computer systems to meet this bond numbering requirement. An organization commented that the proposal implies bond numbers will be stamped or printed on the reporting copies to be sent to the sureties. The commenter indicated that the bond number will need to be assigned before the copy sets are separated.

The bond number is a control number assigned by Customs on approved bonds. Sureties will not be authorized to print a number on the bond forms in the space reserved for Customs use. It is likely that some programming modifications will be necessary for those sureties which elect to take advantage of and employ the Customs

number in their control mechanism. Customs believes that the use of the control number will be cost beneficial. However, Customs requests that commenters identify costs they will incur which could invalidate this belief.

The second commenter is correct in its assessment. The proposed bond form will be a three part set containing a Customs copy, a surety copy, and a principal copy. The complete three part bond set will be submitted to Customs for approval. With the approval of the bond by Customs, a bond number, which will be computer generated, will be placed on all copies of the bond by Customs. Customs will retain the original of the bond and the surety and principal copies will be returned to the party that submitted the bond to Customs.

One commenter suggested that consideration be given to implementation of a system that uses the current IRS or Customs assigned importer number.

In the initial stages of the bond simplification effort, Customs considered using the current IRS or Customs assigned importer numbers as a bond identifier as presently exists in the Automated Bond Information System (ABIS). However, when viewed in the total context of the Customs Automated System, of which bonding is a small part, the disadvantages outweighed the benefits. In addition, the IRS number is not sufficiently unique for bond control purposes. For example, in those instances where an organization elects to switch its business to a different surety the IRS number does not possess the required uniqueness to provide a simple access to specific bonds. In this situation one IRS number could have a number of different bonds associated with it.

Two commenters addressed the subject of filing and retrieving bonds. One suggested that in addition to having bond information available by bond number, the information should be available on an alphabetical search system. Another stated that, although some ports still use a numerical system, it is much simpler to adhere to a strictly alphabetical system.

It is too costly and inefficient to have a data processing system dependent upon names for validations of information and accessing the system. The potential for a great variation in the legitimate spelling of names as well as erroneous spellings renders such a process cumbersome (*e.g.*, General Motors Corporation, GMC, G.M.C., Gen. Motors, GM, etc.). However, it is contemplated that the approved bonds will be filed alphabetically at the district office. Queries to the computer file will be only by bond number. Periodically a bond cross-reference listing, both alphabetical and numerical, will be generated by the computer. It is anticipated that this output will be produced on micro-fiche.

Two commenters asked who will have bond approval authority and will the approval authority be delegatable. One commenter asked where bonds will be filed. Customs does not intend to change the current delegated bond approval authority. Thus, if the port director has been delegated the authority to approve bonds, he may do so. If the district director has not delegated this authority, bonds must be forwarded to the district office for the approval of the district director. Regardless of who approves the bonds, the approved continuous bonds will be retained in the district files.

Bond Amount

Eight commenters addressed the question of the determination of bond amounts. The major thrust of the comments was that standard minimum bond amounts must be set on a nationwide basis and uniform procedures for determining the amount of any bond established. It was recommended that Customs issue guidelines for determining the amount of all bonds. Some commenters expressed the fear that bond amounts would increase because port bonds would be eliminated.

One of the many objectives of this bond simplification effort was to diminish the regulatory burden on the trade community while efficiently and effectively fulfilling Customs mission. In this effort Customs has kept the interests of all segments of the industry in mind. Guidelines for determining bond amounts and the application of uniform procedures are set forth in proposed § 113.13.

Requiring a nationwide bond, rather than a port or district bond, will not necessarily increase the bond amount required. For example, the fact that a firm currently conducts business in each port of a 15 port district does not necessarily mean a $150,000 bond amount (current port bond minimum $10,000 times 15 ports) would be required. It is anticipated that, under guidelines issued for determining bond amounts, a number of different criteria will be taken into account in determining bond amount, such as, volume of business, type of merchandise, annual duties and tax involved, past performance, other agency requirements involved, etc. The same would be true under the nationwide bond proposed in this document.

Bond Language/Conditions/Regulations

One commenter recommended that a surety's mitigation rights be set forth on the bond. The commenter in effect argues that a surety should be treated more generously than its principal. There is no legal basis for this argument. A principal and surety are both primarily liable under Customs bonds. The commenter wants sureties to be treated as guarantors rather than as sureties. Adoption of the recommendation will defeat the purpose underlying Customs bonds.

One commenter suggested that the new bond format provide codes for specific coverages of all existing bonds and categories where Customs experience indicates higher risks are involved.

A similar concept was considered in the course of the development of this project. However, the recommended format will lead to an inordinate number of bond conditions. This "ala carte" approach adds complexity to administering bonds. While there is a higher degree of risk between certain categories, that is only one of the criteria in determining overall risk. Thus, to structure bond conditions by such categories would not be desirable. Under the proposal, the varying degrees of risk between different categories of merchandise is reconciled in setting the bond amount. "Type of merchandise" is one of the criteria used, along with such items as volume, a firms compliance record, etc., in setting the bond amount.

One commenter suggests that the bond language include a requirement that Customs supply sureties with copies of appropriate bonds, entries and other documents in connection with claims or demands for payment.

Such language is not germane to a bond contract between a surety and principal. Accordingly, Customs does not believe it appropriate to include such a condition in the bond.

One commenter, while supporting the efforts of Customs to simplify the language of the bonds, opines that material changes in bond requirements may influence the premiums that sureties charge for bonds.

Customs has no control over the premiums that sureties charge for bonds. However, there is nothing inherent in the proposal which would dictate an increase in premiums.

A commenter pointed out that there is a conflict between the two statements on bond liability in Appendix B of the ANPRM at 46 FR 28175 and the

explanatory notes of the ANPRM at 46 FR 28173.

The ANPRM limited only the liability of the surety. The limitation should apply to both the principal and surety. This omission in the ANPRM was inadvertent and has been corrected in this document.

One commenter pointed out that Customs has 17 bond riders which are not addressed by the proposal and asked if it is envisioned that riders will no longer be needed.

These bond riders are actually individual bond conditions which are used to supplement certain bonds. These conditions have been incorporated into the revised bond conditions and will be eliminated as separate riders. However, the proposal does envision the need for certain specific riders subsequent to bond approval. These riders will be used to change the name of the principal, change the address of the principal, add co-principals to the bonds, and add trade names or unincorporated divisions to the bond. These four riders appear in proposed § 113.24.

Bond Transcript

Four commenters addressed the question of retention or elimination of the Bond Transcript, Customs Form 53. Two commenters supported the proposal to incorporate the information contained on the Bond Transcript into the bond and eliminate the form. Two commenters recommended that the format of the existing bond transcript be retained.

The existing bond transcript format does not contain all of the information required for the new bond structure. The Bond Transcript was created only to serve as a data input document for the ABIS. Thus, the Bond Transcript is an extract containing much of the same information as the existing bond. However, it is being used, without official sanction, to change bonds in the automated system without filing the required supporting legal documentation. Accordingly, it has been decided to eliminate the form.

Bond Approval Procedures

One commenter suggests the proposed bond system would be much more viable if approval of the bond could be made at the accepting port and bond information entered into the system via a terminal at the port.

Under this proposal the bond information will be entered into the system at the district level. However, the district director has authority to delegate approval authority to the port level and if the port has the capability of inputing data to the system this can be done at the port level.

One commenter recommended that the existing Customs policy of requiring new bonds for all modifications except additions of principals to the bond and changes in name and address be reviewed. The commenter stated that such a review is necessary because the new structure will require many modifications since separate term bonds may not be used.

Customs disagree that the new structure will lead to the necessity of many modifications to bonds. Only in extreme cases will the bond language be modified or a rider relating to substantive bond language used.

Another commenter suggested that a rider be used to increase the amount of a bond.

Under the proposed bond structure no riders, other than the four contained in proposed § 113.24 will be necessary. The proposal does not alter the existing Customs position which prohibits changes which go to the substance of a bond. Permitting changes to the amount of the bond by rider is a change to the substance of the bond.

One commenter inquired as to whether or not the practice of adding special provisions to a General Term Bond will be continued.

Under the proposed bond structure this practice will no longer be necessary.

Renewal and Termination Procedures

Four commenters took exception to the proposed continuation of existing Customs policy which requires Customs concurrence to discontinue bonds within the first year of their coverage.

This restriction has been removed in this proposal. A bond can be terminated at any time under the procedures set forth in proposed § 113.26.

One commenter recommended that Customs bonds be of the continuing type and that they be written to allow cancellation by a principal only. The comment ignores the contractual basis of a bond and the lack of Customs authority to intervene in the contract between a principal and surety. In response to the first part of the comment Customs is proposing that the bonds be continuous.

Numerous comments were received regarding the proposed "courtesy bond renewal notice." Two commenters supported the proposed renewal procedure with a few minor clarifications. Two commenters offered qualified support with a number of constraints. Ten commenters expressed opposition to the renewal procedure because it would be burdensome and unnecessary.

The purpose of the proposed courtesy notice procedure was threefold. First, it provided an affirmative action so all parties-in-interest had knowledge of the fact that premiums were paid and the bonds were extended or the coverage has lapsed. Second, it provided a periodic Customs review mechanism to ascertain whether a firm's Customs bond had become oversubscribed or undersubscribed in the course of the year. Third, it provided Customs with a means to update its files for certain changes to bond information which occurred over the course of a year, (*e.g.*, change in surety agent address or change in surety agent).

Based on the comments received, the procedure to issue a courtesy notice of bond renewal has been dropped. Bonds will be continuous and remain in force until terminated under proposed § 113.26.

Bond Renewal Termination Procedures

One commmenter inquired as to whether or not the existing practice which requires a principal to file annual applications to establish the amount of the General Term Bond will be covered in the courtesy notice of bond renewal procedure.

As stated above the courtesy notice procedure has been dropped. However, principals will be required under proposed § 113.12(b)(2) to file updates of their bond applications whenever there is a significant change in the facts.

One commenter raised a question regarding Customs notice to sureties, *e.g.*, collection actions; computerized demands for payment; suspension or extension of liquidation; etc. The commenter recommended that the three-digit surety code be revised to permit companies to designate a particular agent or office to receive notices in the above areas.

This recommendation deals with an area beyond the scope of the proposed regulation changes. However, the feasibility of the recommendation will be addressed by Customs when the computer system design is developed.

Conversion to the New Structure

Eight commenters recommended various transition periods which varied from 1 to 2 years in duration to convert to the new system. Two commenters indicated either of the transition approaches proposed in the ANPRN was acceptable. One commenter recommended that bond principals be given the right to choose the date they will terminate their existing bonds and convert to the new bond format.

Another recommended a 120-day transition period.

After considering all of the comments Customs has decided it would be best to phase in the new bond structure over a one year period beginning 60 days after publication of the final rule in the Federal Register. On the sixtieth day after publication all new bonds, single entry and continuous, are required to be on the new Customs Form 301 and contain the appropriate bond conditions set forth in proposed subpart G, of Part 113. All existing term, consolidated, and continuous bonds will be converted to the new system on their anniversary date. If a principal has more than one bond for the same type of activity (e.g., bonds which will under the new system be encompassed by the "Basic Importation and Entry Bond Conditions" contained in proposed section 113.12) all will be converted to the new system on the anniversary date of the bond with the earliest anniversary date. The responsibility for identification of the bonds affected and their anniversary dates will be the principals. Under the above approach all bonds will be converted within one year.

Miscellaneous Comments

One commenter recommended that Customs obtain statements of intent from sureties regarding what bond premiums will be if the proposed new bond structure is implemented.

Customs has no authority to require sureties to provide statements of intent regarding bond premiums. However, Customs can see nothing inherent in the proposed changes which would cause a premium increase.

One commenter recommended that the Special License to Unlade and Lade, Customs Form 3171, used with an air carrier's bond be automatically renewed as long as the air carrier's bond is in effect.

Although there is a relationship between bonds and this special license, this is beyond the scope of the regulations changes. However, the commenter's recommendation will be addressed when the computer systems design is developed by Customs.

One commenter stated that Customs is not consistent in requiring accurate IRS numbers. Inaccurate IRS numbers make it difficult for some sureties to identify individuals for whom they have written bonds. The commenter recommended that the Customs computer system should validate the accuracy of the IRS number before the release of merchandise.

This is outside the scope of this proposal. However, this subject area will be dealt with in the Automated Commercial System (ACS), another Customs computer system project currently under development.

Discussion of Proposed Amendments

Proposed Amendments to Part 4

Part 4, Customs Regulations, relates to vessels in foreign and domestic trade. All proposed amendments to Part 4 are necessary to conform the regulations to proposed Part 113. The proposed amendments to §§ 4.10, 4.13(b), 4.14(b), 4.16(a), 4.30(c), 4.30(i)(2), 4.32(b), 4.34(h), 4.75(a), 4.85(a), 4.88(a), and 4.90(e), Customs Regulations, merely remove a reference to an existing Customs bond form and substitute a reference to the proposed Customs Bond, Customs Form 301 and the appropriate bond conditions set forth in subpart G of proposed Part 113.

The proposed amendments to §§ 4.30(f) and (g) would remove the words "but not longer than the period of the supporting bond" from each paragraph. Since bonds under this proposal are either single entry or continuous in nature and contain no reference to a bond period the reference to a bond period in the regulation must be removed.

It is proposed to add two sentences to § 4.38(a) which relates to release of cargo to indicate that when merchandise is released without a proper permit before entry has been made, the district director will issue a written demand for redelivery of the merchandise. The importing carrier would have 30 days after the demand is made to redeliver the merchandise to Customs. The proposed amendment is necessary to establish a regulatory requirement which, if breached, would establish a basis for liability under the bond.

Proposed Amendments to Part 6

Customs air commerce regulations as found in Part 6, Customs Regulations. All proposed amendments to Part 6 are necessary to conform the regulations to proposed Part 113. The proposed amendments to §§ 6.2(e), 6.2(f), 6.2(g), 6.8(a), 6.9(a), 6.20(c), and 6.22(e), Customs Regulations, merely remove the reference to an existing Customs bond form and substitute a reference to the proposed Customs Form 301 and in certain instances a reference to the appropriate bond conditions set forth in subpart G of proposed Part 113 is included.

The proposed amendments to §§ 6.2(e), 6.2(f), and 6.8(e), Customs Regulations, remove the words "relating to a bond period". This is necessary since all bonds would be continuous or single entry and there would be no reference to a bond period in the single entry or continuous bond.

Proposed Amendments to Part 7

Part 7, Customs Regulations, relates to Customs relations with insular possessions and Guantanamo Bay Naval Station. It is proposed to amend § 7.8(c), Customs Regulations, by removing the reference to existing bond forms and substituting a reference to proposed Customs Form 301 and the appropriate bond conditions set forth in proposed Part 113.

Proposed Amendments to Part 10

Regulations relating to articles conditionally free, subject to a reduced rate of duty and similar provisions are found in Part 10, Customs Regulations. The proposed amendments to §§ 10.24(f), 10.31(f), 10.36a(a), 10.41a(c), 10.41b, 10.49(a), 10.59(e), 10.60(c), 10.60(f), 10.60(g), 10.64(a), 10.65(c) (3), 10.66(b), 10.67(b), 10.71(a), 10.71(e), 10.71(f), 10.80, 10.81(b), 10.90(f), 10.92(a), 10.108(b), and 10.173(a) (3), Customs Regulations, merely remove the reference to an existing Customs bond form and substitute a reference to the proposed Customs Form 301 and in certain instances a reference to the appropriate bond conditions contained in subpart G of proposed Part 113 is included.

The proposed amendments to §§ 10.31(g), 10.36(b), 10.36(c), 10.39(e) (3), and 10.40(b), Customs Regulations, would remove references to a bond period. These changes are necessary since under the proposal Customs bonds will no longer contain a reference to a specific period of time.

Certain additional amendments are proposed to §§ 10.36(b), 10.37, 10.38(a), 10.39, 10.60, 10.71(b), 10.83(a), and 10.92, Customs Regulations. These proposed amendments relate to minor technical conforming changes such as substituting the word "bond" for the word "bonds" and the words "liquidated damages" for the word "penalties".

In addition, it is proposed to amend § 10.64, Customs Regulations, which relates to crediting or cancellation of bonds to include a requirement that the withdrawer of merchandise shall deliver the merchandise to the vessel for lading and provide the district director with evidence of lading within 30 days after lading. This requirement is necessary to establish liability under the proposed new bond conditions.

Proposed Amendments to Part 11

Part 11, Customs Regulations, relates to marking, packing and stamping of merchandise. The proposed

amendments to §§ 11.12(c), 11.12a(c), and 11.12b(c), Customs Regulations, all relate to removing a reference to an existing Customs bond and substituting a reference to the proposed Customs Form 301 and the appropriate bond conditions set forth in subpart G of proposed Part 113.

Proposed Amendments to Part 12

Part 12, Customs Regulations, relates to special classes of merchandise. The proposed amendments to §§ 12.3, 12.8(a), 12.12, 12.16(c), 12.26(e), 12.39(b)(2), 12.39(b)(3), 12.73(c), 12.80(e)(1), 12.80(e)(2), 12.85(e), 12.91(d), and 12.115, Customs Regulations, remove references to an existing Customs bond form. In appropriate instances a reference to proposed Customs Form 301 is substituted and when necessary a reference to the proposed bond conditions set forth in subpart G of proposed Part 113 is included.

Section 12.33(c), relating to importations of tea, states that all entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used. Customs is unaware of the reason for this specific provisions. In addition, other than for single entry bonds bond numbers will be computer generated. Accordingly, it is proposed to delete the paragraph.

Certain technical conforming amendments are proposed to § 12.8(b) where the words "of a bond" are proposed to be substituted for the words "of bonds", § 12.26(e) where the words "district director" are proposed to be substituted for the word "collector", § 12.26(h) where the words "a claim for liquidated damages shall be issued under the bond" are proposed to be substituted for the words "a bond shall be forfeited", § 12.39(b)(3) where the word "rider" is proposed to be removed, § 12.80(e)(1) where the words "An approval" are proposed to be substituted for the words "The bond release", §§ 12.80(e)(1) and (e)(2) where the word "approval" is proposed to be substituted for the words "bond release", and § 12.117(b) where the words "issue a demand for" are proposed to be substituted for the word "assess".

Proposed Amendments to Part 18

Part 18, Customs Regulations, relates to transportation in bond and merchandise in transit. The proposed amendments to §§ 18.3, 18.20(b), 18.25(b), and 18.25(d), merely remove the reference to an existing Customs bond form and substitute a reference to proposed Customs Form 301. In appropriate instances a reference to the proposed bond conditions set forth in subpart G of proposed Part 113 is included.

Section 18.25 relating to direct exportation would be amended under the proposal by redesignating present paragraph (e) as paragraph (f) and adding a new paragraph (e). The new paragraph would provide that the principal on any bond filed to guarantee direct exportation must insure that the merchandise is exported and within 30 days of exportation provide such evidence of exportation as the district director requires. It is also proposed to amend § 18.26 relating to indirect exportation. The proposed technical amendment to paragraph (a) would substitute a reference to § 18.25(a) in place of the reference to § 18.25(d) in the first sentence. The second sentence of the paragraph would be revised to indicate that upon acceptance of the entry by Customs and acceptance of the merchandise by the bonded carrier the bonded carrier assumes liability for the transportation and exportation of the merchandise. This provision is necessary to fix responsibility and liability under the new bond conditions. In addition, a new paragraph (d) would be included in the section. The paragraph, which is similar to proposed § 18.125(e), would provide that the bonded carrier must cause merchandise to be exported and provide such evidence of exportation as required by the district director within 30 days of exportation. This provision is necessary to fix responsibility and liability under the new proposed bond conditions.

Proposed Amendments to Part 19

Customs warehouses and container stations are the subject of Part 19, Customs Regulations. On November 1, 1982, T.D. 82-204, was published in the **Federal Register** (47 FR 49355). That document, which implemented an audit-inspection approach for control of merchandise in Customs bonded warehouses, made significant changes to part 19. This document proposes to amend several of the same sections in Part 19. Accordingly, to fully understand the following proposed amendments, the text of T.D. 82-204 should be consulted. The proposed amendments to §§ 19.2, 19.14, 19.15, 19.16(g)(1), 19.17(e), and 19.40, Customs Regulations, merely remove a reference to an existing Customs bond form and substitute a reference to proposed Customs Form 301, and the bond conditions set forth in proposed § 113.63. It is proposed to amend § 19.11, relating to manipulation in bonded warehouses, by adding a sentence which provides that the warehouse proprietor must not allow a manipulation of merchandise without a permit issued by the district director. This provision is necessary to fix responsibility and provide a basis for liability under the proposed bond conditions. It is also proposed to remove the word "general" from in front of the word "bond" in section 19.15(g)(1). Customs would no longer have "general" bonds, only "single entry" and "continuous" bonds. It is proposed to remove § 19.17(b) which refers to the renewal of a bond. Bonds would be continuous and need not be renewed.

Proposed Amendments to Part 22

Part 22, Customs Regulations, relates to drawback. It is proposed to amend § 22.7(d)(2)(ii) by inserting a reference to the proposed Customs Bond, Customs Form 301, and § 22.20a by substituting a reference to the proposed form for a reference to existing Customs bonds. It is also proposed to eliminate the reference to a bond rider for drawback in § 22.20a and a reference to a temporary importation bond in § 22.28(b). This is necessary since the rider is eliminated under this proposal and the temporary importation bond conditions are incorporated into the "Basic Importation and Entry bond Conditions" set forth in proposed § 113.62.

Proposed Amendments to Part 24

Part 24, Customs Regulations, relates to Customs financial and accounting procedures. The proposed amendments to §§ 24.1(a)(3), 24.11(a)(2), and 24.16(c) remove a reference to an existing Customs bond and, in the case of the latter two sections, substitutes a reference to the proposed Customs Form 301 and the appropriate bond conditions set forth in subpart G of Proposed Part 113. The proposed amendment to § 24.4(a)(1) indicates that once approved the deferred payment privilege for payment of estimated import taxes on alcoholic beverages remains in effect until terminated. This change is a reflection of the continuous nature of the bond under this proposal. The proposed amendment to section 24.11(b) is purely a stylistic change in the language. The proposed change to § 24.16(c)(3) eliminates a reference to an existing Customs bond and substitutes a reference to the new proposed continuous bond. It is also proposed to eliminate from this paragraph a reference to the supporting bond period since there will be not period of time referred to in the proposed bond.

Proposed Amendments to Part 54

Certain importations temporarily free of duty are covered in Part 54, Customs Regulations. The proposed amendment to § 54.6 deletes a reference to existing Customs bonds and substitutes a reference to proposed Customs Form 301 and the proposed "Basic Importation and Entry Bond Conditions" set forth in proposed § 113.62.

Proposed Amendments to Part 101

Part 101, Customs Regulations, relates to Customs general administrative provisions. The proposed amendment to § 101.1 would add a definition of "exportation" which is currently set forth in § 113.55, Customs Regulations.

Proposed Amendments to Part 112

Regulations relating to carriers, cartmen and lightermen are found in Part 112. The proposed amendments to §§ 112.11(a)(4)(ii), 112.12(a), 112.22(a)(1), and 112.25 would eliminate a reference to an existing Customs bond and substitute a reference to the proposed Customs Form 301 and the proposed "Basic Custodial Bond Conditions" set forth in proposed § 113.63. The proposed amendment to § 112.26 would change a cross-reference to reflect the proposed provisions relating to termination of bonds which will appear in proposed § 113.26. It is proposed to amend § 112.27(d) by removing a reference to liability under a terminated bond for removal of markings from vehicles and vessels. Because the bond provisions relating to temporary identification cards for cartmen will be incorporated into the bond conditions set forth in proposed § 113.63 relating to "Basic Custodial Bond Conditions", it is proposed to remove the bond format set forth in § 112.27(d).

Proposed Amendments to Part 113

Part 113, Customs Regulations, relates to Customs bonds and has been extensively revised by this proposal.

Proposed § 113.0 sets forth the scope of Part 113. The proposed section is essentially the same as present § 113.0. However, a reference to the proposed bond conditions has been added to the listing in the scope paragraph.

Proposed § 113.1 is virtually identical to existing § 113.2

Section 113.3 indicates that both a surety and a principal remain liable for obligations incurred before termination. This is identical to present § 113.3.

Proposed § 113.4 combines present §§ 113.11 and 113.12 relating to bonds and carnets. The distinction between the class of bonds approved by the Commissioner and those approved by the district directors has been removed. Under the proposal all bonds will be approved by the district directors. Since all bonds will be executed on proposed Customs Bond, Customs Form 301, and contain the appropriate bond conditions set forth in proposed subpart G, all the various bonds listed in present §§ 113.13 and 113.14 are proposed to be removed.

Proposed subpart B relates to bond application and approval procedures. Proposed § 113.11 provides that each person who is required by law, regulation, or specific instruction to post a bond to secure a Customs transaction or multiple transactions must submit the bond on Customs Form 301. If the transaction(s) will occur in a single Customs district, the bond will be filed with and approved by the district director of the district in which the transaction(s) will take place. If the transactions will occur in more than one district the bond may be filed with and approved any district director. The district director will determine whether the bond is in proper form and provides adequate security for the transaction(s).

A bond application is required under proposed § 113.12 to insure that the revenue is adequately protected. In the case of a single Customs transaction relating to the importation or entry of merchandise the bond application may be in the form of a letter. The application must identify the value and nature of the merchandise involved in the transaction to be secured.

If a person desires to secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse a bond application, which may be in the form of a letter, must be submitted to the district director.

The application must identify the general character of the merchandise to be entered; and the total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise to be collected by Customs. The total amount of duties and taxes must be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year, the change must also be identified. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year must be submitted.

If the district director approves a bond based upon the application, the principal on the bond will be required to submit a new application whenever there is a significant change in the information provided. The new application must be filed no later than 30 days after the new facts become known to the principal. A certification that the factual information contained in the application is true and accurate is required. Any information provided which is based upon estimates must be certified as being based upon the best information available on the date of the application. The provisions of present § 113.62, served as the basis for proposed § 113.12.

The provisions of present § 113.16, relating to the amount of the bond, served as the basis for proposed § 113.16(a) and remains unchanged from the present language. However, it is proposed to add a new paragraph to the section which sets forth guidelines for determining the amount of the bond. Under the proposed guidelines the district director would consider the following:

(1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;

(2) The prior record of the principal in complying with Customs demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of Customs and other laws and regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

(4) The degree and type of supervision that Customs will exercise over the transaction(s);

(5) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages; and

(6) Any additional information contained in any application for a bond.

In addition to the foregoing, it is proposed to add a paragraph relating to periodic review of bond sufficiency. The district directors would be required to periodically review each bond filed in their district to determine whether the amount of the bond is sufficient to protect the revenue and insure compliance with the law and regulations. If the district director determines that the bond is insufficient, the principal will be immediately notified in writing. The principal will have 30 days from the date of notification to remedy the deficiency.

If the district director believes that none of the bond conditions contained in subpart G of proposed Part 113 is applicable to a transaction sought to be secured, under proposed § 113.14 the district director could draft conditions to cover the transaction, but before execution of the bond the conditions must be submitted to the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, for approval. Similar provisions appear in present § 113.17.

Proposed § 113.15, relating to retention of approved bonds, provides that all bonds approved by the district director, except the bond containing the agreement to pay court costs (condemned goods) (see proposed § 113.72), will remain on file in the district office unless the district director is directed in writing by the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, as to other disposition. The bond containing the agreement to pay court costs (condemned goods), is to be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608). These provisions are similar to existing § 113.18.

Proposed subpart C relates to bond requirements and parallels present subpart C. Proposed § 113.21, relating to information required on the bond, proposed § 113.22, relating to witnesses required, and proposed § 113.23, relating to changes made on the bond, are identical to the present sections of the regulations.

It is proposed to add a new § 113.24 which would incorporate into the regulations current procedures relating to bond riders. The section would provide that the district director may accept the following types of bond riders:

(1) *Name change of principal.* A bond rider to change the name of a principal on a bond may be used only when the change in name does not change the legal identity or status of the principal. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider for a name change of the principal cannot be used. A new bond would be required.

(2) *Addition of co-principal.* A bond rider for the addition of a co-principal may be used by persons having a distinct legal status (e.g. individuals, partnerships, corporations) to join another person with the same distinct legal status as a co-principal on a bond. This bond rider could not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). This bond rider may not be used to join different legal entities as co-principals (e.g. an individual and a corporation, a partnership and a corporation).

(3) *Address change.* A bond rider may be used to change the address of a principal on a bond.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used for the purpose of adding trade names and the names of unincorporated divisions of a corporate principal which do not have a separate and distinct legal status.

All riders would be required to be securely attached to the related bond to prevent their loss or misplacement. The proposed section sets forth the format for each authorized rider.

Proposed § 113.25, relating to seals, is similar to present § 113.24. One paragraph of § 113.24 relates to bonds approved by the Commissioner and the other to bonds approved by the district director. Since all bonds will be approved by the district director, proposed § 113.25 eliminates the distinction.

Proposed § 113.26, which is similar to present § 113.56, relates to termination of the bond. The section would provide that a request by a principal to terminate a bond must be made in writing to the district director in whose district the bond was approved. The termination will take effect on the date requested if the date is at least 10 business days after the date of receipt of the request at the district office. Otherwise, the termination will be effective on the close of business 10 business days after the request is received at the district office. If no termination date is requested, the termination will take effect on the tenth business day following the date of receipt of the request by the district director.

Under the proposed section a surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety must provide reasonable written notice to both the district director in whose district the bond was approved and the principal of the intent to terminate. The written notice must state the date on which the termination will be effective and must be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days will constitute reasonable notice unless the surety can show to the satisfaction of the district director that a lesser time is reasonable under the facts and circumstances.

The proposed section also contains a paragraph relating to the effect of the termination of a bond which provides that if a bond is terminated, no new Customs transactions can be charged against the bond. Further, the proposed section states that a new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of proposed Part 113, must be filed before further Customs activity may be transacted.

Proposed subpart D, relating to principals and sureties, parallels present subpart D, section for section, except for the last section which has been changed to proposed section 113.40. The language of all sections has been modernized and clarified without substantive modifications. Present §§ 113.35, 113.36, 113.37, and 113.39 have been extensively rewritten to reflect this modernization.

Section 113.37(f) relates to the power of attorney for the agent or attorney of the surety. The corporate surety power of attorney is executed on the Customs Form 5297. While the substance of § 113.37(f) has not been changed, the Customs Form 5297 format has been modified to reduce the number of forms that must be submitted to Customs and make it compatible with the new bond structure. The proposed modified form is set forth in Appendix C to this document.

Under the provisions of proposed § 113.38(c), a district director or the Commissioner of Customs may refuse to accept a bond secured by an individual or corporate surety when the surety, without just cause, is significantly delinqent either in the number of outstanding bills or the dollar amounts thereof. Customs has a right to examine the past performance of sureties to determine if a "satisfactory record of performance" exists and to refuse to accept new bonds from sureties where past transactions indicate a marked inability or unwillingness to meet valid obligations under law and contract with Customs. Refusal to accept bonds from a surety which is deemed to be non-responsible is a temporary measure designed to protect the Government from cumbersome contracts. As soon as the appropriate Customs officer is satisfied that a surety stands ready, willing, and able to resume a normal business relationship with Customs, its bonds will again be accepted. However, absent extraordinary circumstances, once the decision to sanction a surety is made, it will be effective for five working days or until the surety's past due accounts are cleared, whichever is later.

In order for sanctions against a surety to be used, the appropriate Customs officer must examine the number and

extent of deficiencies and determine that the surety was sufficiently apprised of its obligations, and has received appropriate documents which demonstrate the deficiencies. In addition, under proposed paragraph (c)(3) the surety will be given an opportunity to provide evidence that failure to pay is the result of significant, non-frivolous questions of fact or law or that the requested payment is beyond the scope of the surety's obligations under the contract (e.g., expiration or satisfaction of the bond or prior payment), and an opportunity to pay if those reasons are rejected.

Since any proposed sanction could result in litigation, the district director will, under internal operating directives, be required to inform the appropriate regional commissioner and regional counsel of the proposed action before it is initiated and have available for their use to defend any possible court action copies of relevant documents. If the district director, regional commissioner, or regional counsel believe that substantive legal questions are raised by the proposed action, any of them should request internal advice under the provisions of § 177.11, Customs Regulations.

A sample "show cause" form letter from the appropriate Customs officer providing the surety with reasonable notice and the requirement to show cause for failure to pay is set forth in Appendix F to this document. Minimum time periods for surety responses are indicated in the letter. In order to determine the scope of the problem and insure national coordination, internal instructions will indicate that copies of all correspondence be forwarded to the Director, Accounting Division, at Customs Headquarters if the problem with the surety relates to collection matters. If legal issues are raised, copies of all correspondence and documents relating to the matter will be sent to the Director, Carriers, Drawback and Bonds Division.

Customs officers will not refuse to accept entries secured by the bonds already filed and approved except for reasons specified in the Customs regulations or under extraordinary circumstances, and then only with the approval of Customs Headquarters.

If, within the time period established in the show cause letter, the surety has failed either to pay or submit evidence that its failure to pay is the result of a significant nonfrivolous question of fact or law, and the appropriate Customs officer believes that the efficient operation of Customs or protection of the revenue will be best served by refusing to further accept new bonds from the surety until the record of the surety is cleared, then the appropriate Customs officer will, under the provisions of proposed paragraph (c) do the following:

a. Notify the surety in person or by certified mail of the decision not to accept new bonds from the surety, effective on a date certain, but not less than 5 working days from the date of the letter;

b. Post a notice in all Customhouses within the affected area of the action taken and take action to have the notice published in the Customs Bulletin; and,

c. Once a surety's record is considered to be cleared, a notice rescinding the sanction will be published in the Customs Bulletin and posted in all Customhouses within the affected area of the action taken.

When notice is sent to the surety of the decision not to accept the surety's bonds, the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, will request the Bureau of Government Financial Operations to revise Treasury Circular 570 to give notice of the refusal of Customs to accept any new bonds written by the surety.

The appropriate field officials are to report promptly all appropriate facts to the Commissioner of Customs in every case in which an obligation to pay debts owing to Customs has been ignored by the principal, and demands on the surety for payment of the amounts due under the surety's bond have not been promptly complied with by the surety. Under the provisions of proposed § 113.39, it is the intention of Customs to report the failure of any surety to honor its obligations under 31 U.S.C. 9305 to the Department of the Treasury with the object of having the surety declared ineligible to underwrite any bonds for the United States Government.

A new proposed § 113.39, relating to the procedures for removal of a surety from Treasury Department Circular 570, has been added to the proposed subpart. The section provides that if a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the district director or regional commissioner may take steps to have the surety company removed from Treasury Department Circular 570. The section indicates that the fact that collection proceedings have been, or are to be, started on a bond does not preclude use of the procedure if the district director or regional commissioner believes such action is warranted.

Under the proposed section a district director or regional commissioner must send a report accompanied by evidence which in their opinion warrants removal of the surety to the Director, Carriers, Drawback and Bonds Division, Customs Headquarters. If the report is from a district director it must be submitted through the appropriate regional commissioner. The evidence required to accompany the report consists of:

(1) A copy of the bond in issue;

(2) A copy of the entry or other evidence which shows that there was a default on the bond;

(3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;

(4) A copy of all correspondence from the surety company, and

(5) A written statement of the facts known to the district director or regional commissioner showing the unsatisfactory performance by the surety company of the bond obligation(s).

The section provides that the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, must review the submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted by Customs Headquarters to the Fiscal Assistant Secretary, Department of the Treasury, as required by § 223.18(a), Bureau of Government Financial Operations Regulations (31 CFR 223.18(a)). The section provides for notification of the district director and regional commissioner of Headquarters action regarding their request for removal of the surety.

Proposed §§ 113.41 through 113.55 parallel the current regulations with the same numerical designation, section by section. As has been done with other sections, the provisions have been rewritten in some instances to clarify and modernize the language without changing the substance.

A new proposed subpart G has been added which contains the Customs bond conditions. Each section identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond. Appendix B to

this document identifies the sections in this subpart and the existing Customs bond conditions which are incorporated into each of the sections.

Proposed § 113.62 lists the "Basic Importation and Entry Bond Conditions" which may be incorporated by reference into either a single entry or continuous bond on proposed Customs Form 301. However, a bond taken in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 must be a single entry bond.

Proposed § 113.63 identifies the "Basic Custodial Bond Conditions" which are incorporated by reference into the continuous bond. All those individuals and organizations who are custodians of merchandise and previously had separate bonds (e.g. carriers, cartman, warehouse proprietors, etc.) will now be covered by the same bond condition.

The "International Carrier Bond Conditions", which may be incorporated into either a single entry or continuous bond are found in proposed § 113.64.

The proposed bond conditions for repayment of erroneous drawback are found in proposed § 113.65. These conditions can only be used as a part of a continuous bond.

Proposed § 113.66 relates to the "Control of Containers and Instruments of International Traffic Bond Conditions" which can only be used with a continuous bond.

"Licensed Public Gauger Bond Conditions" are found in proposed § 113.67 and are used in conjunction with a continuous bond.

The bond conditions for wool and fur products labeling acts, which are to be used in conjunction with the single entry bond, are found in proposed § 113.68.

Proposed § 113.69 relates to the bond conditions for the production of a bill of lading and are to be used with the single entry bond.

The bond conditions found in proposed § 13.70 relate to indemnification of the United States for detention of copyrighted material. These conditions must be used with a single entry bond.

The "Bond Condition to Observe Neutrality" is set forth in proposed § 113.71 and is to be used with a single entry bond.

A single entry bond is used with the "Bond Conditions to Pay Court Costs (Condemned Goods)" found in proposed § 113.72.

The bond conditions for foreign trade zone operators are found in proposed § 113.73 and are to be used with a continuous bond.

Proposed Amendments to Part 114

Part 114, Customs Regulations, relates to carnets. It is proposed to amend § 114.22(d) by removing the words "carrier's bond" and substituting "Customs bond".

Proposed Amendments to Part 123

Customs regulations relating to Customs relations with Canada and Mexico are in Part 123. It is proposed to amend § 123.8(c) by removing a reference to existing Customs bonds and substituting a reference to Customs Form 301 containing the bond conditions set forth in proposed § 113.64 relating to "International Carrier Bond Conditions".

Proposed Amendments to Part 125

Part 125, Customs Regulations, relates to cartage and lighterage of merchandise. It is proposed to amend § 125.42 by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301, containing the bond conditions set forth in proposed § 113.63 relating to "Basic Custodial Bond Conditions".

Proposed Amendments to Part 127

Part 127, Customs Regulations, relates to general order, unclaimed and abandoned merchandise. It is proposed to amend § 127.37(a) by removing a reference to an existing Customs bond and substituting a reference to the bond conditions set forth in proposed § 113.62 relating to the "Basic Importation and Entry Bond Conditions".

Proposed Amendments to Part 132

Quotas are the subject matter of Part 132, Customs Regulations. It is roposed to amend § 132.14(a)(4) by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301, containing the bond conditions set forth in proposed § 113.62 relating to "Basic Importation and Entry Bond Conditions".

Proposed Amendments to Part 133

Customs regulations relating to trademarks, trade names and copyrights are in Part 133. It is proposed to amend §§ 133.24, 133.43(b)(2), and 133.46 by substituting a reference to Customs Form 301 containing the appropriate proposed bond conditions set forth in subpart G of proposed Part 113.

Proposed Amendments to Part 134

Part 134, Customs Regulations, relates to country of origin. It is proposed to delete a reference to an existing Customs bond and substitute a reference to Customs Form 301 containing a reference to the proposed bond conditions set forth in proposed § 113.62 relating to the "Basic Importation and Entry Bond Conditions".

Proposed Amendments to Part 141

Customs regulations relating to entry of merchandise are found in Part 141. It is proposed to amend the definitions set forth in § 141.0a to include a definition for the phrase "released conditionally" and a revised definition for "entered temorarily under bond". Sections 141.15(b), 141.18(b), 141.19(b)(2)(ii), 141.20(a)(2), 141.66, 141.91(d), 141.92(c), and 141.112(g) would be amended by removing a reference to an existing bond and inserting a reference to Customs Form 301 containing the appropriate bond conditions set forth in proposed subpart G. It is also proposed to amend §§ 141.20(a)(2) and 141.82(c) by substituting a reference to a "continuous" bond for a reference to a "term" bond. Sections 141.52(g), 141.84(e), and 141.102(d) would have similar non-substantive technical conforming amendments. References in §§ 141.83(d)(10) and 141.101(e) to "permanent exhibition bonds", "temporary importation bonds" etc. have been deleted and words such as "entered for permanent exhibition under bond" have been substituted.

Proposed Amendments to Part 142

Part 142, Customs Regulations, relates to the entry process. It is proposed to amend §§ 142.4, 142.19, and 142.21, by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301 containing the appropriate bond conditions set forth in subpart G of proposed Part 113. Amendments are also proposed to §§ 142.1, 142.11(a), and 142.22(b)(1) to substitute references to "temporary importation under bond" for references to "temporary importation bonds". In §§ 142.15 and 142.27 reference to a "continuous" bond is proposed to be substituted for references to "term bonds". It is also proposed to eliminate Bond Rider R set forth in § 142.5.

Proposed Amendments to Part 144

Customs regulations relating to warehouse and rewarehouse entries and withdrawals are contained in Part 144. It is proposed to amend §§ 144.2, 144.13, 144.14, 144.21, 144.24, and 144.41 by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301 containing a reference to the appropriate bond conditions set forth in subpart G of proposed Part 113. It is also proposed to eliminate the bond conditions set forth

in § 144.15(d). In § 144.41(g) it is proposed to remove a reference to the warehouse entry bond period and substitute a reference to the 5-year period during which merchandise may remain in warehouse under bond.

Proposed Amendments to Part 145

Part 145, Customs Regulations, relates to mail importations. It is proposed to amend § 145.72(d) by removing a reference to a "temporary importation bond" and substituting a reference to "temporarily imported under bond".

Proposed Amendments to Part 146

Customs regulations relating the foreign-trade zones are found in Part 146. It is proposed to amend §§ 146.42 and 146.45 by removing references to existing customs bonds and substituting references to existing bonds and substituting references to Customs Form 301 containing the bond conditions proposed in § 113.62 relating to the "Basic Importation and Entry Bond Conditions".

Proposed Amendments to Part 147

Trade fairs are provided for in Part 147, Customs Regulations. It is proposed to amend § 147.2(a)(2) by removing a reference to an "exhibition bond" and substituting a reference to "imported for exhibition under bond". Section 147.3 would be modified by setting forth the requirement for a bond on Customs Form 301 containing the bond conditions enumerated in proposed section 113.62 relating to the "Basic Importation and Entry Bond Conditions".

Proposed Amendments to Part 148

Customs regulations relating to personal declarations and exemptions are found in Part 148. It is proposed to eliminate a reference to current Customs bonds contained in § 148.52(c) and substitute a reference to Customs Form 301.

Proposed Amendments to Part 151

Part 151, Customs Regulations, relates to examination, sampling and testing of merchandise. It is proposed to amend §§ 151.7(d), 151.11, and 151.43 by removing the references to current Customs bonds and in appropriate sections substituting a reference to Customs Form 301 and the bond conditions set forth in subpart G of proposed Part 113.

Proposed Amendments to Part 162

Regulations relating to recordkeeping, inspection, search and seizure, are found in Part 162. Proposed amendments to §§ 162.45(a)(3) and 162.47(b) would add references to Customs Form 301 containing the bond conditions set forth in proposed § 113.72 relating to the "Bond Condition to Pay Court Costs (Condemed Goods)" and in the case of § 162.47(b) remove a reference to an existing bond and the list or schedule containing a description of seized articles.

Proposed Amendments to Part 172

Liquidated damages regulations are found in Part 172, Customs Regulations. The proposal would amend § 172.22(c) by substituting a reference to the continuous bond for a reference to a term bond.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1 (b) of Executive Order 12291.

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 applicable to this proposal. Accordingly, an initial regulatory flexibility analysis is attached as Appendix D. Comments on the analysis are also solicited and should accompany comments submitted on the proposal.

Paperwork Reduction Act

The proposed regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, applicable sections of this document are subject to clearance by the Office of Management and Budget.

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This document is issued under the authority of R.S 251, as amended (19 U.S.C. 66), and sections 623, as amended, 624, 46 Stat. 759 (19 U.S.C. 1623, 1624).

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.A. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 4

Bonds, Customs duties and inspection, Exports, Imports

19 CFR Part 6

Bonds, Customs duties and inspection, Exports, Imports

19 CFR Part 7

Bonds, Customs duties and inspection, Exports, Imports

19 CFR Part 10

Bonds, Customs duties and inspection, Exports, Imports

19 CFR Part 11

Bonds, Customs duties and inspection, Imports

19 CFR Part 12

Bonds, Customs duties and inspection, Imports

19 CFR Part 18

Bonds, Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 19

Bonds, Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 22

Bonds, Customs duties and inspection, Exports, Imports

19 CFR Part 24

Bonds, Customs duties and inspection.

19 CFR Part 54

Bonds, Customs duties and inspection, Exports, Imports.

19 CFR Part 101

Bonds, Customs duties and inspection, Imports.

19 CFR Part 112

Bonds, Customs duties and inspection, Imports, Surety bonds.

19 CFR Part 113

Bonds, Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 114

Bonds, Customs duties and inspection, Exports, Imports.

19 CFR Part 123

Bonds, Customs duties and inspection, Exports, Imports.

19 CFR Part 125

Bonds, Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 127

Bonds, Customs duties and inspection, Imports.

19 CFR Part 132

Bonds, Customs duties and inspection, Imports.

19 CFR Part 133

Bonds, Customs duties and inspection, Imports.

19 CFR Part 134

Bonds, Customs duties and inspection, Imports.

19 CFR Part 141

Bonds, Customs duties and inspection, Imports.

19 CFR Part 142

Bonds, Customs duties and inspection, Imports.

19 CFR Part 144

Bonds, Customs duties and inspection, Imports.

19 CFR Part 145

Bonds, Customs duties and inspection, Imports, Warehouses.

19 CFR Part 146

Bonds, Customs duties and inspection, Exports, Imports.

19 CFR Part 147

Bonds, Customs duties and inspection, Imports.

19 CFR Part 148

Airmen, Customs duties and inspection, Foreign officials, Government employees, Imports, International organizations, Seamen, Taxes.

19 CFR Part 151

Bonds, Customs duties and inspection, Imports.

19 CFR Part 162

Bonds, Customs duties and inspection, Imports.

19 CFR Part 172

Bonds, Customs duties and inspection, Liquidated damages.

19 CFR Part 174

Bonds, Customs duties and inspection, Imports, Protests.

Proposed Amendments to the Regulations

It is proposed to amend Parts 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, and 174, Customs Regulations (19 CFR Parts 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, 174), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.10 [Amended]

1. It is proposed to amend § 4.10 by removing the words "Customs Form 7567 or 7569" in the fourth sentence of the section and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter".

§ 4.13 [Amended]

2. It is proposed to amend § 4.13(b) by removing the words "Customs Form 7593" and inserting in their place the words "Customs Form 301, containing the bond conditions relating to international carriers set forth in § 113.64 of this chapter in an amount equal to twice the potential duty liability".

§ 4.14 [Amended]

3. It is proposed to amend § 4.14(b) by removing the words "Customs Form 7567 or 7569" in the fourth sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter".

§ 4.16 [Amended]

4. It is proposed to amend § 4.16(a) by removing the words "a bond on Customs Form 7567 in such penal sun as the district director of Customs deems sufficient but not less than $1000, or the usual term bond on Customs Form 7569" and inserting in their place the words "a single entry or continuous bond on Customs Form 301, in such amount as the district director deems appropriate but not less than $1000".

§ 4.30 [Amended]

5. It is proposed to amend § 4.30(c) by removing the words (a) ",[62] on Customs Form 7567 or 7569, has been received" in the first sentence of the paragraph and inserting in their place the words "has been filed on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers [62] "and (b) "Customs Form 3587" in the second sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter relating to basic custodial bond conditions".

6. It is proposed to amend § 4.30 (f) and (g) by removing the words ", but not longer than the period of the supporting bond,".

7. It is proposed to amend § 4.30(i)(2) by removing the words "A vessel bond, on Customs Form 7567 or 7569" and inserting in their place the words "A bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 4.32 [Amended]

8. It is proposed to amend § 4.32(b) by removing the words "Customs Form 7567" and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 4.34 [Amended]

9. It is proposed to amend section 4.34(h) by removing the words "vessel bond" in the third sentence of the paragraph and inserting in their place the words "bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in section 113.64 of this chapter".

10. It is proposed to amend section 4.38(a) by adding two sentences at the end of the paragraph to read as follows:

§ 4.38 Release of cargo.

(a) * * * When merchandise is released without proper permit before entry has been made, the district director shall issue a written demand for redelivery. The importing carrier shall redeliver the merchandise to Customs within 30 days after the demand is made.

* * * * *

§ 4.75 [Amended]

11. It is proposed to amend section 4.75(a) by removing the words "Customs Form 7567 or Customs Form 7569" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.64 relating to international carriers".

§§ 4.85 and 4.88 [Amended]

12. It is proposed to amend §§ 4.85(a) and 4.88(a) by removing the words "vessel bond (Customs Form 7567 or 7569)" in the first sentence of each paragraph and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth

in § 113.64 of this chapter relating to international carriers".

13. It is proposed to amend § 4.90(e) by revising it to read as follows:

§ 4.90 Simutaneous vessel transactions.

* * * * *

(e) When a single entry bond, containing the bond conditions set forth in section 113.64, relating to the international carriers, is filed at any port and it is applicable to the current voyage of the vessel, it shall cover all other transactions engaged in on that voyage of a like nature and another bond containing the international carrier bond conditions need not be filed.

PART 6—AIR COMMERCE REGULATIONS

§ 6.2 [Amended]

1. It is proposed to amend §§ 6.2 (e) and (f) by removing the words (a) ", but not longer than the period of the supporting bond," in the first sentence of each paragraph and (b) ", on Customs Form 7567 or 7569," in the last sentence of each paragraph.

§§ 6.2 and 6.9 [Amended]

2. It is proposed to amend § 6.2(g) and the first and second sentences of § 6.9(a) by removing the words "on Customs Form 7567 or 7569" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 6.8 [Amended]

3. It is proposed to amend § 6.8 by removing (a) the words "proper bond is given" in the fourth sentence of paragraph (a) and inserting in their place the words "bond is filed on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter" (b) the words "pursuant to the bond" in the fourth sentence of paragraph (a), and (c) the words "the 4-day bond period" in the fourth sentence of paragraph (e) and inserting in their place the words "the 4-day period after departure".

4. It is proposed to amend the first three sentences of § 6.20(c) by revising them to read as follows:

§ 6.20 Conditions for transportation of transit air cargo.

* * * * *

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier, for the transportation of bonded merchandise, which has on file a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter for such transportation. Transit air cargo may be exported from the port of arrival only when covered by a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter relating to exportation of merchandise. The importing airline whether registered in the United States or a foreign country, if it has been designated as a carrier of bonded merchandise as set forth above, may receipt for the air cargo, obligate its bond if it contains the bond conditions set forth in § 113.63 of this chapter, and deliver the air cargo to an authorized domestic carrier for in-bond transportation beyond the port of arrival under the importing airline bond which covers such movement.* * *

* * * * *

§ 6.22 [Amended]

5. It is proposed to amend § 6.22(e) by removing the words "common carrier's bond" in the first sentence of the paragraph and inserting in their place the words "bond containing the bond conditions set forth in § 113.63 of this chapter".

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

It is proposed to amend § 7.8(c) by revising it to read as follows:

§ 7.8 Insular possessions of the United States other than Puerto Rico.

* * * * *

(c) When merchandise excluding any shipments valued at $25 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond containing the bond conditions set forth in § 113.62 of this chapter, for the production thereof maybe taken on Customs Form 301. A bond for production of a bill of lading shall be taken on Customs Form 301 and contain the bond conditions set forth in § 113.69 of this chapter.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.24 [Amended]

1. It is proposed to amend § 10.24(f) by removing the words "an appropriate bond" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

2. It is proposed to amend § 10.31(f) by (a) removing the words "Customs Form 7563" on the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) revising the third sentence of the paragraph to read as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * A carnet under the provisions of Part 114 of this chapter may be filed in lieu of a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. * * *

* * * * * * *

3. It is proposed to amend § 10.31(g) by removing the words "the bond period" in the second sentence of the paragraph and inserting in their place the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond".

§ 10.36 [Amended]

4. It is proposed to amend § 10.36 (b) and (c) by removing (a) the words (i) "the period of the bond" in the first sentence of each paragraph and (ii) "the bond period" in the second sentence of each paragraph, and in each instance inserting in their place the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond" and (b) the word "bonds" in the second sentence of paragraph (b) and inserting in its place the word "bond".

5. It is proposed to amend the second sentence of § 10.36a(a) by revising it to read as follows:

§ 10.36a Vehicles, pleasure boats and aircraft brought in for repair or alteration.

(a) * * * The bond, prescribed by § 10.31(f), filed to support entry under this section shall be without surety or cash deposit, except as provided by this paragraph and paragraph (d) of this section. * * *

* * * * *

6. It is proposed to amend the section heading and the first sentence of § 10.37 by revising them to read as follows:

§ 10.37 Extension of time for exportation.

The period of time during which merchandise entered under bond under schedule 8, part 5, subpart C, Tariff Schedules of the United States, may remain in the Customs territory of the United States, may be extended for not more than two further periods of 1 year each, or such shorter period as may be appropriate. Extensions may be granted by the district director at the port where

the entry was filed upon written application on Customs Form 3173, provided the articles have not been exported or destroyed before the receipt of the application, and liquidated damages have not been assessed under the bond before receipt of the application.

§ 10.38 [Amended]

7. It is proposed to amend § 10.38(a) by removing the words "a temporary importation bond" and inserting in their place "schedule 8, part 5, subpart C, Tariff Schedules of the United States".

§ 10.39 [Amended]

8. It is proposed to amend § 10.39 by (a) removing the word "bonds" in the section heading and inserting in its place the words "bond charges", (b) removing the word "Bonds" in the first sentence of paragraphs (a) and inserting in its place the words "Charges against bonds", (c) removing the word "bond" the first time it is used in the third sentence of paragraph (a) and inserting in its place the words "bond charge", (d) removing the words "the bond period" in (i) the third sentence of paragraph (a), (ii) the first sentence of paragraph (b), (iii) the first sentence of paragraph (d)(1), (iv) the first sentence of paragraph (e)(2), and (v) the first sentence of paragraph (e)(3) and in each instance inserting in their place the words "the period of time during which the articles may remain in the Customs territory of the United States under bond", and (e) removing the words "to the entire amount of the bond. If the entry covering the articles is charged against a term bond, the demand shall be limited to an amount equal" in the first and second sentences of paragraph (d)(1).

§ 10.40 [Amended]

9. It is proposed to amend § 10.40(b), by removing the words "the bond period" in the first sentence of the paragraph and inserting in their place the words "the period of time during which articles may remain in the Customs territory of the United States under bond".

§ 10.41a [Amended]

10. It is proposed to amend § 10.41a(c) by removing (a) the words "on Customs Form 7587" in the first and fifth sentences of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.66 of this chapter" and (b) the words (i) ", as provided for in § 113.41(p) of this chapter" in the fifth sentence of the paragraph, and (ii) ", Customs Form 7587," in the sixth sentence of the paragraph.

11. It is proposed to amend paragraph (h) of § 10.41b by revising it to read as follows:

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

* * * * *

(h) A continuous bond containing the conditions set forth in § 113.66 of this chapter shall be filed with the district director. If the conditions are violated the district director shall issue a claim for liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). If the domestic value exceeds the amount of the bond the claim for liquidated damages will be equal to the amount of the bond.

* * * * *

§ 10.49 [Amended]

12. It is proposed to amend § 10.49(a) by removing the words "on Customs Form 7565" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.59 [Amended]

13. It is proposed to amend § 10.59(e) by removing the word "on Customs 7603" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.60 [Amended]

14. It is proposed to amend § 10.60 by removing (a) the word "bonds" in the section heading and inserting in its place the word "bond", and (b) the words (i) "on Customs Form 7561 or other appropriate form" in paragraph (c), (ii) "on Customs Form 7557, 7559, or 7595" in the first and second sentences of paragraph (f), and (iii) "on Customs Form 7603 in lieu of any other bond" in paragraph (g) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

15. It is proposed to amend § 10.64(a) by (a) removing the words "the warehouse or rewarehouse entry bond or the bond identified in § 10.60 (c) or (f) for articles withdrawn under section 309, Tariff Act of 1930, as amended, for use as supplies, equipment, or for repair of a vessel" in the first sentence of the paragraph and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) adding a sentence between the first and second sentence of the paragraph to read as follows:

§ 10.64 Creating or cancellation of bonds.

(a) * * * The withdrawer shall cause the merchandise to be delivered to the lading vessel, and shall provide such evidence of lading as required by the district director within 30 days after lading, except as provided in this section. * * *

§ 10.65 [Amended]

16. It is proposed to amend § 10.65(c)(3) by removing the words "The bond on Customs Form 7561 or other apropriate form" in the third sentence and inserting in their place the words "A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.66 [Amended]

17. It is proposed to amend § 10.66(b) by adding the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" after the word "bond" in both the first and second sentences of the paragraph.

§ 10.67 [Amended]

18. It is proposed to amend § 10.67(b) by adding the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" after the word "bond" in the second sentence of the paragraph.

§ 10.71 [Amended]

19. It is proposed to amend § 10.71 by removing (a) the words "on Customs Form 7551 or 7553" (i) in the first sentence of paragraph (a), (ii) in the second sentence of paragraph (e), and (iii) in the first sentence of paragraph (f) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) the word "Such" in paragraph (b) and inserting in its place the words "Charges against the".

§ 10.80 [Amended]

20. It is proposed to amend § 10.80 by removing the words "on Customs Form 7561 or other appropriate form" in the sixth sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.81 [Amended]

21. It is proposed to amend § 10.81(b) by removing the words "on Customs

Form 7561 or other appropriate form when necessary" in the second sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth § 113.62 of this chapter".

§ 10.83 [Amended]

22. It is proposed to amend § 10.83(a) by adding the words "charges against the " after the words "the district director may cancel the ".

23. It is proposed to amend § 10.90(f) by revising it to read as follows:

§ 10.90 Master records and metal matrices.

* * * * *

(f) A bond on Customs Form 301, coantaining the bond conditions set forth in § 113.62 of this chapter shall be filed for importations under this section.

* * * * *

§ 10.92 [Amended]

24. It is proposed to amend § 10.92 by removing (a) the word "penalty" in the section heading and inserting in its place the words "liquidated damages", (b) the words "single entry bond on Customs Form 7547, unless the transaction is charged against a term bond on Customs Form 7647, or other appropriate form" in the first sentence of paragraph (a) and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter", (c) the words "The penalty of the " in the second sentence of paragraph (a) and inserting in their place the word "A", (d) the words "The penalty of the term bond" in the third sentence of paragraph (a) and inserting in their place the words "The amount of a continuous bond", and (e) the word "term" in paragraph (b) and in the first and second sentences of paragraph (c) and in each instance inserting in their place the word "continuous".

§ 10.108 [Amended]

25. It is proposed to amend § 10.108 (b) by removing the words "as provided for in § 143.3" in the last sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62".

§ 10.135 [Amended]

26. It is proposed to remove the last sentence of § 10.135.

§ 10.173 [Amended]

27. It is proposed to amend § 10.173(a)(3) by removing (a) the words "Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter," and (b) the second sentence of the paragraph.

PART 11—PACKING AND STAMPING; MARKING

§ 11.12 [Amended]

1. It is proposed to amend § 11.12(c) by removing the words "the usual Customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 or § 113.68 of this chapter, as appropriate, in such amount as the district director may require".

§ 11.12a [Amended]

2. It is proposed to amend § 11.12a(c) by removing the words "the usual Customs single entry or term bond in such amounts as is prescribed for such bonds in § 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 or § 113.68 of this chapter, as appropriate, in such amount as the district director may require".

§ 11.12b [Amended]

3. It is proposed to amend § 11.12b(c) by removing the words "the usual Customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in such amount as the district director may require".

PART 12—SPECIAL CLASSES OF MERCHANDISE

§ 12.3 [Amended]

1. It is proposed to amend § 12.3 by removing the words "on Customs Form 7551, 7553, or 7595, containing a condition for the return of the merchandise, or any part thereof, to Customs custody upon demand of the district director of Customs" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 12.8 [Amended]

2. It is proposed to amend § 12.8 by removing the words (a) "on Customs Form 7551, 7553, or other appropriate form" in the third sentence of paragraph (a) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) "of bonds" in the first sentence of paragraph 9b) and inserting in their place the words "of a bond".

§ 12.12 [Amended]

3. It is proposed to amend § 12.12 by removing the words "on Customs Form 7551, 7553, or other appropriate form" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

§ 12.16 [Amended]

4. It is proposed to amend § 12.16 (c) by (a) placing a period after the word "bond" the first time it is used in the paragraph, and (b) removing the remainder of the paragraph and inserting in its place the words "The bond shall be filed with the district director on Customs Form 301 and contain the bond conditions set forth in § 113.62 of this chapter. In case of default the district director shall issue a claim for liquidated damages under the bond."

5. It is proposed to amend § 12.26 (e) by (a) removing the word "collector" in the second sentence of the paragraph and inserting in its place the words "district director", and (b) revising the third and fourth sentences of the paragraph to read as follows:

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered species; designated ports of entry; permits required.

* * * * *

(e) * * * The shipment may be immediately released if a bond is filed with the district director on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to the entered value plus estimated duties. If the bond conditions are violated the district director shall issue a claim for liquidated damages under the bond. In lieu of filing a bond the merchandise may be left in Customs custody at the risk and expense of the importer pending issuance of the permit.

* * * * *

6. It is proposed to amend § 12.26(h) by removing the words "the bond shall be forfeited" and inserting in their place the words "a claim for liquidated damages shall be issued under the bond".

§ 12.33 [Amended]

7. It is proposed to amend § 12.33 by removing and reserving paragraph (c).

§ 12.39 [Amended]

8. It is proposed to amend § 12.39(b)(2) and (3) by removing (a) the words "a special rider to existing entry bonds, as described in § 113.14(z) of ths chapter" in the first sentence of paragraph (b)(2) and inserting in their place the words "a single entry bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter in an amount determined by the International Trade Commission" and (b) the work "rider" in the third sentence of paragraph (b)(3).

§ 12.73 [Amended]

9. It is proposed to amend § 12.73(c) by removing (a) the words "on Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,", (b) the second sentence of the paragraph, (c) the words "a bond given on Form 7551" in the fifth sentence of the paragraph and inserting in their place the words "the bond, if it is a single entery bond, or if a continuous bond is used the amount that would have been taken under a single entry bond" and (d) the sixth sentence of the paragraph.

10. It is proposed to amend § 12.80(b)(1)(iii), (e)(1) and (e)(2) by (a) removing the words "the conditions of the bond required by paragraph (e)(1) of this section have been satisfied" in last sentence of paragraph (b)(1)(iii) and inserting in their place the words "the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards" (b) removing the words "on Customs Form 7551, 7553, or 7595 in the amount required by § 113.14 of this chapter" in the first sentence of paragraph (e)(1) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter", (c) removing the second sentence of paragraph (e)(1), (d) removing the words "The bond release" in the third sentence of paragraph (e)(1) and inserting in their place the words "An approval", (e) removing the words "bond release" in the fourth sentence of paragraph (e)(1) and inserting in their place the word "approval", (f) adding a sentence at the end of section (e)(1) to read as follows:

§ 12.80 Federal motor vehicle safety standards.

* * * * *

(e)(1) * * * Upon receipt of the approval letter the district director shall cancel the charge against the bond.

* * * * *

(g) removing the words "bond release" in the first sentence of paragraph (e)(2) and inserting in their place the word "approval", (h) removing the words "given on Customs Form 7551" in the second sentence of paragraph (e)(2) and inserting in their place the words "if it is a single entry bond or if a continuous bond is used, the amount that would have been taken under a single entry bond" and (i) removing the third sentence of paragraph (e)(2).

§ 12.85 [Amended]

11. It is proposed to amend § 12.85(e) by removing (a) the words (i) "in the amount prescribed by § 113.14 of this chapter" and (ii) "on Customs Form 7551, 7553, or 7595" in the first sentence of subparagraph (1) and in the latter removal inserting in its place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in such amount as the district director deems appropriate," , (b) the words "given on Customs Form 7551" in the first sentece of subparagraph (3) and inserting in their place the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" and (c) the second sentence of subparagraph (3).

§ 12.91 [Amended]

12. It is proposed to amend § 12.91(d) by removing (a) the words "on Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter," (b) the words "the amount required under § 113.14 of this chapter" in the second sentence of the paragraph and inserting in their place the words "an amount deemed appropriate by the district director" (c) the words "given on Form 7551" in the fifth sentence of the paragraph and inserting in their place the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond", and (d) the sixth sentence of the paragraph.

§ 12.115 [Amended]

13. It is proposed to amend § 12.115 by removing the words (a) "on Customs Form 7551, 7553, and 7595" in the second sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter," and (b) "the amount required under § 113.14 of this chapter" in the third sentence of the section and inserting in their place the words "an amount deemed appropriate by the district director".

§ 12.117 [Amended]

14. It is proposed to amend § 12.117(b), by (a) removing the word "assess" in the third sentence of the paragraph and inserting in its place the words "issue a demand for " and (b) adding the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" at the end of the third sentence of the paragraph.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.3 [Amended]

1. It is proposed to amend § 18.3(e) by removing the words "Carrier's Bond" and inserting in their place the words "bond of the carrier on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

§ 18.20 [Amended]

2. It is proposed to amend § 18.20(b) by removing the words "on Customs Form 7557" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

3. It is proposed to amend § 18.25 by (a) redesignating paragraph (e) as paragraph (f), (b) adding a new paragraph (e) as set forth below, and (c) revising the first sentence of paragraph (b) and the second sentence of paragraph (d) to read as follows:

§ 18.25 Direct exportation.

* * * * *

(b) A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, shall be required. * * *

* * * * *

(d) * * * A charge shall be made against the continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, if on file, or if a continuous bond is not on file, a single entry bond containing the bond conditions set forth in § 113.64 shall be required as in the case of residue cargo for foreign ports. * * *

(e) The principal on any bond filed to guarantee direct exportation shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under § 113.55 of this chapter within 30 days of exportation.

* * * * *

4. It is proposed to amend § 18.26 by (a) removing the words "§ 18.25(a)" in the first sentence of paragraph (a) and inserting in their place the words "§ 18.25(d)", (b) adding a new paragraph (d), and (c) revising the second sentence of paragraph (a) to read as follows:

§ 18.26 Indirect exportation.

(a) * * * Upon acceptance of the entry by Customs and acceptance of the merchandise by the bonded carrier, the bonded carrier assumes liability for the transportation and exportation of the merchandise. * * *

* * * * *

(d) The bonded carrier shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under § 113.55 of this chapter within 30 days of exportation.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

§ 19.2 [Amended]

1. It is proposed to amend § 19.2 by removing the words (a) "in the form prescribed by T.D. 82-204" (i) in paragraph (c) and (ii) in the first and second sentences of paragraph (d) and inserting in their place in each instance the words "on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter" and (b) "proprietor's warehouse bond" in the first sentence of paragraph (e) and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

2. It is proposed to amend § 19.11(c) by adding a sentence at the beginning of the paragraph to read as follows:

§ 19.11 Manipulation in bonded warehouses and elsewhere.

* * * * *

(c) Warehouse proprietors shall not allow manipulation of merchandise without a permit issued by the district director. * * *

* * * * *

3. It is proposed to amend § 19.14 by (i) revising paragraph (b) to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be required.

* * * * *

(ii) removing the words "a bond on Customs Form 7571 shall be required unless the warehouse is covered by the appropriate bond in the form prescribed by T.D. 82-204" in paragraph (d) and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

4. It is proposed to amend § 19.15 by (i) removing the third, fourth and fifth sentences in paragraph (g)(1) and inserting in their place the following:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

* * * * *

(g)(1) * * * A rewarehouse entry shall be made in accordance with § 144.34(b) of this chapter, supported by a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter.

* * * * *

(ii) the word "general" in paragraph (l).

§ 19.16 [Amended]

5. It is proposed to amend § 19.16(g)(1) by removing the words "the Proprietor's Manufacturing Warehouse Bond in the form prescribed by T.D. 82-204" in the last sentence of the paragraph and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

6. It is proposed to amend § 19.17 by removing (a) paragraph (b) and reserving the paragrpah, and (b) the second sentence of paragraph (e) and inserting in its place the following sentence:

§ 19.17 Application to establish warehouse; bond.

* * * * *

(e) *Bond.* * * * A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be on file. * * *

7. It is proposed to amend § 19.40 by revising it to read as follows:

§ 19.40 Establishment of container stations.

A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefore and its approval by the district director and the posting of a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter in such amount as the district director shall require.

PART 22—DRAWBACK

§ 22.7 [Amended]

1. It is proposed to amend § 22.7(d)(2)(ii) by inserting the words "on Customs Form 301, containing the bond conditions set forth in § 113.65 of this chapter" after the words "exporter—claimant".

§ 22.20a [Amended]

2. It is proposed to amend § 22.20a by removing (a) the words "on either Customs Form 7609 or 7611" in the second sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.65 of this chapter" and (b) the third, fourth and fifth sentences of the section.

§ 22.28 [Amended]

3. It is proposed to amend § 22.28(b) by removing the words "under a temporary importation bond".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.1 [Amended]

1. It is proposed to amend § 24.1(a)(3) by removing the words "an entry bond or other" in the first sentence of the paragraph and inserting in their place the word "a".

2. It is proposed to amend § 24.4(i) by revising it to read as follows:

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

* * * * *

(i) *Duration of deferred payment privilege.* The deferred payment privilege once approved by the district director will remain in effect until terminated under the provisions of paragraph (h) or the importer or surety requests termination.

* * * * *

3. It is proposed to amend § 24.11 by (i) revising paragraph (a)(2) to read as follows:

§ 24.11 Increased or additional duties or taxes; notice to importer.

(a)* * *

(2) A bond as required by § 141.20 on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

(ii) removing the words "In any case in which a timely owner's delcaration, but not a timely superseding bond, has

been filed," in paragraph (b) and inserting in their place the words "In any case in which an owner's delcaration has been filed timely but the bond has not been filed timely."

§ 24.16 [Amended]

4. It is proposed to amend § 24.16(c) by (a) removing the words (i) "on Customs Form 7597 or 7599" in the third sentence of paragraph (c)(1) and (ii) "on Customs Form 7597" in the fourth sentence of paragraph (c)(1) and in each instance inserting in their place the words "on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, Part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73),", (b) removing the words "bond on Customs Form 7599" in the first sentence of paragraph (c)(3) and inserting in their place the words "a continuous bond" and (c) removing the words "nor longer than the period of the supporting bond" in the first sentence of paragraph (c)(3).

PART 54—CERTAIN IMPORTATION TEMPORARILY FREE OF DUTY

It is proposed to amend the first and second sentences of § 54.6(b) by revising them to read as follows:

§ 54.6 Proof of intent; bond; proof of use; liquidation.

* * * * *

(b) If the articles are entered for consumption or warehouse, a bond shall be filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. Withdrawals from warehouse shall be made on Customs Form 7506. * * *

* * * * *

PART 101—GENERAL PROVISIONS

It is proposed to amend § 101.1 by redesignating paragraphs (k), (l) and (m) as paragraphs (l), (m) and (n), respectively; and adding a new paragraph (k) to read as follows:

§ 101.1 Definitions.

* * * * *

(k) *Exportation.* "Exportation" means a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

* * * * *

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

§ 112.11 [Amended]

1. It is proposed to amend § 112.11(a)(4)(ii) by removing the words "Customs Form 3588, 'Private Carriers Bond' " and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

§ 112.12 [Amended]

2. It is proposed to amend § 112.12(a) by removing the words "on Customs Form 3587 (except private carriers which file on Customs Form 3588 and airline companies which have the option to file a consolidated aircraft bond, Customs Form 7605 or the Customs Form 3587)" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

3. It is proposed to amend § 112.22(a)(1) by revising it to read as follows:

§ 112.22 Application for license.

(a) *General requirements.* * * *

(1) A bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter, in an amount specified by the district director, is required.

* * * * *

§ 112.25 [Amended]

4. It is proposed to amend § 112.25 by removing (a) the words "carrier's bond, Customs Form 3587, or a carrier who has filed a private carrier's bond, Customs Form 3588" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter", (b) the words "a carrier's bond" in the second sentence of the section and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter", and (c) the words "a bond on Customs Form 3855" in the second sentence of the section and inserting in their place the words "another bond".

§ 112.26 [Amended]

5. It is proposed to amend § 112.26 by removing the words "section 113.56" and inserting in their place the words "§ 113.26".

§ 112.27 [Amended]

6. It is proposed to amend § 112.27(d) by removing the words "in accordance with the provisions of the bond, Customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided in such bond".

7. It is proposed to amend § 112.49(d) by revising the last sentence of the paragraph and removing the bond format for the Bond of Customs Cartman for Issuance of Temporary Identification Card. The amendments read as follows:

§ 112.49 Temporary identification cards.

* * * * *

(d) *Bond.* * * * The bond shall be on Customs Form 301 and contain the bond conditions set forth in section 113.63 of this chapter.

It is proposed to revise Part 113, Customs Regulations to read as follows:

PART 113—CUSTOMS BONDS

Sec.

113.0 Scope.

Subpart A—General Provisions

113.1 Authority to require security or execution of bond.
113.2 Powers of Commissioner of Customs relating to bonds.
113.3 Liability of surety on a terminated bond.
113.4 Bonds and carnets.

Subpart B—Bond Application and Approval of Bond.

113.11 Bond approval.
113.12 Bond application.
113.13 Amount of bond approved by the district director.
113.14 Approved form of bond inadequate.
113.15 Retention of approved bonds.

Subpart C—Bond Requirements

113.21 Information required on the bond.
113.22 Witnesses required.
113.23 Charges made on the bond.
113.24 Riders.
113.25 Seals.
113.26 Termination of bond.

Subpart D—Principals and Sureties

113.31 Information pertaining to principals and sureties on the bond.
113.32 Same party as principal and surety; attorney in fact.
113.33 Partnerships as principals.
113.34 Corporations as principals.
113.35 Individual sureties.
113.36 Partner acting as surety on behalf of a partner or on behalf of a partnership.
113.37 Corporate sureties.
113.38 Delinquent sureties.
113.39 Procedure to remove a surety from Treasury Department Circular 570.
113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

Subpart E—Production of Documents

113.41 Entry made prior to production of documents.
113.42 Time period for production of documents.

Sec.

113.43 Extension of time period.
113.44 Assent of sureties to an extension of a bond.
113.45 Charge for production of a missing document made against a continuous bond.
113.46 Cancellation of bond charges resulting from failure to produce documents.

Subpart F—Assessment of Damages and Cancellation of Bond

113.51 Cancellation of bond or charge against the bond.
113.52 Failure to satisfy the bond.
113.53 Waiver of Cusotms requirement supported by a bond.
113.54 Cancellation of erroneous charges.
113.55 Cancellation of export bonds.

Subpart G—Customs Bond Conditions

113.61 General.
113.62 Basic custodial bond conditions.
113.63 Basic custodial bond conditions.
113.64 International carrier bond conditons.
113.65 Repayment of erroneous drawbasck payment bond conditions.
113.66 Control of containers and instruments of international traffic bond conditions.
113.67 Licensed public gauger bond conditions.
113.68 Wool and fur products labeling acts bond conditions.
113.69 Production of bill of lading bond conditions.
113.70 Bond condition to indemnify United States for detention of copyrighted material.
113.71 Bond condition to observe neutrality.
113.72 Bond condition to pay court costs (condemned goods).
113.73 Foreign trade zone operator bond conditions.

Authority. R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; (19 U.S.C. 66, 1623, 1624). Subpart E also issued under sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 113.0 Scope.

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of Customs in requiring bonds, bond approval and execution, bond conditions, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, the authority and manner of assessing liquidated damages and requirements for cancelling the bond or charges against a bond.

Subpart A—General Provisions

§ 113.1 Authority to require security or execution of bond.

Where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241), may by regulation or specific instruction require, or authorize the district director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

§ 113.2 Powers of Commissioner of Customs relating to bonds.

Whenever a bond is required or authorized by law, regulation, or instruction, the Commissioner of Customs may:

(a) Prescribe the conditions and form of the bond and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond, the conditions of which shall extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period he may fix, when in his opinion special circumstances warrant a longer period.

(d) Authorize the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulation, or instruction. Such a consolidated bond shall have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of Customs may fix the penalty for violation of a consolidated bond without regard to any other provision of law, regulation, or instruction.

§ 113.3 Liability of surety on a terminated bond.

The surety, as well as the principal, remains liable on a terminated bond for obligations incurred prior to termination.

§ 113.4 Bonds and carnets.

(a) *Bonds.* All bonds required to be given under the Customs laws or regulations shall be known as Customs bonds.

(b) *Carnets.* A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in Part 114 of this chapter, are ordinarily acceptable without posting further security under the Customs laws or regulations requiring bonds.

Subpart B—Bond Application and Approval of Bond

§ 113.11 Bond approval.

Each person who is required by law, regulation, or specific instruction to post a bond to secure a Customs transaction or multiple transactions must submit the bond on Customs Form 301. If the transaction(s) will occur in a single Customs district, the bond shall be filed with and approved by the district director of the district in which the transaction(s) will take place. If the transactions will occur in more than one district the bond may be filed with and approved by any district director. The district director will determine whether the bond is in proper form and provides adequate security for the transaction(s).

§ 113.12 Bond application.

(a) *Single entry bond application.* In order to insure that the revenue is adequately protected the district director may require a person who will be engaged in a single Customs transaction relating to the importation or entry of merchandise to file a written bond application which may be in the form of a letter. The application shall identify the value and nature of the merchandise involved in the transaction to be secured.

(b) *Continuous bond application.* If a person wants to secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse, a bond application, which may be in the form of a letter, shall be submitted to the district director.

(1) *Information required.* The application shall contain the following information:

(i) The general character of the merchandise to be entered; and

(ii) The total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise to be collected by Customs. The total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year the change shall be identified. If no imports were made during the calendar year prior to the application, a statement of the duties

and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(2) *Application updates.* If the district director approves a bond based upon the application, whenever there is a significant change in the information provided under paragraph (a), the principal on the bond shall submit a new application containing an update of the information required by subparagraph (1) of this paragraph. The new application shall be filed no later than 30 days after the new facts become known to the principal.

(c) *Certification.* Any application submitted under this section shall be signed by the applicant and contain the following certification:

I certify that the factual information contained in this application is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this application.

§ 113.13 Amount of bond approved by the district director.

(a) *Minimum amount of bond.* The amount of any Customs bond approved by the district director shall not be less than $100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar shall be disregarded in computing the amount of a bond. The bond always shall be stated as the next highest dollar.

(b) *Guidelines for determining amount of bond.* In determining whether the amount of a bond is sufficient, the district director should at least consider:

(1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;

(2) The prior record of the principal in complying with Customs demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of Customs and other laws and regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

(4) The degree and type of supervision that Customs will exercise over the transaction(s);

(5) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages; and

(6) Any additional information contained in any application for a bond.

(3) *Periodic review of bond sufficiency.* The district directors shall periodically review each bond filed in their district to determine whether the bond is adequate to protect the revenue and insure compliance with the law and regulations. If the district director determines that the bond is inadequate, the principal shall be immediately notified in writing. The principal shall have 30 days from the date of notification to remedy the deficiency.

(d) *Additional security.* Notwithstanding the provisions of this section or any other provision of this chapter, if a district director believes that acceptance of a transaction secured by a continuous bond would place the revenue in jeopardy or otherwise hamper the enforcement of Customs laws or regulations, he shall require additional security.

§ 113.14 Approved form of bond inadequate.

If the district director believes that none of the conditions contained in subpart G of this Part is applicable to a transaction sought to be secured, the district director shall draft conditions which will cover the transaction, but before execution of the bond the conditions shall be submitted to Headquarters, Attention: Director, Carriers, Drawback and Bonds Division, for approval.

§113.15 Retention of approved bonds.

All bonds approved by the district director, except the bond containing the agreement to pay court costs (condemned goods) (see § 113.72) shall remain on file in the district office unless the district director is directed in writing by the Director, Carriers, Drawback and Bonds Division, as to other disposition. The bond containing the agreement to pay court costs (condemned goods), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608).

Subpart C—Bond Requirements

§ 113.21 Information required on the bond.

(a) *Identification of principal and sureties.* The names of the principal and sureties and their respective places of residence shall appear in the bond. In the case of a corporate principal or surety, its legal designation and the address of its principal place of business shall appear.

(b) *Date of execution.* Each bond shall bear the date it was actually executed.

(c) *Statement of the amount.* The amount of the bond shall be stated in figures.

(d) *Use of abbreviations.* Abbreviations shall not be used except in dates and the state of incorporation of the principal or the surety.

(e) *Blank spaces on the bond.* Lines shall be drawn through all spaces and blocks on the bond which are not filled in.

§ 113.22 Witnesses required.

(a) *Generally.* The signature of each party to a bond executed by a noncorporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, and include their addresses.

(b) *Witness for both principal and surety.* When two persons signing as witnesses act for both principal and surety. They shall so indicate by stating on the bond "as to both".

(c) *Corporate principal or surety.* No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or corporate surety. For requirements concerning the execution of a bond by an authorized officer or agent of a corporate principal or surety, see §§ 113.34 and and 113.37 of this Part.

§ 113.23 Changes made on the bond.

(a) *Definition of the types of changes.* (1) *Modification or interlineation.* Modifications or interlineations are changes which go to the substance of the bond, or are basic revisions of the bond.

(2) *Alterations or erasures.* Alterations or erasures consist of minor changes, such as the correction of typographical errors, or change of address, which do not go to the substance, or result in basic revision of the bond.

(b) *Prior to signing.* When erasures, alterations, modifications, or interlineations are made on the bond prior to its signing by the parties to the bond, a statement by an agent of the surety company or by the personal sureties to that effect shall be placed upon the bond.

(c) *After signing.* If erasures or alterations are made after the bond is signed, but prior to the approval of the bond by Customs, the consent of all the parties shall be written on the bond. Except in cases where a change in the bond is expressly authorized by regulation, or by the Commissioner, no modification or interlineation shall be made on the bond after execution. When a modification or interlineation is desired, a new bond will be executed.

(d) *After approval of the bond by Customs.* Except in cases where a change in the bond is expressly authorized by regulations, or instructions from the Commissioner, the district director shall not permit a change as defined in paragraph (a) of

this section after the bond has been approved by Customs. When changes are desired, a new bond is required, which, when approved, shall supersede the existing bond.

§ 113.24 Riders.

(a) *Types of riders.* The district director may accept the following types of bond riders.

(1) *Name change of principal.* A bond rider to change the name of a principal on a bond maybe used only when the change in name does not change the legal identity or status of the principal. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider for a name change of the principal can not be used. A new bond would be required.

(2) *Addition of co-principal.* A bond rider for the addition of a co-principal may be used by persons having a distinct legal status (e.g. individuals, partnerships, corporations) to join another person with the same distinct legal status as a co-principal on a bond. This bond rider shall not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). This bond rider may not be used to join different legal entities as co-principals (e.g. an individual and a corporation, a partnership and a corporation).

(3) *Address change.* A bond rider may be used to change the address of a principal on a bond.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used to add to a bond trade names and the names of unincorporated divisions of a corporate principal which do not have a separate and distinct legal status.

(b) *Attachment of rider to bond.* All riders expressly authorized by the Commissioner shall be securely attached to the related bond to prevent their loss or misplacement.

(c) *Format of Rider.* The riders shall be signed, sealed, witnessed, executed, include a certificate as to corporate principal, if applicable, and otherwise comply with the requirements of this Part. The riders shall contain the following conditions:

(1) *Name change of principal.*

By this rider to the Customs Form 301, —— (bond number), dated ——, executed by ——, (former name), as principal, ——, (importer number), the, —— (new name), hereby certifies that it is the same entity formerly known as ——, (former name), and the principal and surety agree that they are responsible for any act secured by this bond done under principal's former name. Principal and surety agree to be bound under this bond to the same extent as if this bond had been executed in the principal's new name.

(2) *Addition of co-principal.*

By this rider to the Customs Form 301, —— (bond number) executed on ——, (dated), by ——, (principal's name), as principal, —— (importer number) and ——, (surety name and code), as surety, the principal and surety intend that this bond secure any act done by ——, (co-principal name), as co-principal, to the same extent as if the co-principal had jointly executed this bond with the principal and surety.

(3) *Address change.*

By this rider to Customs Form 301, ——, (bond number) executed on ——, (date), by ——, (principal's name), as principal, ——, (importer number), and ——, (surety's name and code), as surety, the principal, surety or both, intend that the bond be amended to show —— (new address) as their address. The principal, surety or both, as may be appropriate agree to be bound as though this bond has been executed with the new address(s) shown.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.*

By this rider to the Customs Form 301, ——, (bond number), executed on ——, (date), by ——, (principal's name), as principal, ——, (importer number) and ——, (surety's name and code), as surety, the principal and surety agree that the listed names are unincorporated units of the principal or are trade or business names used by the principal in its business and that this bond covers any act made in those names to the same extent as though done in the name of the principal. The principal and surety agree that any such act shall be considered to be the act of the principal.

§ 113.25 Seals.

When a seal is required, the seal shall be affixed adjoining the signatures of principal and sureties, if individuals, and the corporate seal shall be affixed close to the signatures of persons signing on behalf of a corporation. Bonds shall be under seal in accordance with the law of the state in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

§ 113.26 Termination of bond.

(a) *Termination by principal.* A request by a principal to terminate a bond shall be made in writing to the district director in whose district the bond was approved. The termination shall take effect on the date requested if the date is at least 10 business days after the date of receipt of the request otherwise the termination shall be effective on the close of business 10 business days after the request is received at the district office. If no termination date is requested, the termination shall take effect on the tenth business day following the date of receipt of the request by the district director.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety shall provide reasonable written notice to both the district director in whose district the bond was approved and the principal of the intent to terminate. The written notice shall state the date on which the termination shall be effective and shall be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days shall constitute reasonable notice unless the surety can show to the satisfaction of the district director that a lesser time is reasonable under the facts and circumstances.

(c) *Effect of Termination.* If a bond is terminated no new Customs transactions shall be charged against the bond. A new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of this Part, shall be filed before further Customs activity may be transacted.

Subpart D—Principals and Sureties

§ 113.31 Information pertaining to principals and sureties on the bond.

The general information pertaining to the principal and sureties which must be given in the body of the bond is set forth in § 113.21.

§ 113.32 Same party as principal and surety; attorney in fact.

(a) *Same party as principal and surety.* The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.* In executing a bond, a person may act as:

(1) Attorney in fact for both principal and surety;

(2) Surety and attorney in fact for the principal; or

(3) Principal and attorney in fact for the surety.

§ 113.33 Partnerships as principals.

(a) *Names of partners on the bond.* Unless written notice of the full names of all partners in the firm has been previously filed with the district

director, the names of all persons composing the partnership shall appear in the body of the bonds; for example, "Aaron A. Abel, Bertrand B. Bell and Charles C. Cole, composing the firm of Abel, Bell, Cole and Co.

(b) *Execution.* Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495, Tariff Act of 1930 (19 U.S.C. 1495), when a Customs bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

§ 113.34 Corporations as principals.

(a) *Name of corporation on the bonds.* The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.* The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25

(c) *Bond executed by an officer of corporation.* When the bond is executed by an officer of a corporation and no power of attorney has been filed with the district director, the following evidence of his authority to act shall be furnished:

(1) *Execution of Certificate as to Corporate Principal.* The official character, authority, and signature of the person or persons executing the bond for the corporate principal may be certified by the secretary, assistant secretary, or other officer of the corporation. The certification shall be made by executing, under corporate seal, the provisions appearing in the bond entitled "Certificate as to Corporate Principal."

(2) *Evidence in lieu of the certificate.* In lieu of the above certificate, there may be attached to the bond so much of the records of the corporation as will show the official character, authority, and signature of the officer signing. The following documents should be attached:

(i) A certificate from the proper public official showing the legal existence of the corporation. A district director may waive the production of evidence of incorporation when this fact is a matter of common knowledge and the district director certifies this fact on Customs Form 301.

(ii) A copy of the bylaws, or so much thereof as authorizes the execution of bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(iii) A copy of the document authorizing the officer to sign the bond, certified by the secretary of the corporation under the corporate seal, or a power of attorney executed in accordance with subpart C, Part 141 of this chapter containing this authority.

(iv) A doument verifying the signature of the officer properly attested under the corporate seal.

(d) *Bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the district director (unless exempted from filing by section 141.46 of this chapter), there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute the power shall be shown as prescribed in paragraph (c) of this section.

(e) *Subsidiaries as co-principals.* The provisions of this section shall be applicable to each corporate subsidiary which joins its parent corporation by signing the bond as co-principal.

§ 113.35 Individual sureties.

(a) *Number required.* If individuals sign as sureties, there shall be two sureties on the bond, unless the district director is satisfied that one surety is sufficient to protect the revenue and insure compliance with the law and regulations.

(b) *Qualifications to act as surety.* (1) *Residency and citizenship.* Each individual surety on a Customs bond must be both a resident and citizen of the United States.

(2) *Married women.* A married woman may be accepted as a surety, unless the state in which the bond is executed prohibits her from acting in that capacity.

(3) *Granting of power of attorney.* Any individual other than a married woman in a state where she is prohibited from acting as a surety may grant a power of attorney to sign as surety on Customs bonds. Unless the power is unlimited, all persons to which the power relates shall be named.

(4) *Property requirements.* Each individual surety must have property available as security within the limits of the Customs district in which the contract of suretyship is to be approved. The current market value of the property less any encumbrance must be equal to or greater than the amount of the bond. If one individual surety is accepted, the individual surety must have property the value of which, less any encumbrance, is equal to or greater than twice the amount of the bond.

(c) *Oath and evidence of solvency.* Before being accepted as a surety, the individual shall:

(1) Take an oath on Customs Form 3579, setting forth:

(i) The amount of assets over and above all debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and the location of one or more pieces of real estate owned within the limits of the Customs district and the value thereof over and above all encumbrances.

(2) Produce such evidence of solvency and financial responsibility as the district director may require.

(d) *Determination of financial responsibility.* An indiviaual surety shall not be accepted on a bond until the district director is satisfied as to the financial responsibility of the individual. The district director may refer the matter to the special agent-in-charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, the district director shall require a new oath and determine the financial responsibility of each individual surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if deemed advisable.

§ 113.36 Partner acting as surety on behalf of a partner or on behalf of a partnership.

A member of a partnership shall not be accepted as an individual surety on a bond executed by the partnership as principal. A partner may be an individual surety for a fellow partner on a bond if (a) the transaction is in an individual capacity and unrelated to the partnership, (b) sufficient unencumbered nonpartnership property is available as security, and (c) the individual qualifies as an individual surety under the provisions of § 113.35 of this Part.

§ 113.37 Corporate sureties.

(a) *Lists of corporations and limits of their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in

which each may be accepted. The Circular shall be furnished annually to all district directors by the Secretary of the Treasury. No corporation shall be accepted as surety on a bond unless named in the current Circular as amended by **Federal Register** notice and no bond shall be for a greater amount than the respective limit stated in the Circular, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.* The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.* The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Social security number of agent or attorney on the bond.* In the appropriate place on each bond executed by the agent or attorney acting for a corporate surety, the agent or attorney shall place his/her social security number, as it appears on the corporate surety power of attorney.

(e) *Signature and seal of the corporation on the bond.* A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25 of this Part.

(f) *Two or more corporate sureties as sureties on the same obligation.* Two or more corporate sureties may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporate surety may act as surety in all cases must be within the limitation prescribed by the Secretary, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11). Each corporate surety shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

Corporate Sureties Agreement for Limitation of Liability —— (name of surety), —— (surety code), a surety company incorporated under the laws of the State of ——, authorized to conduct a surety business in the State of ——, and having its principal place of business at —— (address), and —— (name of surety), —— (surety code), a surety company incorporated under the laws of the State of ——, authorized to conduct a surety business in the State of —— and having its principal place of business at —— (address), as sureties, and —— (name of principal), as principal, are jointly and severally obligated to the United States in the amount of —— ($) on a bond executed on —— (date of execution) with each surety jointly and severally obligate with the principal in the amounts listed below and no more:

———— (name of surety) ——
($)
———— (name of surety) ——
($)

By this agreement the principal and sureties bind themselves and agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this agreement and the bond under which they are obligated and which is incorporated by reference into this agreement, shall be treated as the joint and several as well as the several obligation of each of the parties.

Signed and sealed this —— day of —— 19—

—— Principal
—— Surety
—— Surety
—— District Director

(g) *Power of attorney for the agent or attorney of the surety.* Corporations may execute powers of attorney to act in their behalf in the following manner:

(1) *Execution and contents.* The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information:

(i) Corporate surety name and number,

(ii) Name and address of agent or attorney, and social security number of agent or attorney,

(iii) District(s) in which the agent or attorney is authorized to act,

(iv) Date of execution of power of attorney,

(v) Seal of the corporate surety,

(vi) Signature of any two principal officers of corporation, and

(vii) Dollar amount of authorization.

(2) *Filing.* The corporate surety power of attorney executed on Customs Form 5297 shall be filed at the district office unless the district director permits the submission of the corporate surety power of attorney to be made at any port within the district, in which case the corporate surety power of attorney must be submitted in duplicate. The power of attorney may provide authority for an agent or attorney in any number of districts. If authorized to be filed at a Customs port, the port director shall send the original of the power of attorney to the Customs district office. The Customs district offices shall periodically issue to all ports within their district computer printouts reflecting all corporate powers of attorney valid for use within the district. If the district director permits the submission of the corporate surety power of attorney to be made at any port within the district, a copy of the power of attorney shall be retained at the port where the power of attorney was filed until the first computer printout reflecting the power of attorney has been received from the district office. If a port has been delegated the authority to approve bonds, the copy of the power of attorney retained at the port can be used in connection with bond approval at the port for bonds executed by the person covered by the corporate surety power of attorney, until the computer printout is received. The original of the corporate surety power of attorney shall be retained at the district office with jurisdiction over the location where the corporate surety power of attorney was submitted.

(3) *Use at port where power of attorney not filed before receipt of computer printout.* If the grantee desires to use the power of attorney at a port covered by the power of attorney, other than the one where the power of attorney was filed, before the first computer printout reflecting this power of attorney is received, the Customs Form 5297, shall be filed in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall provide this validated copy of the power of attorney as proof of the grant of authority. The validity of this copy of the power of attorney shall expire when the first computer printout reflecting this power of attorney is received.

(4) *Term and revocation.* Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attoreny be divested of a power of attorney must execute a revocation on Customs Form 5297. The revocation shall take effect on the close of business on the date requested provided the corporate surety power of attorney is received 5 days before the date requested; otherwise the revocation will be effective at the close of business 5 days after the request is received at the district office.

(5) *Change on the power of attorney.* No change shall be made on the Customs Form 5297 after it has been approved by Customs except the following: (i) Grantee name change, (ii) grantee address change, and (iii) the addition of district(s) to the corporate surety power of atorney on file. To make any other change to the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

§113.38 Delinquent sureties.

(a) *Acceptance as surety when in default as principal on another Customs bond.* No person shall be accepted as surety on any Customs bond while in default as principal on any other Customs bond.

(b) *Acceptance as surety when in default as surety on another Customs bond.* A surety on a Customs bond which is in default may be accepted as surety on other Customs bonds only to the extent that the surety assets are unencumbered by the default.

(c)(1) *Nonacceptance of bond by district director.* A district director may refuse to accept a bond secured by an individual or corporate surety when the surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof. If the district director believes that a substantial question of law exists as to whether a breach of bond obligation has occured he should request internal advice under the provisions of § 177.11 from the Director, Carriers, Drawback and Bonds Division, Customs Headquarters.

(2) *Nonacceptance of bond upon instructions by Commissioner.* The Commissioner may, when he believes the circumstances warrant, issue instructions to the district directors that they shall not accept a bond secured by an individual or corporate surety when that surety, without just cause, is significantly deliquent either in the number of outstanding bills or dollar amounts thereof.

(3) *Notice of surety.* The appropriate Customs officer may take the above actions only after the surety has been provided reasonable notice with an opportunity to pay deliquent amounts, provide justification for the failure to pay, or demonstrate the existence of a significant legal issue justifying further delay in payment.

(4) *Review and final decision.* After a review of any submission made by the surety under paragraph (3) above, if the appropriate Customs officer is still of the opinion bonds secured by the surety should not be accepted, written notice of the decision shall be provided to the surety in person or by certified mail, return receipt requested, at least five days before the date that Customs will no longer accept the bonds of the surety. When notice is sent to the surety of the decision not to accept the surety's bonds the appropriate Customs officer shall notify the Director, Carriers, Drawback and Bonds Division, Customs Headquarters who will request the Bureau of Government Financial Operations to revise Treasury Circular 570 to give notice of the refusal of the Customs Service to accept any new bonds underwritten by the surety. Notice shall also be given to the importing public by posting a copy of the decision in the customhouse. The decision shall also be published in the Customs Bulletin.

(5) *Duration of decision.* Any decision not to accept a given surety's bond shall remain in effect for a minimum of five days or until all outstanding deliquences are resolved, whichever is later.

(6) *Actions consistent with requirements.* Any action not to accept the bonds of a surety under paragraphs (c)(1) and (2) shall be consistent with the requirements of this section.

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

If a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the district director or regional commissioner may take the following steps to have the surety company removed from Treasury Department Circular 570. The fact that collection procedings have been, or are to be, started on a bond does not preclude use of this procedure if the district director or regional commissioner believes such action is warranted.

(a) *Report to Headquarters.* A district director or regional commissioner shall send the following evidence to Headquarters, Attn: Director, Carriers, Drawback and Bonds Division. If the report is from a district director it shall be submitted through the appropriate regional commissioner of Customs.

(1) A copy of the bond in issue;

(2) A copy of the entry or other evidence which shows that there was a default on the bond;

(3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;

(4) A copy of all correspondence from the surety company; and

(5) A written report of the facts known to the district director or regional commissioner showin the unsatisfactory performance by the surety company of the bond obligation(s).

(b) *Review by Headquarters.* The Director, Carriers, Drawback and Bonds Division, shall review submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted to the Fiscal Assistant Secretary, Department of the Treasury, as required by § 223.18(a), Bureau of Government Financial Operations Regulations (31 CFR 223.18(a)). The district director and regional commissioner will be informed in writing of Headquarters action regarding their request for removal of the surety.

§ 113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) *General provision.* In lieu of sureties on any bond required or authorized by any law, regualtion, or instruction which the Secretary of the Treasury or the Commissioner of Customs is authorized to enforce, the district director is authorized to accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) *Authority to sell United States obligations on default.* At the time of deposit of any obligation of the United States, other than United States money, with the district director, the obligor shall deliver a duly executed power of attorney and agreement authorizing the district director, in case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited and to apply the proceeds of sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of default. The format of the power of attorney and agreement, when the obligor is a corproation, is set forth below, and shall be modified as appropriate when the obligor is either an individual or a partnership:

POWER OF ATTORNEY AND AGREEMENT

(FOR CORPORATION)

———, (name of corproation) a corporation duly incorporated under the laws of the State of ———, and having its principal office in the City of ———,

State of ———, as authorized by a resolution of the board of directors of the corproation, passed on the —— day of ——, 19—, a duly certified copy of which is attached, does constitute and appoint —— (name and official title of bond-approving officer), and his successors in office, as attorney for said corporation, for and in the name of the corporation to collect or to sell, assign, and transfer the securities described as follows:

The securities having been deposited by its as security for the performance of the agreements undertaken in a bond with the United States, executed on the date of —— ——, 19—, the terms and conditions of which are incorporated by reference into this power of attorney and agreement and made a part hereof. The undersigned agrees that in case of any default in the performance of any of the agreements the attorney shall have full power to collect the securities or any part thereof, or to sell, assign, and transfer the securities or any part thereof at public or private sale, without notice, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of the sale or collection in whole or in part to the satisfaction of any obligation arising by reason of default. The undersigned further agrees that the authority granted by this agreement is irrevocable. The corporation for itself, its successors and assigns, ratifies and confirms whatever the attorney shall do by virtue of this agreement.

Witnessed, signed, and sealed, this —— day of —— 19—.

[Corporate seal.]

By ———

Before me, the undersigned, a notary public within and for the County of ———, in the States of ——— (or the District of Columbia), personally appeared ——— (name and title of officer) and for and in behalf of said ———, a corproation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this — day of ——, 19—.

[Notarial seal.]

Notary Public ———

Note.—Securities must be described by title, date of maturity, rate of interest, denomination, serial number, and whether coupon or registered. Failure to give a complete description will warrant rejection of this power of attorney.

(c) *Application of United States money on default.* If cash is deposited in lieu of sureties on the bond, the district director is authorized to apply the cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.

Subpart E—Production of Documents

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, a card memorandum on Customs Form 5101 shall be prepared by the importer and presented with the entry, together with a bond to secure production of the document.

§ 113.42 Time period for production of documents.

Except when another period is fixed by law or regulations, any document for the production of which a bond is given shall be delivered to the district director within 6 months from the date of the transaction in connection with which the bond was given, or within any extension of such time which may be granted pursuant to § 113.43 (a) of this Part. If the period ends on a Saturday, Sunday, or Federal holiday, delivery on the next business day shall be accepted as timely.

§ 113.43 Extension of time period.

(a) *Application received within time period.* If a document (other than an invoice or document which must be produced within 2 months, as provided in § 141.61(e) of this chapter) referred to in § 113.42 of this Part is not produced within 6 months from the date of the transaction in connection with which the bond was given, the district director, in his discretion, upon written application of the importer, may extend the period for one further period of 2 months.

(b) *Late application.* No application for the extension of the period of any bond given to assure the production of a missing document shall be allowed by the district director if the application is received later than 2 months after the expiration of the period of the bond, and any extension shall not be allowed by the district director for a period of more than 2 months from the date of expiration of the period.

(c) *Acceptance of a free-entry or reduced-duty document prior to liquidation.* When a bond is given for the production of any free-entry or reduced-duty document and a satisfactory document is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, provided the failure to file was not due to willful negligence or fraudulent intent, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be cancelled.

§ 113.44 Assent of sureties to an extension of a bond.

(a) *Extension prescribed by law or regulations.* The assent of the sureties to any extension of the period prescribed in a bond is not necessary when the extension is authorized by law or regulations.

(b) *Other extension.* The assent of the sureties shall be obtained before any extension of the period prescribed in a bond other than an extension authorized by law or regulation, is allowed.

§ 113.45 Charge for production of a missing document made against a continuous bond.

When a continuous bond secures the production of a missing document and the bond is breached by the principals failure to timely produce that document, the claim for liquidated damages shall be in an amount equal to the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

§ 113.46 Cancellation of bond charges resulting from failure to produce documents.

Section 172.22 of this chapter sets forth provisions relating to cancellation of bond charges resulting from failure to produce documents.

Subpart F—Assessment of Damages and Cancellation of Bond

§ 113.51 Cancellation of bond or charge against the bond.

The Commissioner of Customs may authorize the cancellation of any bond provided for in this part or any charge that may have been made against the bond, in the event of a breach of any condition of the bond, upon payment of a lesser amount or penalty or upon such other terms and conditions as may be deemed sufficient.

§ 113.52 Failure to satisfy the bond.

If any Customs bond, except on given only for the production of free-entry or reduced-duty documents (see §§ 113.43 (c) and 172.22(c) of this chapter), is unsatisfied upon the expiration of 90 days after liability has accrued under the bond, the matter shall be reported to the Department of Justice for prosecution unless measures have been taken to file an application for relief or protest in accordance with the provisions of this chapter or to satisfactorily settle the matter.

§ 113.53 Waiver of Customs requirement supported by a bond.

(a) *Waiver by the Commissioner of Customs.* When a Customs requirement supported by a bond is waived by the Commissioner of Customs, the waiver may be:

(1) Unconditional, in which case the importer is relieved from the payment of liquidated damages;

(2) Conditioned upon prior settlement of the bond obligation by payment of liquidated damages; or

(3) Conditioned upon such other terms and conditions as the Commissioner may deem sufficient.

(b) *Waiver by the district director.* When a Customs requirement supported by a bond is waived by the district director pursuant to the authority conferred by these regulations, the waiver shall be unconditional.

§ 113.54 Cancellation of erroneous charges.

(a) *Bonds.* Section 172.31 of this chapter sets forth provisions relating to the cancellation of charges against the bond when it is determined that the act or omission forming the basis for the claim for liquidated damages did not in fact occur.

(b) *Carnets.* Section 114.34 of this chapter sets forth provisions relating to the cancellation of erroneous charges involving carnets.

§ 113.55 Cancellation of export bonds.

(a) *Manner of cancellation.* A bond to assure exportation as defined in § 101.1 of this chapter may be cancelled:

(1) *Upon exportation.* Upon the listing of the merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if the certificate is required by the district director.

(2) *Upon payment of liquidated damages.* Upon the payment of liquidated damages.

(b) *Cancellation of bond charges of an international carrier.* The conditions of the bond of an international carrier may be considered as having been complied with upon the production of the applicable documents listed in paragraph (a)(1) of this section.

(c) *Foreign landing certificate.* A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of lading. Landing certificates are required in the following cases:

(1) *Mandatory.* A landing certificate shall be required in every case to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317)), or machinery for vessels.

(2) *Optional with the district director.* A landing certificate may be required by the district director for merchandise exported from the United States, or residue cargo, when a certificate is deemed necessary for the protection of the revenue.

(3) *Waiver.* Except as provided in section 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the district director, accompanied by such proof of exportation and landing abroad as may be available.

(d) *Articles less than $10.* In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed $10 and which are exported without Customs supervision, but within the period during which the articles are authorized to remain in the Customs territory of the United States under bond (including any lawful extension), the bond may be cancelled upon production of evidence of exportation satisfactory to the district director.

Subpart G—Customs Bond Conditions

§ 113.61 General.

Each section in this subpart identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond.

§ 113.62 Basic importation and entry bond conditions.

A bond for basic importation and entry shall contain the conditions listed in this section and may be either a single entry or a continuous bond, except that a bond taken in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 shall be a single entry bond.

Basic Importation and Entry Bond Conditions

(a) *Agreement to Pay Duties, Taxes, and Charges.* (1) If merchandise is imported and released from Customs custody or withdrawn from a Customs bonded warehouse into the commerce of, or for consumption in, the United States, the obligors (principal and surety) agree to:

(i) Deposit, within the time prescribed by law or regulation, any duties, taxes, and charges imposed, or estimated to be due, at the time of release or withdrawal; and

(ii) Pay, as demanded by Customs, all additional duties, taxes, and charges subsequently found due, legally fixed, and imposed on any entry secured by this bond.

(2) If the principal enters any merchandise into a Customs bonded warehouse, the obligors agree:

(i) To pay any duties, taxes, and charges found to be due on any of that merchandise which remains in the warehouse at the expiration of the warehousing time limit set by law; and

(ii) That the obligation to pay duties, taxes, and charges on the merchandise applies whether it is properly withdrawn by the principal, or by the principal's transferee, or is unlawfully removed by the principal or any other person, without regard to whether the merchandise is manipulated, unless payment was made or secured to be made by some other person.

(3) Under this agreement, the obligation to pay any and all duties, taxes, and charges due on any entry ceases on the date the principal timely files with the district director a bond of the owner in which the owner agrees to pay all duties, taxes, and charges found due on that entry; provided a declaration of the owner has also been properly filed.

(b) *Agreement to Make or Complete Entry.* If all or part of imported merchandise is released before entry under the provisions of the special delivery permit procedures under 19 U.S.C. 448(b) or released before completion of the entry under 19 U.S.C. 484(a), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

(1) Determine whether the merchandise may be released from Customs custody;

(2) Properly assess duties on the merchandise;

(3) Collect accurate statistics with respect to the merchandise; and

(4) Determine whether applicable requirements of law and regulation are met.

(c) *Agreement to Produce Documents and Evidence.* If merchandise is released conditionally to the principal before all required documents or other evidence is produced, the principal agrees to furnish Customs with any document or evidence as required by law or regulation, and within the time specified by law or regulations.

(d) *Agreement to Redeliver Merchandise.* If merchandise is released conditionally from Customs custody to the principal before all required evidence is produced, before its quantity and value are determined, or before its right of admission into the United States is determined, the principal agrees to redeliver timely, on demand by Customs, the merchandise released if it:

(1) Fails to comply with the laws or regulations governing admission into the United States;

(2) Must be examined, inspected, or appraised as required by 19 U.S.C. 499; or

(3) Must be marked with the country of origin as required by law or regulation.

It is understood that any demand for redelivery will be made no later than 21 days after the date that the merchandise was released or 21 days after the end of the conditional release period (whichever is later).

(e) *Agreement to Rectify Any Non-Compliance with Provisions of Admission.* If merchandise is released conditionally to the principal before its right of admission into the United States is determined, the principal, after notification, agrees to mark, clean, fumigate, destroy, export or do any other thing to the merchandise in order to comply with the law and regulations governing its admission into the United States within the time period set in the notification.

(f) *Agreement for Examination of Merchandise.* If the principal obtains permission to have any merchandise examined elsewhere than at a wharf or other place in charge of a Customs officer, the principal agrees to:

(1) Hold the merchandise at the place of examination until the merchandise is properly released;

(2) Transfer the merchandise to another place on receipt of instructions from Customs made before release; and

(3) Keep any Customs seal or cording on the merchandise intact until the merchandise is examined by Customs.

(g) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Pay the compensation and expenses of any Customs officer, as required by law or regulation; and

(2) Exonerate the United States and its officers from any risk, loss, or expense arising out of principal's importation, entry, or withdrawal of merchandise.

(h) *Agreement on Duty-Free Entries or Withdrawals.* If the principal enters or withdraws any merchandise, without payment of duty and tax, or at a reduced rate of duty and tax, as permitted under the law, the principal agrees:

(1) To use and handle the merchandise in the manner and for the purpose entitling it to duty-free treatment;

(2) If a fishing vessel, to present the original approved application to Customs within 24 hours on each arrival of the vessel in the Customs territory of the United States from a fishing voyage;

(3) To furnish timely proof to Customs that any merchandise entered or withdrawn under any law permitting duty-free treatment was used in accordance with that law; and

(4) To keep safely all withdrawn beverages remaining on board while the vessel is in port, as may be required by Customs.

(i) *Consequence of Default.* (1) If the principal defaults on agreements in this condition other than conditions (a) or (g), the obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default, except that in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay liquidated damages in the amount specified in the order for failure to redeliver such merchandise.

(2) It is understood and agreed that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs.

§ 113.63 Basic custodial bond conditions.

A basic custodial bond shall contain the conditions listed in this section and shall be a continuous bond.

Basic Custodial Bond Conditions

(a) *Receipt of Merchandise.* The principal agrees:

(1) To operate as a custodian of any bonded merchandise received and to comply with all regulations regarding the receipt, carriage, safekeeping, and disposition of such merchandise;

(2) To accept only merchandise authorized under Customs Regulations;

(3) To maintain all records required by regulations relating to merchandise received into bond, and to produce the records upon demand by an authorized Customs officer;

(4) If authorized to operate a container station under the Customs Regulations, to report promptly to Customs each arrival of a container and its merchandise by delivery of the manifest and the application for transfer, or by other approved notice.

(B) *Carriage and Safekeeping of Merchandise.* The principal agrees:

(1) If a bonded carrier, to use only authorized means of conveyance;

(2) To keep safe any merchandise placed in its custody including, when approved by Customs, repacking and transferring such merchandise when necessary for its safety or preservation; and

(3) To comply with Customs Regulations relating to the handling of bonded merchandise.

(c) *Disposition of Merchandise.* The principal agrees:

(1) If a bonded carrier, to report promptly the arrival of merchandise at the destination port by delivering to Customs the manifest or other approved notice;

(2) If a cartage or lighterage business, to deliver promptly and safely to Customs any merchandise placed in the principal's custody together with any related cartage and lighterage ticket and manifest;

(3) To dispose of merchandise in a manner authorized by Customs Regulations; and

(4) To file timely with Customs any report required by Customs Regulations.

(d) *Agreement to Redeliver Merchandise to Customs.* If the principal is designated a bonded carrier, or licensed to operate a cartage or lighterage business, the principal agrees to redeliver timely, on demand by Customs, any merchandise delivered to unauthorized locations or to the consignee without the permission of Customs. It is understood that the demand for redelivery shall be made no later than 21 days after Customs discovers the improper delivery.

(e) *Compliance with Licensing and Operating Requirements.* The principal agrees to comply with all Customs laws and regulations relating to principal's facilities, conveyances, and employees.

(f) *Reimbursement and Exoneration of the United States.* The principal and surety agree to:

(1) Pay the compensation and expenses of any Customs officer as required by law or regulation;

(2) Pay the cost of any locks , seals, and other fastenings required by Customs Regulations for securing merchandise placed in the principal's custody;

(3) Pay for any expense connected with the suspension or termination of the bonded status of the premises; and

(4) Exonerate the United States and its officers from any risk, loss, or expense arising out of the principal's custodial operation.

(g) *Consequene of Default.* (1) If the principal defaults on conditions (a) through (e) in this agreement, the obligors (principal and surety) agree to pay liquidated damages equal to three times the value of the merchandise involved in the default.

(2) It is understood and agreed that the amount to be collected under conditions (a) through (e) of this agreement shall be based upon the quantity and value of the merchandise as determined by Customs.

§113.64 International carrier bond conditions.

A bond for international carriers shall contain the conditions listed in this section and may be either a single entry or continuous bond.

International Carrier Bond Conditions

(a) *Agreement to Pay Panalties, Duties, Taxes, and Other Changes.* If any vessel, vehicle, or aircraft incurs a penalty, duty, tax, or other charge provided by law or regulation, the obligors agree to pay the sum upon demand by Customs as a condition of clearance of such vessel, vehicle, or aircraft.

(b) *Agreement on Unlading, Safekeeping, and Disposition of Merchandise, Supplies, Crew Purchases, Etc.* The principal agrees to comply with all laws and Customs Regulations applicable to unlading, safekeeping, and disposition of merchandise, supplies, crew purchases, and other articles on board the vehicle, vessel, or aircraft; and to redeliver the foregoing to Customs upon demand as provided by Customs Regulations. If principal defaults, obligors agree to pay liquidated demages equal to the value of the merchandise involved in the default or in such amount as may be authorized by law or regulation.

(c) Agreement to Deliver Export Documents. If the principal's vessel or vehicle is granted clearance without filing a complete outward manifest and all required export documents, the principal agrees to file timely the required manifest and all required export documents. If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages of $50 per day for the first 3 days, and $100 per day thereafter, up to $1000 in total.

(d) *Exoneration of the United States.* The obligors agree to exonerate the United States and its officers from any risk, loss, or expense arising out of entry or clearance of the carrier, or handling of the articles on board.

§ 113.65 Repayment of erroneous drawback payment bond conditions.

A bond for repayment of erroneous drawback shall contain the conditions listed in this section and shall be a continuous bond.

Repayment of Erroneous Drawback Payment Bond Conditions

(a) *Agreement Under Exporter's Summary Procedure.* If the principal is permitted to file drawback claims under the exporter's summary procedure and the principal's drawback claims are paid before a final determination that the principal:

(1) Is entitled to the drawback claimed,

(2) Correctly described the exported articles in the claim, and

(3) Correctly stated the facts of exportation in the claim;

the principal agrees to refund, on demand, any money claimed by Customs to have been erroneously paid as a result of an incorrect statement on the drawback claim.

(b) *Agreement Under Accelerated Payback of Drawback.* If the principal receives an accelerated payment of drawback based on the principal's calculation of the drawback claim, the principal agrees to refund on demand the full amount of any overpayment, as determined on liquidation of the drawback claim.

§ 113.66 Control of containers and instruments of international traffic bond conditions.

A bond for control of containers and instruments of international traffic shall contain the conditions listed in this section and shall be a continuous bond.

Control of Containers and Instruments of International Traffic Bond Conditions

(a) *Agreement to Enter Any Diverted Instrument of International Traffic.* If the principal brings in and takes out of the Customs territory of the United States an instrument of international traffic without entry and without payment of duty, as provided by the Customs Regulations and section 322(a), Tariff Act of 1930, as amended, the principal agrees to:

(1) Report promptly to Customs when the instrument is diverted to point-to-point local traffic in the Customs territory of the United States or when the instrument is otherwise withdrawn in the Customs territory of the United States from its use as an instrument of international traffic;

(2) Promptly enter the instrument; and

(3) Pay any duty due on the instrument at the rate in effect and in its condition on the date of diversion or withdrawal.

(b) *Agreement to Comply With the Provisions of Items 800.00 or 808.00, Tariff Schedules of the United States.* If the principal gets free release of any serially numbered shipping container classifiable under item 800.00 or 808.00, TSUS, the principal agrees:

(1) Not to advance the value or improve its condition abroad or claim (or make a previous claim) drawback on, any container released under item 800.00, TSUS;

(2) To pay the initial duty due and otherwise comply with every condition in item 808.00, TSUS, on any container released under that item;

(3) To mark that container in the manner required by Customs;

(4) To keep records which show the current status of that container in service and the disposition of that container if taken out of service; and

(5) To remove or strike out the markings on that container when it is taken out of service or when the principal transfers ownership of it.

(c) *Consequence of Default.* (1) If the principal defaults on agreement in these conditions, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

(2) It is understood and agreed that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs.

§ 113.67 Licensed public gauger bond conditions.

A bond of a licensed public gauger shall contain the conditions listed in this section and shall be a continuous bond.

Licensed Public Gauger Bond Conditions

(a) If the principal is a licensed public gauger whose reports of gauging are accepted for Customs purposes, the principal agrees to:

(1) Gauge according to the standards and procedures set by the Customs Regulations; and

(2) Submit properly any required report, proof, or abstract to customs.

(b) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

§ 113.68 Wool and fur products labeling acts bond conditions.

A bond to comply with wool and fur products labeling acts shall contain the conditions listed in this section and shall be a single entry bond.

Wool and Fur Products Labeling Acts Bond Conditions

(a) If the principal obtains release from Customs custody of any wool or fur product (hereafter "merchandise") that is subject to the provisions of the Wool Products Labeling Act of 1939 or the Fur Products Labeling Act, the principal guarantees that the merchandise complies with every provision of both Acts, as applicable.

(b) If any of the released merchandise does not comply with each applicable provision of the Wool Products Labeling Act of 1939 or the Fur Products Labeling Act, the obligors (principal and surety) agree to pay liquidated damages equal to two times the value of the merchandise, and any duty on the merchandise.

§ 113.69 Production of bill lading bond conditions.

A bond to produce a bill of lading shall contain the conditions listed in this section and shall be a single entry bond.

Production of Bill of Lading Bond Conditions

If the principal obtains release of any merchandise before filing a valid bill of lading on that merchandise with Customs, the obligors (prinicpal and surety) agree to:

(a) Produce timely a valid bill of lading for the merchandise; and

(b) Relieve the United States and its employees from all liability to indemnify the United States and its employeees against loss, and defend any action brought on a claim for loss based on the release without production of a valid bill of lading.

§ 113.70 Bond condition to indemnify United States for detention of copyrighted material.

A bond to indemnify the United States for detention of copyrighted material shall contain thc conditions listed in this section and shall be a single entry bond.

Bond Condition To Indemnify United States for Detention of Copyrighted Material

If Customs detains any articles alleged by the principal to be a piratical copy of material covered by the principal's copyright pending a final determination whether the articles are prohibited entry under the copyright laws, the obligors (principal and surety) agree to hold the United States and its employees, and the importer or owner of those articles, jointly and severally, harmless from any material depreciation of those articles and any loss or damage caused by the detention in the event it is finally determined that the articles are not a piratical copy of the material.

§ 113.71 Bond condition to observe neutrality.

A bond to observe neutrality shall maintain the conditions listed in this section and shall be a single entry bond.

Bond Condition To Observe Neutrality

(a) If clearance is granted to the principal's vessel, which is armed or is built for a war-like purpose, with a cargo of arms and munitions, so that it is likely to be used to commit hostilities against people or countries with whom the Government of the United States is at peace, the principal guarantees that the vessel will not be used to commit hostilities against any country, state, colony, or people with whom the Government is at peace.

(b) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to twice the value of the vessel and cargo.

§ 113.72 Bond condition to pay court costs (condemned goods).

A bond to pay court costs (condemned goods) shall contain the condition listed in this section and shall be a single entry bond.

Bond Condition To Pay Court Costs (Condemned Goods)

If any seized goods belonging to principal are condemned the obligors (principal and surety) agree to pay all costs of the condemnation proceedings.

§ 113.73 Foreign trade zone operator bond conditions.

A bond of a foreign trade zone operator shall contain the conditions listed in this section and shall be a continuous bond.

Foreign Trade Zone Operator Bond Conditions

If the principal is authorized to operate a foreign trade zone or subzone:

(a) *Receipt, Handling, and Disposition of Merchandise.* The principal agrees to comply with:

(1) The law and Customs Regulations relating to the admission into, handling in, and removal of merchandise in the foreign trade zone or subzone; and

(2) The terms and conditions of the memoradum of understanding with Customs concerning the maintenance of records covering merchandise in the foreign trade zone or subzone.

If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

(b) *Agreement to Pay Duties, Taxes, and Charges.* The obligors agree to pay any duties, taxes, and charges found to be due on any merchandise, properly admitted to the foreign trade zone or subzone, which is found to be missing from the zone or cannot be accounted for in the zone, it being expressly understood and agreed that the amount of said duties, taxes, and charges shall be determined solely by Customs.

(c) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Exonerate the United States and its officers from any risk, loss, or expense arising from the principal's operation of the foreign trade zone or subzone;

(2) Pay the compensation and expenses of any Customs officer, as required by law or regulations.

PART 114—CARNETS

§ 114.22 [Amended]

It is proposed to amend § 114.22(d) by removing the words "carrier's bond" and inserting in their place the words "Customs bond".

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

§ 123.8 [Amended]

It is proposed to amend § 123.8(c) by removing (a) the words "Customs Form 7567, 7569, or 7597 shall have been received" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, is on file or is filed with the request" and (b) the second sentence of the paragraph.

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

§ 127.42 [Amended]

It is proposed to amend § 125.42 by removing the words "a cartman's bond or lighterman's bond" in the first

sentence of the section and inserting in their place the words "the bond of the cartman or lighterman on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter,".

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

§ 127.37 [Amended]

It is proposed to amend § 127.37(a) by removing the words "warehouse entry bond" and inserting in their place the words "bond for the importation and entry of merchandise on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

PART 132—QUOTAS

§ 132.14 [Amended]

It is proposed to amend § 132.14 by removing the words "entry bond" in paragraphs (a)(4)(i)(C) and (a)(4)(ii)(B) and in each instance inserting in their place the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in § 113.62 of this chapter".

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

§ 133.24 [Amended]

1. It is proposed to amend § 133.24 by removing the words "entry bond" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

§ 133.43 [Amended]

2. It is proposed to amend § 133.43 (a)(2) by removing the words "in the form and" and inserting in their place the words "on Customs Form 301, containing the bond condition set forth in § 113.70 of this chapter in an".

§ 133.46 [Amended]

3. It is proposed to amend § 133.46 by removing the words "entry bond" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.53 [Amended]

It is proposed to amend § 134.53(a)(2) by removing the words "entry bond" in the last sentence of the paragraph and inserting in their place the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in § 113.62 of this chapter".

PART 141—ENTRY OF MERCHANDISE

1. It is proposed to amend § 141.0a by revising paragraph (h) and adding a paragraph (i) to read as follows:

§ 141.0a Definitions

* * * * *

(h) *Entered temporarily under bond*—"Entered temporarily under bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper from.

(i) *Released conditionally*—"Released conditionally" means any release from Customs custody before liquidation.

2. It is proposed to amend § 141.15(b) by revising it to read as follows:

§ 141.15 Bond for production of bill of lading or air waybill.

* * * * *

(b) *Form.* The bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.69 of this chapter.

* * * * *

§ 141.18 [Amended]

3. It is proposed to amend § 141.18(b) by inserting after the word "bond" the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 141.19 [Amended]

4. It is proposed to amend § 141.19(b)(2)(ii) by removing the words "entry bond" and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 141.20 [Amended]

5. It is proposed to amend § 141.20 by removing (a) the word "term" in paragraph (a)(2) and inserting in its place the work "continuous", (b) the words "on Customs Form 7601" in paragraph (a)(2) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,", and (c) the words "on Customs Form 7551 or 7553, with a resident corporate surety thereon, in lieu of a bond on Customs Form 7601" in paragraph (c) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, with a resident corporate surety".

§ 141.52 [Amended]

6. It is proposed to amend § 141.52(g) by (a) removing the word "bonds" and inserting in its place the words "a bond", and (b) inserting the word "under" before the word "bond".

§ 141.66 [Amended]

7. It is proposed to amend § 141.66 by removing the words "an appropriate bond" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 or § 113.69 of this chapter, as appropriate,".

§ 141.82 [Amended]

8. It is proposed to amend § 141.82(c) by removing the word "term" in the first sentence of the section and inserting in its place the word "continuous".

9. It is proposed to amend § 141.83(d)(10) by revising it to read as follows:

§ 141.83 Type of invoice required.

* * * * *

(d) *Special Customs or commercial invoice not required.*

(10) Merchandise entered temporarily into the Customs territory of the United States under bond or for permanent exhibition under bond.

§ 141.84 [Amended]

10. It is proposed to amend § 141.84(e) by inserting the words "the charges against" after the word "cancel".

§ 141.91 [Amended]

11. It is proposed to amend § 141.91(d) by removing the words "gives an appropriate bond" in the first sentence of the paragraph and inserting in their place the words "files a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to one and one-half the invoice value of the merchandise."

§ 141.92 [Amended]

12. It is proposed to amend § 141.92(c) by removing the words "entry bond" and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 141.101 [Amended]

13. It is proposed to amend § 141.101(e) by removing the words "under a temporary importation bond, permanent exhibition bond, trade fair bond, or other similar bond" and inserting in their place the words "temporarily imported under bond, entered for permanent exhibition under bond, entered for a trade fair under bond or entered under bond for similar reasons".

§ 141.102 [Amended]

14. It is proposed to amend § 141.102(d) by removing the words "any bond provided for in Part 113 of this chapter" in the first sentence of the paragraph and inserting in their place the words "the bond".

§ 141.112 [Amended]

15. It is proposed to amend § 141.112(g) by removing the words "exact a bond of indemnity to save him harmless from any personal" and inserting in their place the words "require a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, to hold him harmless from any".

PART 142—ENTRY PROCESS

§ 142.1 [Amended]

1. It is proposed to amend § 142.1 by removing the words "entered under a temporary importation bond" and inserting in their place the words "entered temporarily under bond".

§ 142.4 [Amended]

2. It is proposed to amend § 142.4 by removing (a) the words "unless one of the following types of bonds" from paragraph (a) and inserting in their place the words "unless a single entry or continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter", (b) the first sentence of paragraph (a)(1), the paragraph heading and the paragraph designation, (c) paragraph (a)(2) and (a)(3), and (d) the words "one of the bonds enumerated in paragraph (a) of this section" in the first sentence of paragraph (b)(2) and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 142.5 [Reserved]

3. It is proposed to amend § 142.5 by removing the section and marking it "Reserved".

§ 142.11 [Amended]

4. It is proposed to amend § 142.11(a) by removing the words "under a temporary importation bond" in the second sentence of the paragraph and inserting in their place the words "temporarily imported under bond."

§ 142.15 [Amended]

5. It is proposed to amend § 142.15 by removing the word "term" in the second sentence of the section and inserting in its palce the word "continuous".

§ 142.19 [Amended]

6. It is proposed to amend § 142.19 by removing (a) the words "an appropriate" in the first sentence of the section and inserting in their place the word "a", (b) the words "an entry bond is filed on Customs Forms 7551, 7555, 7595, in an amount determined in accordance with Part 113 of this chapter" in the first sentence of paragraph (a) and inserting in their place the words "a bond is filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (c) the word "entry" in the second sentence of paragraph (a).

7. It is proposed to amend § 142.21 by (a) removing the words (i) "one of the types of Customs bonds described in section 142.4" in the first sentence of paragraph (a), (ii) "one of the type of bonds enumerated in section 142.4" in the first sentence of paragraph (e)(1), (iii) "one of the types of Customs bonds provided for in section 142.4" in paragraph (f)(2) and (iv) "an appropriate" in paragraph (g), and in each instance inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter", and (b) revising paragraph (b)(2) to read as follows:

§ 142.21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(b) *Fresh fruits and vegetables.* * * *

(2) The application shall be accompanied by a continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

§ 142.22 [Amended]

8. It is proposed to amend § 142.22(b)(1) by removing the words "under a temporary importation bond" and inserting in their place the words "temporarily under bond".

§ 142.27 [Amended]

9. It is proposed to amend § 142.27 by removing the word "term" in the second sentence of the section and inserting in its place the word "continuous".

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.2 [Amended]

1. It is proposed to amend § 144.2 by removing (a) the words "entry bond" in the first sentence of the section and inserting in their place the words "bond filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) the words "warehouse entry" in the second sentence of the section.

2. It is proposed to amend § 144.13 by revising it to read as follows:

§ 144.13 Bond requirements.

A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be filed in the amount required by the district director to support the entry documentation.

§ 144.14 [Amended]

3. It is proposed to amend § 144.14 by removing the words "appropriate bond" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 144.15 [Amended]

4. It is proposed to amend § 144.15(b) by removing the paragraph.

§ 144.21 [Amended]

5. It is proposed to amend § 144.21 by (a) removing the words "an appropriate bond" in the first sentence of the section and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" and (b) placing a period after the word "liability" in the second sentence of the section and removing the remainder of the sentence.

6. It is proposed to amend § 144.24 by revising it to read as follows:

§ 144.24 Transferee's bond.

The transferee's bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.62 of this chapter.

§ 144.41 [Amended]

7. It is proposed to amend § 144.41 by removing (a) the words "on Customs Form 7555 or other appropriate form" in the first sentence of paragraph (d) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter", (b) the words "entry" and "warehouse entry" in the second sentence of paragraph (d), and (c) the words "warehouse entry bond period" in paragraph (g) and inserting in their place the words "5 year period during which the merchandise may remain in warehouse under bond".

PART 145—MAIL IMPORTATIONS

§ 145.72 [Amended]

It is proposed to amend § 145.72(d) by removing the words "under a temporary

importation bond" and inserting in their place the words "temporarily under bond".

PART 146—FOREIGN-TRADE ZONES

§ 146.42 [Amended]

1. It is proposed to amend § 146.42 by removing the words "on Customs Form 7557, 7559, or 7595" in paragraph (b)(2)(ii) and paragraph (c)(2) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 146.45 [Amended]

2. It is proposed to amend § 146.45 by removing the words "on Customs Form 7551, 7553, or other appropriate form" in paragraph (b)(3) and the second sentence of paragraph (c)(5) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

PART 147—TRADE FAIRS

§ 147.2 [Amended]

1. It is proposed to amend § 147.2(a)(2) by removing the words "Covered by a Customs exhibition bond provided for in" and inserting in their place the words "Imported for exhibition under".

2. It is proposed to amend § 147.3 by revising it to read as follows:

§ 147.3 Bond required.

The fair operator shall file a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter in such amount as the district director requires.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.52 [Amended]

It is proposed to amend § 148.52(c) by removing the words "on Customs Form 7551 or 7553" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

§ 151.7 [Amended]

1. It is proposed to amend § 151.7(d) by removing everything in the paragraph after the words "execute a bond" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 151.11 [Amended]

2. It is proposed to amend § 151.11 by removing the word "appropriate" in the second sentence of the section.

§ 151.43 [Amended]

3. It is proposed to amend § 151.43 by removing (a) the words "in the amount of $10,000" in the first sentence of paragraph (b)(6) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.67 of this chapter," (b) the second sentence of paragraph (b)(6), and (c) the words "public gauger bond described in § 113.13(b) of this chapter" in the second sentence of paragraph (d) and inserting in their place the word "bond".

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

§ 162.45 [Amended]

1. It is proposed to amend § 162.45(a)(3) by inserting the words "on Customs Form 301, containing the bond conditions set forth in § 113.72 of this chapter," after the word "bond".

§ 162.47 [Amended]

2. It is proposed to amend § 162.47(b) by removing (a) the words "on Customs Form 4615" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in § 113.72 of this chapter", and (b) the second sentence of the paragraph and the format for the list or schedule.

PART 172—LIQUIDATED DAMAGES

§ 172.22 [Amended]

It is proposed to amend § 172.22(c) by removing the word "term" and inserting in its place the word "continuous".

Alfred R. DeAngelus,

Acting Commissioner of Customs.

Approved: February 25, 1983.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

BILLING CODE 4820-02-M

APPENDIX A

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

CUSTOMS BOND

CUSTOMS USE ONLY	BOND NUMBER (Assigned by Customs)
	FILE REFERENCE

19 CFR 113

In order to secure payment of any duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition referenced below, we, the below named principal(s) and surety(ies), bind ourselves to the United States in the amount or amounts, as set forth below.

Execution Date

SECTION I — Select Single Transaction **OR** Continuous Bond (not both) and fill in the applicable blank spaces.

☐ **SINGLE TRANSACTION BOND** (Complete A OR B.)

	Date of arrival	Place of arrival	Entry Number	Date of Entry
A				

B Identification of other transaction secured by this bond (e.g., seizure no.)

☐ **CONTINUOUS BOND** (Give effective date.)

Effective date

This bond remains in force for one year beginning with the effective date and for each succeeding annual period, or until terminated, this bond constitutes a separate bond for each period in the amounts listed below for liabilities that accrue in each period.

The intention to terminate this bond must be conveyed within the time period and manner prescribed in the Customs Regulations.

SECTION II — This bond includes the following agreements.[1] (Check one box only, except that, 1a may be checked independently or with 1, and 3a may be checked independently or with 3. Line out all other parts of this section that are not used.)

Activity Code	Activity Name and Customs Regulations in which conditions codified	Limit of Liability
☐ 1	Importer or broker.....113.62	
☐ 1a	Drawback Payment Refunds.....113.65	
☐ 2	Custodian of bonded merchandise.....113.63 (includes bonded carriers, freight forwarders, cartmen and lightermen, all classes of warehouses, container station operators)	
☐ 3	International Carrier.....113.64	
☐ 3a	Instruments of International Traffic.....113.66	
☐ 4	Foreign Trade Zone Operator..... 113.73	
☐ 5	Public Gauger.....113.67	
☐ 6	Wool & Fur Products Labeling Acts Importation (Single Entry Only).....113.68	
☐ 7	Bill of Lading (Single Entry Only).....113.69	
☐ 8	Detention of Copyrighted Material (Single Entry Only).....113.70	
☐ 9	Neutrality (Single Entry Only).....113.71	
☐ 10	Court Costs for Condemned Goods (Single Entry Only).....113.72	

[1] For all bond coverage available and the language of the bond conditions refer to Part 113 Subpart G, Customs Regulations.

SECTION III — List below all tradenames or unincorporated divisions and any affiliated corporations that will be permitted to obligate this bond in the principal's name including their Customs Identification Number(s). (If more space is needed, use Section III (Continuation) on back of form.)

Importer Number	Importer Name	Importer Number	Importer Name

Total number of importer names listed in Section III:

Principal and surety agree that any charge against the bond under any of the listed names is as though it was made by the principal(s).

Principal and surety agree that they are bound to the same extent as if they executed a separate bond covering each set of conditions incorporated by reference to the Customs Regulations into this bond.

If the surety fails to appoint an agent under Title 6, United States Code, Section 7, surety consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade, where suit is brought on this bond. That clerk is to send notice of the service to the surety at:

Mailing Address Requested by the Surety

	Name and Address	Importer No. / Surety No.	
PRINCIPAL[2]		SIGNATURE:[3]	**SEAL**
SURETY[2]		SIGNATURE:[3]	**SEAL**
SURETY[2]		SIGNATURE:[3]	**SEAL**

SURETY AGENTS	Name	Identification No.	Name	Identification No.

[2] If the principal or surety is a corporation, the name of the State in which incorporated must be shown.
[3] See witness requirement on back of form.

Customs Form 301 Proposal (11-01-82)

Note: Turn carbons over before writing on back of form.

SECTION III (Continuation)

Importer Number	Importer Name	Importer Number	Importer Name

CERTIFICATE AS TO CORPORATE PRINCIPAL*

I, _____, certify that I am the _____ secretary of the corporation named as principal in this bond, that _____, who signed the bond on behalf of the principal, was then _____ of the corporation; that I know his signature, and his signature is genuine; and that the bond was duly signed, sealed, and attested for and on behalf of the corporation by authority of its governing body.

SIGNATURE: _____ (CORPORATE SEAL)

* The certificate as to corporate principal is to be used when no power of attorney has been filed with the District Director of Customs.

WITNESSES

Two witnesses are required to authenticate the signature of any person who signs as an individual or as a partner; however, a witness may authenticate the signatures of both such non-corporate principals and sureties. No witness is needed to authenticate the signature of a corporate official or agent who signs for the corporation.

SIGNED, SEALED, and DELIVERED in the PRESENCE OF:

Name and Address of Witness for the Principal	Name and Address of Witness for the Surety
SIGNATURE:	SIGNATURE:
Name and Address of Witness for the Principal	Name and Address of Witness for the Surety
SIGNATURE:	SIGNATURE:

EXPLANATIONS

1. The Customs Bond Number is a control number assigned by Customs to the bond contract when the bond is approved by an authorized Customs official.
2. The Importer Number is the Customs identification number filed pursuant to Section 24.5, Customs Regulations.
3. Surety Name shall be the company's name as it is spelled in the Surety Companies Annual List published in the Federal Register by the Department of the Treasury (Department Circular 570).
4. Surety Number is the three digit, identification code assigned by Customs to a surety company at the time the surety company initially gives notice to Customs that the company will be writing Customs bonds.
5. Surety Agent is the individual granted a Corporate Surety Power of Attorney, CF 5297, by the surety company executing the bond.
6. Agent Identification No. shall be the individual's Social Security number as shown on the Corporate Surety Power of Attorney, CF 5297, filed by the surety granting such power of attorney.

Back of Customs Form 301 Proposal (110182)

BILLING CODE 4820-02-C

Appendix B

Proposed bond provision to appear in customs regulations	Reason for provision	Related provision (s) in current bond, customs regulation or rider[1]	Related statute (s)	Related customs regulations (s)
113.62(a)(1)	Secures deposit of estimated duty and additional duty.	CF 7551(1)[2], CF 7553(1), CF 7595(8), CF 7601, T.D. 80-173(5), 19 CFR 147.3.	19 U.S.C. 1484, 1505, 1752.	19 CFR 141.1, 141.3, 142.4, 159.9, 147.3, 147.14, 147.42.
113.62(a)(2)	Secures payment of duty on merchandise left in a bonded warehouse or improperly removed from a warehouse.	CF 7551(1), CF 7595(8), CF 7601, T.D. 80-173(5).	19 U.S.C. 1505, 1557	19 U.S.C. 144.13 159.9, 159.52.
113.62(b)	Secures promise to make entry	CF 7551(2), CF 7553(2), CF 7595(1), T.D. 80-1732, Rider L (T.D. 73-198), Rider N (T.D. 73-329), 19 CFR 147.3.	19 U.S.C. 1448(b) 1484(a), 1752.	19 CFR 141.5, 141.19, 142.21, 147.3, 147.14, 147.42.
113.62(c)	Secures promise to produce any required evidence.	CF 7551(6), CF 7553(6), CF 7555(4), CF 7595(2), CF 7601, T.D. 80-173(5), 19 CFR 147.3.	19 U.S.C. 1484, 1485, 175	19 CFR 113.41 113.42, 113.43, 141.66, 141.91, 147.3.
113.62(d)	Secures promise to redeliver conditionally released merchandise.	CF 7551 (4, 5, 6), CF 7553 (4, 5, 6), CF 7553 (5, 6, 7), CF 7595 (4, 5, 6), CF 7601 T.D. 80-173(6), Rider J (T.D. 73-198), 19 CFR 147.3.	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.3, 12.12, 12.39, 12.73, 12.80, 12.85, 12.91, 12.115, 134.53, 141.113, 147.23, 147.24, 151.1, 151.7(d), 151.11.
113.62(e)	Secures promise to bring conditionally-released merchandise into compliance with U.S. admission requirements.	CF 7551(7), CF 7553(7), CF 7555(8), CF 7595(7), 19 CFR 147.3.	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.12, 12.73, 12.80, 12.85, 12.91, 134.53, 141.113, 147.3, 147.21, 147.22, 147.23, 147.24, 151.1.
113.62(f)	Secures Promise to hold conditionally-released merchandise intact for examination.	CF 7551(3), CF 7553(3), CF 7595(3), CF 7601, T.D. 80-173(3), 19 CFR 147.3.	19 U.S.C. 1449, 1752	19 CFR 12.23, 147.3, 151.7(d).
113.62(g)	Secures promise to pay compensation of Customs officers and exonerate Customs officers.	19 CF 147.3	19 U.S.C. 1524, 1557, 1562, 1752.	19 CFR 24.17(a)(3), (8), (9), (10), 147.33.
113.62(h)	Secures promise to use merchandise entered free or at a reduced rate in the manner as entitled and to furnish proof of that use.	CF 7547, CF 7549, CF 7555 (2, 3), CF 7557, CF 7559, CF 7561, CF 7563, CF 7563-a, CF 7565, CF 7571, CF 7595 (9, 10, 11, 12), CF 7603, 19 CFR 147.3, T.D. 29311, Rider A, C, D, E, F, H (T.D. 73-198).	19 U.S.C. 1202, 1309, 1311, 1312, 1552, 1553, 1557, 1752.	19 CFR Part 10, Part 18, Part 19, Part 144, Part 147.
113.63(a)	Secures promise of a custodian to comply with Customs regulations on bonded merchandise.	CF 3581(1, 3), CF 3583 (1, 2), CF 3587(1),CF 3586(1), 19 CFR 19.40 T.D. 80-173 (1, 7).	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 147.
113.63(b)	Secures promise of a Customs bonded carrier to safely keep bonded merchandise placed in carrier's custody and comply with regulations on carriage of bonded merchandise.	CF 3587(2), CF 3588 (2, 4), CF 3855(1)	19 U.S.C. 1311, 1312,	19 CFR Part 18.
113.63(c)	Secures promise of a Customs bonded custodian to comply with regulations on disposition and reporting requirements.	CF 3581, CF 3583, CF 3587 (3, 4, 10), CF 3588 (3, 4, 11).	19 U.S.C. 1311, 13.2, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 127.
113.63(d)	Secures promise of a Customs bonded carrier, or cartage or lighterage operator to redeliver on Customs demand any misdelivered bonded merchandise.	New	19 U.S.C. 1551, 1552, 1553.	19 CFR 18.6.
113.63(e)	Secures promise to comply with all laws and regulations on conveyances and employees.	CF 3581(1), CF 3583(1), CF 3587(1), CF 3588(1), CF 3855(1), 4), T.D. 80-173(1), 19 CFR 112.49.	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 127.
113.63(f)	Provides indemnification and exoneration of Government and secures payment for reimbursable services.	CF 3581(2, 4), CF 3583 (3, 5), CF 3587 (6, 7, 8), CF 3588 (7, 8, 9), CF 3855(3), CF 7597, CF 7599, T.D. 80-173 (3, 4), 19 CFR 19.40 (2, 6), 127.49(2).	19 U.S.C. 267, 1311, 1311, 1451, 1551, 1555.	19 CFR 19.3, 19.5, 24.16, 24.17.
113.64(a)	Secures promise to pay penalty, duty, tax or charges incurred by the vessel, vehicle, or aircraft or the person in charge of such conveyance if clearance is granted before amount is paid.	CF 7567(1), CF 7569(1), CF 7605	19 U.S.C. 1431-1466, 1581-1588, 1594, 1595a.	19 CFR 4.14, 4.61, 6.10, 14.16, 2417, 123.2, 162.22, 162.72.
113.64(b)	Secures promise to comply with laws and regulations on bringing merchandise into the U.S.	CF 7567 (3, 4, 5), CF 7569 (3, 4, 5), CF 7563, CF 7606.	19 U.S.C. 1448(a), 1707	19 CFR 4.30, 6.7, 123.8.
113.64(c)	Secures promise to deliver export documents if clearance is permitted without those documents.	CF 7303, CF 7567(6), CF 7569(6), CF 7605	46 U.S.C. 91	19 CFR 4.75, 6.3, 6.8.
113.64(d)	Provides exoneration for Government if a special permit to lade or unlade is given.	CF 7567(2), CF 7569(2), CF 7605	19 U.S.C. 1451	19 CFR 4.30, 6.2, 123.8
113.65	Secures repayment of erroneous drawback payment under the summary procedure or the accelerated payment.	CF 7609, CF 7611, CF 7613, Rider K (T.D. 75-198), Rider P (T.D. 76-140).	19 U.S.C. 1313	19 CFR 22.7, 22.20a.
113.66	Secures compliance with laws and regulations on introduction of instruments of international traffic and other shipping containers without entry.	CF 7567, 19 CF 10.41b	19 U.S.C. 1202, 1322	19 CFR 10.41a, 10.41.
113.67	Secures compliance with regulations on gauging.	T.D. 81-142		19 CFR 151.43.
113.68	Secures compliance with provisions of wool and fur products labeling acts.	Customs Circular BON-1-O:O:E, August 4, 1975.	15 U.S.C. 68, 69	
113.69	Provides indemnification if merchandise is released without a bill of lading.	CF 7581	19 U.S.C. 1484	19 CFR 141.15.
113.70	Provides indemnification for any damage arising out of a detention of merchandise erroneously believed to be piratical copies.	Customs Circular COP-1-PEN, May 23, 1961	17 U.S.C. 106, 108	19 CFR 133.43, 133.44.
113.71	Secures an agreement to observe neutrality	T.D. 45474	22 U.S.C. 463	19 CFR 4.73.
113.72	Provides for payment of court costs if judicial proceedings result in condemnation of property.	CF 4615	19 U.S.C. 1608	19 CFR 162.45.
113.73	Secures compliance with laws and regulations on foreign-trade zones.	Customs Circular FOR-2 O:1:C, September 3, 1976.	19 U.S.C. 81a-O	

[1] Appendix E lists all Customs Bonds by Customs Form number and title. The appendix also includes bond riders.
[2] The numbers which appear in parenthesis after the bond refer to the numerical designation of the condition appearing in the bond which has been incorporated into the proposed bond conditions identified by each line item in this appendix.

BILLING CODE 4820-02-M

(two page, three part carbon set, 8 x 5)

1. THIS FORM MUST BE TYPED.
2. DO NOT ALTER THIS FORM.
3. ORIGINAL TO BE SUBMITTED TO CUSTOMS. (See Option explained in Instruction no. 2.)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

CORPORATE SURETY POWER OF ATTORNEY

CUSTOMS USE ONLY
DATE RECEIVED

☐ **GRANT** (Instruction No. 3a.) ☐ **CHANGE** to Grant on file (Instruction No. 3b.) ☐ **REVOCATION.** The below-described powers previously granted are hereby revoked. (Instruction No. 3c.)

EFFECTIVE DATE

GRANTEE: NAME ☐ This is a name change. SOCIAL SECURITY NO. ADDRESS ☐ This is an address change.

GRANTOR: Surety Company's Corporate Name | Surety No. | State Under Whose laws organized as a surety

District Code(s) for Customs district(s) in which authorized to do business and limit on any single obligation -OR- district(s) being added to the original grant:

District	Limit	District	Limit	District	Limit	District	Limit	District	Limit	District	Limit

Grantor appoints the above-named person (Grantee) as its attorney in fact to sign its name as surety to, and to execute, seal, and acknowledge any bond so as to bind the surety corporation to the same extent as if done by a regularly elected officer, limited only to the extent shown above as to Customs district and amount on any single bond obligation. This grant, or change to a grant on file, or revocation, as specified, shall become active on the effective date shown provided the Customs Form 5297 is received at a district office 5 days before the effective date shown; otherwise the specified action will become active at the close of business 5 working days after the date of receipt at the district office.

In witness whereof, the said Grantor, by virtue of authority conferred by its Board of Directors, has caused these presents to be sealed with its corporate seal and attested by any two principal officers.

Date Attested

Use a facsimile of corporate seal, and not impression seal.

Name and Title

SIGNATURE:

Name and Title

SIGNATURE:

CUSTOMS FORM 5297 (012483)

U.S. DISTRICTS AND CODES

Anchorage, AK	31	Duluth, MN	35	New Orleans, LA	20	San Francisco, CA	28
Baltimore, MD	13	El Paso, TX	24	Nogales, AZ	26	San Juan, PR	49
Boston, MA	04	Great Falls, MT	33	Norfolk, VA	14	Savannah, GA	17
Bridgeport, CT	06	Honolulu, HI	32	Ogdensbury, NY	07	St. Albans, VT	02
Buffalo, NY	09	Houston-Galveston, TX	53	Pembina, ND	34	St. Louis, MO	45
Charleston, SC	16	Laredo, TX	23	Philadelphia, PA	11	Seattle, WA	30
Cleveland, OH	41	Los Angeles, CA	27	Portland, ME	01	Tampa, FL	18
Chicago, IL	39	Miami, FL	52	Portland, OR	29	Virgin Islands, U.S.	51
Dallas-Ft.Worth,TX	55	Milwaukee, WI	36	Port Arthur, TX	21	Washington, DC	54
Detroit, MI	37	Mobile, AL	19	Providence, RI	05	Wilmington, NC	15
Detroit, MI	38	New York, NY	10	San Diego, CA	25		

EXPLANATIONS:

1. A Corporate Surety Power of Attorney, Customs Form 5297, must be executed for each of the following actions: grant an individual a power of attorney; change a name and/or address, and/or add districts to a power on file; revoke a power previously granted.

2. Form submission option: Each of the following conditions will require filing a copy of the Customs Form 5297:

(a) If the district director permits the submission of the form to be made at any port within the district.

(b) If the grantee desires to use the power of attorney at a location covered by the power, but other than the location where the power was submitted, before the Customs computer processing has been completed. For example: If both conditions are applicable, two copies of the Customs Form 5297 must be submitted with the original.

3. The box adjacent to the action executed on this Customs Form 5297 must be checked. The effective date for the action checked should be shown.

(a) If grant is checked: The information required to grant a power of attorney are self-explanatory with the exception of the following:

District Information: Each district in which the power is granted must be shown except if the power both applies to all districts and the amount limit is the same in every one of those districts, enter the word "ALL" on the first line under "District."

Limit Information: (1) If any amount limit differs between any of the districts in which the power is granted, individual amount limits must be shown for each of the districts listed. (2) If all of the amount limits are the same for each district in which the power is granted and the amounts equal the surety company limit published in the Treasury Department Circular 570, enter the word "EQUAL" on the first line under "Limit." (3) If all of the amount limits are the same for each district in which the power is granted and the amounts are not equal to the surety company limit published in the Treasury Department Circular 570, enter the amount limit on the first line under "Limit" and enter the word "SAME" on the second line.

Surety: The number required is the 3 digit, identification code assigned by Customs Headquarters to a surety company, listed on Treasury Circular 570, at the time the surety company initially gives notice to Customs that the company will be writing Customs bonds.

(b) To change a Corporate Surety Power of Attorney already on file, the previously filed power granted must be revoked and a new power (CF 5297) must be filed EXCEPT changes to the name and/or address and the addition of districts to a power on file. (1) To make a name and/or address change, the same information that was submitted to establish the existing power on file is required except the new name and/or address must be shown in the space provided and the district code(s) and related obligation limit(s) can be left blank. (2) To add districts, the same information that was submitted to establish the existing power on file is required except only the new districts and related obligation limits are necessary in the space provided.

(c) If revocation is checked: A revocation divests the designated agent's or attorney's power of attorney in all districts. Except for the following, the information required to revoke the power of attorney are self-explanatory: The districts in which authorized to do business and the associated single obligation limits do not have to be shown.

PRIVACY ACT STATEMENT: The following notice is given pursuant to section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a). Furnishing the information on this form, including the Social Security Number, is mandatory. The primary use of the Social Security Number is to verify, in the Customs Automated system, at the time an agent submits a Customs bond for approval that the individual was granted a Corporate Surety Power of Attorney by the Surety Company on the bond. Section 7 of Act of July 30, 1947, chapter 390, 61 Stat. 646, authorizes the collection of this information.

BILLING CODE 4820-02-C

Appendix D—Initial regulatory Flexibility Analysis on Proposed Amendments To revise the Customs Bond System

Introduction

The Customs Service is proposing an extensive revision of its bond structure in order to consolidate and simplify the number of bond forms, facilitate the establishment of an efficient computerized bond control system, and simplify transactions between Customs and the importing community.

The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared on proposed regulations unless it is determined that the regulations will not have a "significant economic impact on a substantial number of small entities." Since a number of brokers, importers, and other entities in the importing community can be considered to be small entities under the RFA, and since the proposed amendments (if implemented) may indeed result in an economic impact of some significance on these entities, this initial regulatory flexibility analysis has been prepared. The analysis will be modified, as appropriate, into a "final" regulatory flexibility analysis subsequent to the receipt of public comments which will follow the publication of the notice of proposed rulemaking in the Federal Register.

Objectives and Legal Basis of the Proposed Rule

The proposal's objective is to reduce the cost of bonding to the importing community and to improve Customs control over bonding, which includes improvements to facilitiate the enforcement of bond provisions and to reduce the cost of associated functions.

The legal basis or authority for the proposed changes is R.S. 251, as amended (19 U.S.C. 66), and Section 623; as amended, 624, 46 Stat. 759 (19 U.S.C. 1624).

Estimated Number of Small Entities Affected

The proposed amendments would affect most small entities in the importing community. This includes the over 1,000 customhouse brokers, hundreds or thousands of importer, and other entities such as surety companies, warehouse operators, bonded carriers, international carriers, cartmen/lightermen, foreign trade zone operators, and container station operators.

Impact of the Proposed Amendments on Small Entities in the Importing Community

The Customs Service believes that the proposed amendments will in general be *beneficial* to the importing community via the consolidation of bond forms, the simplification of transactions between Customs and the importing community, the facilitation of the establishment of an efficient computerized bond control system, the general streamlining of procedures, and the overall reduced cost of bonding.

The actual economic impact of the proposed amendments on the import community cannot be adequately measured given the data assembled thus far, but (as mentioned above), the overall economic impact is expected to be beneficial. However, the proposed revision of the Customs bond structure has raised a number of issues which appear to have economic consequences. Such issues are briefly discussed in this analysis in order that public comments may specifically be obtained on such issues and related issues, thereby shedding new light on any existing economic factors, especially with regard to small entities in the importing community. Comments on such issues (and on the bond system in general) will enable the Customs Service to better comprehend the economic impact on small entities of some of the proposed amendments and of the entire bond system, and will assist in devising alternatives, if appropriate, to minimize any adverse economic impact on small entities.

A major aspect of any revision in the Customs bond system is the extent to which the system can be modernized or streamlined in such a way that costs to the importing community (and ultimately to U.S. consumers) are minimized while still protecting the revenue and other Customs enforcement responsibilities.

To be sure, the bond system helps to secure certain foreign trade transactions (e.g., payment of appropriate duties and taxes, ensurance of redelivery of imported merchandise to Customs custody for examination or inspection, and the production of appropriate invoices, certificates, and other documentation) and to generally ensure compliance. However, there are certain aspects of the bond system where it may indeed be possible to further minimize expenses and paperwork for the importing community (e.g., perhaps making it possible for importers to have their own bonds rather than bonds secured by surety companies). To the extent that pertinent suggestions on cost minimization can be made, such suggestions would be appreciated in the public comments to this notice (especially suggestions relating to further savings for small entities in the importing community).

Selected Cost Reduction Measures of the Proposed Amendments

The proposed amendments will reduce costs and streamline procedures by consolidating and reducing the number of different bond forms currently in use (approximately 50) to one standard form. Once filed, the agreements on the form will automatically remain in effect until Customs is advised otherwise. Moreover, the number of bond forms that must be filed for control purposes under the current system will be reduced. Also, under existing regulations some bond forms (e.g., CF 7553, ID and Consumption Entry Bond) must be filed at each port, unless exempted; such an exemption requires filing copies of an approved bond at all the ports where a firm will engage in business. Under the proposed change a bond filed at a district level will suffice for business transacted at all the ports within that district.

The language of the bond conditions will also be simplified and all conditions of bond agreements will be reflected in one location in the Regulations. This will tend to reduce cost, correspondence, and time spent on inquiries, disputes, counterclaims, etc., which are caused by difficulties in the interpretation of current bond language.

Bond coverage requirements will be more flexible than the current bond contract forms. As a consequence, a principal on a bond will be able to receive Customs service in a wider geographic area (districtwide as opposed to port level) when necessary, without being forced to purchase another bond. This will especially benefit small entities. The following illustrates this flexibility: If a small importing firm only conducts business in one port of entry and an occasion arises where the merchandise is shipped to another port in the district, under the change proposed the district bond filed would cover that transaction rather than requiring the filing of another bond or becoming involved with in-bond shipment requirements.

Other cost reduction and facilitation measures resulting from the proposed amendments include the following selected examples: (1) Importers entering merchandise for consumption or under Immediate Delivery privileges currently, for control purposes, must file a bond at each port where entry of merchandise will be accomplished. Under the control envisioned in the proposed change, only one district level bond will be required which would be applicable to all ports within the district. (2) Currently, many term bond contracts are valid for a period of 1 year. Thus, an individual or firm must file a new bond form each year, with all the contractual formalities, time, and cost that entails. However, under the proposed bond renewal feature, once a term bond is filed it will be automatically renewed unless Customs is advised otherwise by the principal or surety. Thus, all the contractual formalities will no longer be required and Customs will not have to undergo the concomitant timely and costly bond approval process. (3) When a small firm is engaged in a business which involves filing dutiable consumption as well as warehouse entires and its annual, aggregate duty paid or accrued is less than $100,000 (minimum General Term Bond amount), the bond that would normally be purchased for such repetitive business in these circumstances under the current bond structure is the CF 7553, ID and Consumption Entry Bond. That bond covers all consumption entries filed during a 1-year period. However, for each warehouse entry filed, a CF 7555, Warehouse Entry Bond is required. Under the proposed change, a small firm, under these same circumstances, will be able to purchase one bond which will cover consumption and warehouse entires.

The above-mentioned changes are among those which are expected to have a beneficial impact on the importing community. In addition, a number of other issues in the proposed revision of the bond structure may also have an economic impact. Indeed, a number of suggestions on the revision of the Customs bond system have already been received via public comments to the Advanced Notice of Proposed Rulemaking. Some of these suggestions and issues are briefly discussed below in order to solicit further public comments on specific economic effects on small entities.

A number of commenters indicated that a too rapid conversion to the revised bond system could prove costly and unwieldy to various entities in the importing community. The Customs Service has now extended the proposed conversion period of term bonds to 12 months (a period suggested by some of the commenters). An alternative would be to extend the period to more than 12 months; however, Customs believes that a 12-month conversion period is sufficient to provide an orderly transition without being significantly costly to the importing community.

One issue concerns the possibility that sureties would modify their rates if the proposed amendments are implemented and the bond structure is revised. Of course, the actual decision on such rate matters ultimately rests with the sureties themselves; however, it appears that the bond structure revision will not warrant a significant increase in rates, and could even result in lower overall premiums.

A number of other issues have been raised which could have an economic effect on small entities, notably on customhouse brokers. One issue is that the present $10,000 bond minimum may in some cases be too high for certain brokers, especially if (for example) they will be required to file at many ports within a district. A second issue is whether the new required bond may be larger than sureties will be willing to write for some brokers. A third issue is whether the *choice* of a port level bond (in lieu of a district bond) would be of special benefit to small brokers or importers, or at least the option of listing (on the district bond) ports where the brokers have no interest in serving. Another issue is whether bonds should specifically provide for mitigation rights by sureties in cases with liquidated damage claims, and for specific mitigation proceedings for non-Customs violators. Customs responses to such issues appear in the summary of comments section elsewhere in this regulatory package. However, subsequent to the receipt of public comments to this notice, Customs will continue to study these issues and various suggested alternatives in order to minimize any economic impact on small entities.

Alternatives Considered

The proposed amendments would comprehensively revise Customs bond structure, and are intended to help minimize costs to both small and large entities in the importing community.

Indeed, a number of alternatives have already been incorporated in order to minimize any economic burden, e.g., providing a 12-month transition period to implement the new bond structure. Other, and perhaps new, alternatives will be studied subsequent to the receipt of public comments; these comments may provide additional data and information with which to assess the economic impact of various specific alternative methods of revising and implementing the Customs bond structure and the overall bond system.

Reporting, Recordkeeping, and Compliance Requirements

The RFA requires that regulatory flexibility analyses contain "a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule. . . ." In this instance, the anticipated reporting, recordkeeping, and compliance requirements are essentially the same as currently required. Indeed, there will probably be an overall reduction in such requirements.

Request for Specific Public Comments

It is requested that public comments on this regulatory analysis and the accompanying notice of proposed rulemaking be specifically directed to the effects of the proposed amendments (or various alternatives) on costs, profitability, competition, recordkeeping, and any other economic factors pertaining to small entities affected. Specific delineation of costs, etc. (in dollar amounts) of the proposed amendments and various alternatives will help provide Customs with the basis and rationale for implementing procedures or alternatives which minimize any adverse effects of the Customs bond structure on small or large entities in the implementing community.

Appendix E—List of Customs Bonds and Riders To Be Abolished

Customs Form 3581, Proprietor's Warehouse Bond
Customs Form 3583, Proprietor's Manufacturing Warehouse Bond
Blanket Smelting and Refining Bond (form prescribed by T.D. 72-244)
Public Gauger's Bond (form prescribed by Customs Circular BON-3-R:CD:D, July 10, 1975)
Customs Form 3587, Carrier's Bond
Customs Form 3588, Private Carrier's Bond
Customs Form 3855, Bond of Customs Cartman or Lighterman
Customs Form 4615, Bond of Claimant of Seized Goods for Cost of Court
Customs Form 7303, Bond for the Production of Manifest and Shipper's Export Declaration
Customs Form 7547, Special Bond—Wool or Hair of the Camel (Single Entry)
Customs Form 7549, Special Bond—Wool or Hair of the Camel (Term)
Customs Form 7551, Immediate Delivery and Consumption Entry Bond (Single Entry)
Customs Form 7553, Immediate Delivery and Consumption Entry Bond (Term)
Customs Form 7555, Warehouse Entry Bond
Customs Form 7557, Bond for Exportation or Transportation or For Transportation and Exportation (Single Entry)
Customs Form 7559, Bond for Exportation or Transportation or For Transportation and Exportation (Term)
Customs Form 7561, Bond for Articles Entered or Withdrawn Form Warehouse Conditionally Free of Duty
Customs Form 7563, Bond for Temporary Importations (Single Entry)
Customs Form 7563-A, Bond for Temporary Importations (Term)
Customs Form 7565, Exhibition Bond
Customs Form 7567, Vessel, Vehicle or Aircraft Bond (Single Entry)
Customs Form 7569, Vessel, Vehicle or Aircraft Bond (Term)
Customs Form 7571, Bond on Entry From Manufacturing Warehouse
Customs Form 7581, Bond to Produce Bill of Lading
Customs Form 7587, Bond for the Control of Certain Instruments of International Traffic
Customs Form 7591, Antidumping Bond
Customs Form 7593, Landing Bond for Alcoholic Beverages
Customs Form 7595, General Term Bond
Customs Form 7597, Bond to Secure the Payment of Overtime Services (Single Entry)
Customs Form 7599, Bond to Secure the Payment of Overtime Services (Term)
Customs Form 7601, Superseding Bond of the Actual Owner of Imported Merchandise Whose Declaration Has Been Filed Pursuant to Title 19, United States Code, Section 1485(d)
Customs Form 7603, Bond for Conditionally-Free Withdrawal of Distilled Spririts (Including Alcohol), Wines, or for Beer, or for Supplies of Fishing Vessel
Customs Form 7605, Consolidated Aircraft Bond
Customs Form 7609, Bond for Accelerated Payment of Drawback (Single Entry)
Customs Form 7611, Bond for Accelerated Payment of Drawback (Term)
Customs Form 7613, Drawback Export Bond
Special Bond for the Entry of Merchandise Believed to Involve Unfair Practices (form prescribed in T.D. 45474)
Special Narcotics Bond Under the Provisions of Title 19, United States Code, Section 1584 (form prescribed in T.D. 45474)
Bond for Observance of Neutrality (form prescribed in T.D. 45474)
Containerized Cargo Bond (form prescribed in 19 CFR 19.40)
Trade Fair Bond (form prescribed in 19 CFR 147.3)
Copyright Bond (Form prescribed in customs Circular COP-1-PEN, March 23, 1961, Subject: Copyrights; Artificial Flowers—Piratical Copies)
Special Bond for the Importation of Flammable Fabrics (form prescribed in Customs Circular RES-2-AC, October 29, 1971, Subject: Restrictions and Prohibitions; Importations of Merchandise Subject to the Flammable Fabrics Act)
Bond of Customs Cartman For Issuance of Temporary Indentification Card (form prescribed in 19 CFR 112.49)d))
Bond of Foreign Trade Zone Operators (Form prescribed in Customs Circular FOR-2-0:1:C, September 3, 1976)
Bond for Storage of Imported Tea (form prescribed in T.D. 29311)
Special Performance Bonds (form prescribed in Customs Circular BON-1-O:D:E, August 4, 1975, Subject: Special Performance Bonds)
Bond for the Control of Indentified Shipping Containers (from prescribed in 19 CFR 10.41b(h))
RIDER A, Agreement to account for articles, wastes, and irrecoverable losses incurred in manufacture or production under item 864.05, TSUS—to be added to CF 7563A and CF 7595 (form prescribed in T.D. 73-198).
RIDER B, Deferred payment of internal revenue taxes—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73-198).

RIDER C, Imported sugar subject to item 901.00, TSUS—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73–198).
RIDER D, Withdrawals of vessel supplies under section 309(a), Tariff Act of 1930—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER E, Withdrawals of rewarehoused products of a class 6 warehouse—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER F, Withdrawals from warehouse under authority of section 5066 (b) and (c) of the Internal Revenue Code—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER G, Transfer of unentered bulk shipments arriving on another carrier, consigned to the principal on a vessel, vehicle, or aircraft bond—to be added to CF 7569 (form prescribed in T.D. 73–198).
RIDER H, Storage at airports of articles withdrawn from continuous Customs custody—to be added to CF 7569 (form prescribed in T.D. 73–198).
RIDER J, Conditional release of seed and screenings—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73–198).
RIDER K, Proof of export under the exporter's summary procedure—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER L, Immediate delivery conditions—to be added to CF 7563–A (form prescribed in T.D. 73–198).
RIDER M, Entry for warehouse of petroleum and petroleum products under Presidential Proclamation No. 4210—to be added to CF 7595 (form prescribed in T.D. 73–284).
RIDER N, Deposit of merchandise in a bonded warehouse prior to the filing of a warehouse entry therefor—to be added to CF 7553 (form prescribed in T.D. 73–329).
RIDER O, Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to CF 7553 or CF 7595 (form prescribed in T.D. 76–264).
RIDER P, Accelerated payment of drawback claims—to be added to CF 7595 (form prescribed in T.D. 78–140).
Special rider to existing entry bonds for entry of merchandise found or believed to invlove unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (form prescribed in 19 CFR 113.14(z)(2)).

Appendix F—Sample Letter To Delinquent Sureties

Gentlemen:

This is a formal demand for payment of amounts shown on the Customs bills enclosed. According to our records, the amount due remains unpaid as of this date. For your reference, where you have not already received them we have enclosed copies of the originating documents (i.e., entry, request for reimbursable service, etc.) and applicable Customs bond numbers for bonds secured by you.

Unless payment in full is received by this office on or before (a specific date, not less than ten working days from the date of the letter), appropriate Customs officials will be notified to refuse acceptance of new bonds written by you as surety and to reexamine whether your current bonds provide the security intended of them. Also, we will be further reviewing the extent and number of payment deficiencies to determine if reasonable grounds exist to believe that your company is not honoring its obligations. Such circumstances could warrant that the matter be forwarded to Customs headquarters and the Department of the Treasury recommending the withdrawal or revocation of your company's certification of authority to do business as a surety with the United States Government.

We recognized that you may believe satisfactory evidence exists establishing that your failure to pay is the result of significant, non-frivolous questions of fact or law, or that the requested payment is beyond the scope of the applicable bond. When this is the case, such evidence must be communicated in writing to this office within the time period noted above to preclude immediate action adverse to your company. Should we consider the reasons given for failure to pay to be inadequate, you will be notified and given three business days from the date of notification to tender payment.

After consideration of your company's payment record and reasons submitted for nonpayment or late payment, a decision will be made concerning further acceptance of your company's bonds. Should a decision be made to refuse to accept *new* bonds from your company it will be communicated to you in writing and delivered in person or by certified mail. The action will be effective on a date certain, but not less than five working days from the date of decision. Absent extraordinary corcumstances, once a decision is made to refuse to accept your company's bonds it will remain in effect for five working days or until your past due accounts are cleared, whichever is later.

Sincerely,

[FR Doc. 83-6383 Filed 3-14-83; 8:45 am]
BILLING CODE 4820-02-M

federal register

Tuesday
March 15, 1983

Part III

Department of Labor

Employment and Training Administration

Implementing Regulations for Programs Under the Job Training Partnership Act

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, and 638

Implementing Regulations for Programs Under the Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement Titles I, II and III and Section 504 of the Job Training Partnership Act (JTPA). The Secretary is required to publish final regulations by March 15, 1983, so that states and service delivery areas can begin planning and preparing for implementation of the new Act by October 1, 1983.

Final rules dealing with the establishment of state job training coordinating councils and private industry councils (PICs), and the designation of service delivery areas (SDAs), were previously published in the **Federal Register**, 47 FR 58492 (December 30, 1982) as 20 CFR Part 626. The text of §§ 626.2, 626.3 and 626.4 of those rules has been incorporated as §§ 627.4, 628.1 and 628.2 respectively. It is being republished at this time for consistency and completeness.

EFFECTIVE DATE: April 15, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376-6600.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing Titles I, II and III of the Job Training Partnership Act was published in the **Federal Register** on January 28, 1983 (48 FR 2292), for the purpose of soliciting public comment. The Department received more than 250 written comments on the proposal. Following is a summary of the comments received on each of the major issues raised by the commentators and the Department's response.

Definitions

The proposed regulation at § 626.4 contains several definitions which are supplemental to those contained in the legislation. Numerous comments suggested additions, deletions, and revisions to this section. Many suggestions were from commentators requesting more definitions. Consistent with the intent of JTPA to provide maximum flexibility to Governors and local officials in designing and administering programs, it was decided not to impose additional definitional requirements. Comments were received suggesting specifically that the Department define the terms "Family" and "Family Income". Because definitions of these terms already exist in State administered means-tested programs, it is administratively inefficient to create a separate set of criteria and procedures for applying them. The definitions in the regulations were not expanded, therefore.

Several commentators believed that the term "recipient" as used in the Act had various meanings, sometimes including the SDA grant recipient. In the regulations, however, the term "recipient" is defined and consistently used to mean only the Governor.

Eligibility Determination

Numerous comments were received which disagreed with the proposed regulation that individuals must be determined eligible at both the time of application and the time of enrollment. The commentators cited the volume of paperwork and the hours of staff time which would be necessitated by such a regulation. Because this process would increase administrative burdens without significant improvement in targeting services, the provision has been changed. Section 629.1(b) now provides a 45-day period from the date of application for eligibility determination and enrollment.

Needs-Based Payments

The proposed regulations at § 629.21 stated that the locally developed formula or procedure for needs-based payments shall be documented in accordance with instructions from the Governor. Many comments questioned the effect of this provision of the proposed regulations. To make clear that the section authorizes the Governor only to establish the documentation by which the need-based formula shall be documented, this section has been revised.

Service Levels

Sections 627.22(b) and 630.1(b) of the proposed regulations stated that alternate methodologies could be used to account for and ensure appropriate service levels for the economically disadvantaged under the State education and coordination grants (Section 123 of the Act) and for youth under Title II-A programs (Section 203 of the Act). A substantial number of comments suggested that alternate methodologies should not be allowed. Of primary concern to the commentators was that any alternative approach to accounting for services would result in reduced service levels to the designated target groups. In the final regulations, the Department has eliminated the provisions relating to alternate methodologies.

Program Income Retention

At § 629.32, the proposed regulations allowed the States to retain income generated under any program. Commentators on this section stated that this would reduce incentive for programs to generate income. This section has been revised to make clear that income may be retained at the program level, except where the Governor requires that it be turned over to the State.

Governor Secretary Agreement

Section 627.1 of the proposed regulation addresses the Governor/Secretary agreement. Relating to this section, many commentators suggested that this agreement should clarify that the Secretary would accept guidelines, interpretations and definitions developed by the Governor as long as these determinations are consistent with the Act and its implementing regulations. Such a statement has been added.

Administrative Requirements

As previously explained in the supplementary information section of the January 18, 1983 proposed rules, except for the few specific standards included in the regulations, "the detailed administrative requirements of OMB Circulars A-87 and A-102 and implementing regulations in 41 CFR Part 29-70 do not apply to JTPA programs administered by the Governors and their subrecipients." Although the Director of the Office of Management and Budget has waived these circulars for JTPA, this does not preclude Governors and/or subrecipients from applying the circulars, in whole or in part, at their option. Further, recipients and subrecipients electing to adopt and apply the principles and procedures established under Circulars A-87 and A-102 and implementing regulations in 41 CFR Part 29-70 would be considered in compliance with their accountability obligations under the Act.

Data Requirements

The proposed regulations did not include detailed program reporting requirements, nor did they specify the Secretary's performance standards or related data requirements. It was suggested that more specific requirements regarding reporting,

performance standards and related data should be published in the **Federal Register** to provide an opportunity for public review and comment. The final regulations have not been revised in this regard because of the likelihood that the detailed specifications of these systems will change as the program evolves. To the extent possible, the Department intends to make available administrative issuances containing performance standards and data requirements for review and comment prior to making them effective. In addition, technical assistance materials will be developed to ensure the consistency of the standards and data.

Training Costs

Section 629.38 of the proposed regulations addresses the classification of costs and establishes the basic principles for assigning costs consistent with Section 108 of the Act. Many commentators wrote that the language was too restrictive, particularly in the definition of the types of activities potentially charged against the training category. Many of the comments were directed at expanding the terms enumerated in this section. By doing so, this section of the regulations would have become overly prescriptive. Further, the promulgation of an exhaustive glossary of terms that would not require frequent revision, is infeasible.

Instead, § 629.38 establishes generic categories of activities that are allowable training costs, and does not provide an exhaustive inventory of every possible name for such activities. Certain classes of activity (i.e., those relating to the assessment and placement of trainees) were potentially excluded from the training category as it was defined in the January 18, 1983, publication. This section has been revised to expand the listing of categories to make clear that such activities are allowable training costs.

Other Allowable Costs

The proposed regulations specified the allowability of certain costs and how they should be charged. Several commentators raised questions concerning § 629.38(c)(1), regarding the allowability of legal costs associated with State and Federal hearings. It was suggested that this provision should be broadened to allow legal costs to be charged against the program regardless of the outcome of the claim. This section has been modified to make legal expenses required in the administration of JTPA an allowable program cost, except those associated with the prosecution of claims against the Federal Government.

There were a number of comments concerning the costs of insurance policies offering protection against debts established by the Federal Government being unallowable (§ 629.37(c)(4)). Individuals commenting on these costs generally suggested rescinding this limitation completely. No change has been made in this provision, however, as these policies were established to assure efficient administration and maximum use of resources for training.

Comments were also received that § 629.37(c)(2) limits the allowability of the costs of personal liability insurance exclusively to the PIC members. This is not the case, however. Instead, this section of the regulations requires that the Governors issue guidelines making clear the allowability of such costs. The allowability of personal liability insurance for chief elected officials, and others associated with the program, is a determination that will be made within the State.

Commentators also suggested that § 629.38(e)(2), governing billing of training packages, be modified to include performance criteria other than placement of the participant into an unsubsidized job. No change has been made to this provision, however, because the Department believes it necessary to define a standard of performance that is clearly measurable and directly related to the primary JTPA program objective of job training, which is placement.

Overall Cost Limitations

The statute limits administrative costs to 15 percent of the funds available; it limits to 30 percent the combined administrative and participant support costs. The regulations applied these limitations selectively to the funds set aside to support incentive bonuses, education/training coordination activities, and the training programs for older individuals. Further, the regulations restricted the amount of the summer youth program funds that could be used for administrative costs. Many commentators questioned the application of these participant support and/or administrative costs limitations to a number of program activities. Consistent with the training emphasis throughout JTPA, the Secretary has exercised rulemaking authority to apply these cost limitations to devote maximum resources to training, and thus these provisions have not been changed.

Nondiscrimination

It was suggested that the regulations be expanded to identify the bases for the prohibitions against discrimination. Because Section 167 of the Act, dealing with nondiscrimination, explicitly identifies the bases for prohibiting discrimination in JTPA activities, the regulations do not repeat or paraphrase these provisions. The regulation was revised, however, to clarify the responsibility of recipients, SDA grant recipients and other subrecipients to comply with the Act's nondiscrimination provisions.

Appeals to Department of Labor

With regard to the Grievances, Investigations and Hearings section, the proposed regulations make the Governor responsible for the resolution of audits and complaints arising within the State. Numerous comments were received requesting that complainants dissatisfied with a Governor's decision on audits and other complaints be able to appeal the decision to the Department. The Act gives the Governor the responsibility for the review and approval of local plans and for the oversight of local activities. Further, the Act places the responsibility for the conduct of audits with the Governor. In this framework, the Governor is the proper authority to deal with complaints made about the audit and program activities for which the Governor has the primary responsibility and about which the Governor has the most intimate first-hand knowledge. Under Section 166(a) of the Act only complainants against whom the Secretary has taken certain direct action are entitled to a Federal hearing. All other grievances must be adjudicated under local grievance procedures or other applicable law.

Regulatory Changes by Section

In § 627.1, a sentence has been added which states, "The agreement shall specify that guidelines, interpretations and definitions adopted by the Governor shall, to the extent that they are consistent with the Act and applicable rules and regulations, be accepted by the Secretary."

In § 627.2(b), the words "completeness and" have been eliminated from the sentence regarding review of the plan by the Secretary; the word "overall" has been inserted in its place. This was done because the Act only provides that the Secretary shall review the plan for compliance with the Act.

In § 627.22, a sentence in paragraph (b) in the January 18, 1983, proposed rules has been eliminated. Specifically, the sentence, which authorized the Governor to provide for meeting the service level requirement by using an

alternative accounting methodology, has been deleted.

In § 629.1, paragraph (a), a reference has been added to Section 142 of the Act in response to comments indicating the need for clarification that this section, as well as Sections 141 and 143, apply to programs under Titles I, II and III of the Act.

Section 629.1, paragraph (b)(1) has been revised to clarify that recipients are responsible for ensuring participant compliance with the Military Selective Service Act. In addition, the Department of Labor will develop technical assistance materials on this area of responsibility in response to comments requesting further elaboration.

Section 629.1(b)(2) has been revised to indicate that an individual will be determined eligible within 45 days of the date of application. If the eligibility determination is made subsequent to that period, a new application will be required.

Section 629.3 has been revised to clarify that JTPA recipients, SDA grant recipients and other subrecipients shall comply with the nondiscrimination provisions of Section 167 of the Act.

Section 629.21 has been changed to make clear that Governors have the authority to establish requirements only with respect to documenting how the needs-based formula is derived and applied. The formula itself is locally developed.

In § 629.32, language was changed to establish that program income may be retained at the level at which it was earned, unless the Governor require that it be turned over to the State.

In § 629.33, language concerning allowability of a self-insurance program was added. This is not a substantive change, since language concerning self-insurance was previously in § 629.38(e)(8), and has been deleted from that section.

In § 629.35, the Act citation, previously included as a parenthetical reference, has been incorporated into the introductory language of the section.

In § 629.35, a technical correction was made to paragraph (c), changing the wording from "authorized by the Act (Sec. 165(a) (1) and (2))," to read "pursuant to Sections 165(a) (1) and (2) of the Act."

In § 629.37(c)(1), the language concerning allowable legal costs has been modified to make clear that, except in the prosecution of claims against the Federal Government, expenditures required in the administration of JTPA programs are allowable program costs. This section has also been renumbered § 629.37(d) thereby removing the requirement that the Governor issue guidelines on this.

In § 629.38, provision (e)(1) has been amended to add other activities which may be charged as training costs. These activities are: remedial education; employability assessment; job development; job search assistance, including preparation for work and labor market orientation.

In § 629.40, the words "non-Federal" were eliminated. These words were inappropriate here, since Section 123 of the Act does not impose such a restriction.

Section 629.42 has been revised to require that all audit reports shall be submitted to the cognizant Federal agency, or the Department's Inspector General, when completed, and that an audit resolution report shall be submitted within a timely period after the submission of the audit report.

Section 629.51(a) has been amended to provide notice to complainants of procedures applicable to discrimination complaints.

Section 629.52 was revised to make clear that, consistent with Section 144 of the Act, grievance procedures are required at both the State and subrecipient levels. This section was also revised to include the requirement that the hearing procedure include a written decision.

Section 629.55 was revised to make clear that all information and complaints involving fraud, abuse or other criminal activity shall be reported directly and immediately to the Secretary of Labor.

In § 629.57(a), a sentence was added to clarify that disputes other than those identified in Sections 164(f) and 166(a) of the Act shall be adjudicated under the grievance procedures of the States or subrecipients, whichever is appropriate.

In § 629.57(i), a sentence was added to clarify the Secretary's responsibilities in hearings before an Administrative Law Judge.

In § 630.1, language in paragraph (b) regarding use of alternate methodologies for providing for service levels to youth in Title II–A programs has been deleted.

Throughout the regulations, typographical errors have been corrected.

Rulemaking Certifications

These regulations are procedural in character and give direction to states and local service deliverers on the implementation of programs under Titles I, II and III of JTPA. Therefore, these rules are not classified as "major" under Executive Order 12291 on Federal regulations, and no regulatory impact analysis is required.

The Department has determined that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of Section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The only direct recipients of Federal funds under the regulations are the Governors of the several States, and the governmental subrecipients are generally over 200,000 in population.

Moreover, pursuant to the authority contained in Section 181(f)(5) of JTPA, Congress has provided for expedited rulemaking procedures to ensure that final rules are in place by March 15, 1983, as required by Section 181(f)(3) of the Act. To meet this statutory deadline, Congress provided that "the Secretary shall be exempt from all requirements of law regarding rulemaking procedures," except that these rules must be published in the **Federal Register** for a comment period of 30 days, Section 181(f)(5).

List of Subjects in 20 CFR Parts 626 through 631

Grant programs—Labor, Manpower training programs.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by revising Part 626, by adding Parts 627, 628, 629, 630, and 631, and by adding and reserving Parts 632 through 638 as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.

626.1 Scope and purpose of the Act.
626.2 Format of these regulations.
626.3 Table of contents for the regulations under the Job Training Partnership Act.
626.4 Definitions.

Authority: Job Training Partnership Act, Sec. 169, (29 U.S.C. 1501 et seq., Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

§ 626.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to:

(1) Establish programs to prepare youth and unskilled adults for entry into the labor force; and

(2) Afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment (Sec. 2).

(b) All provisions contained in these regulations and the Job Training Partnership Act (JTPA) shall take effect no later than October 1, 1983 (Sec. 181(f)).

§ 626.2 Format of these regulations.

(a) Regulations promulgated by the Department of Labor to implement the provisions of the Act are set forth in Parts 626 through 638 of Title 20 of the Code of Federal Regulations, with the exception of Job Corps regulations, which are set forth in Part 684 of Title 20.

(b) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(c) General authority for the regulations is found at Section 169 of the Act. Specific statutory authorities other than Section 169 are noted throughout the regulations.

§ 626.3 Table of contents for the regulations under the Job Training Partnership Act.

The table of contents for the regulations under the Job Training Partnership Act, Parts 626–638 is as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.
626.1 Scope and purpose of the Act.
626.2 Format of these regulations.
626.3 Table of contents for the regulations under the Job Training Partnership Act.
626.4 Definitions.

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

Subpart A—State Planning Procedures

627.1 Eligible grant recipients.
627.2 Governor's coordination and special services plan.
627.3 Funding.
627.4 State job training coordinating council.
627.5 Interstate agreements.

Subpart B—Statewide Programs

627.21 Distribution of State funds.
627.22 State education coordination and grants.
627.23 Training programs for older individuals.
627.24 State incentive grants.

PART 628—SERVICE DELIVERY AREAS DESIGNATED UNDER THE JOB TRAINING PARTNERSHIP ACT

628.1 Service delivery areas.
628.2 Private industry council.
628.3 Selection of SDA grant recipient, administrative entity and service providers.
628.4 Job training plan.
628.5 Review and approval.
628.6 State SDA submission.

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—Program Design Requirements

Sec.
629.1 General program requirements.
629.2 Public service employment prohibition.
629.3 Nondiscrimination and nonsectarian activities.

Subpart B—Payments, Benefits and Working Conditions

629.21 Needs-based payments.
629.22 Benefits and working conditions.

Subpart C—Administrative Standards and Procedures

629.31 Grant payments.
629.32 Program income.
629.33 Insurance.
629.34 Procurement.
629.35 Management systems, reporting and recordkeeping.
629.36 Reports required.
629.37 Allowable costs.
629.38 Classification of costs.
629.39 Limitations on certain costs.
629.40 Matching funds.
629.41 Property management standards.
629.42 Audits.
629.43 Oversight and monitoring.
629.44 Sanctions for violation of the Act.
629.45 Closeout.
629.46 Performance standards.

Subpart D—Grievances, Investigations and Hearings

629.51 Scope and purpose.
629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.
629.53 Non-criminal grievance procedure at employer level.
629.54 Federal handling of administrative and civil complaints.
629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.
629.56 Opportunity for informal review.
629.57 Hearings before the Office of Administrative Law Judges.
629.58 Other authority.

PART 630—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT

630.1 Adult and youth programs under Part A of Title II.
630.2 Summer youth employment and training programs under Part B of Title II.

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

631.1 Scope and purpose.

Subpart B—Formula Allocated Programs

631.11 General.
631.12 State plan.
631.13 Limitations on use of funds.
631.14 Matching funds.

Subpart C—Discretionary Program

631.21 General.
Sec.
631.22 Eligibility for funding.
631.23 Application for funding and selection criteria.

Subpart D—Program Design and Management

631.31 Allowable activities, coordination and consultation, planning and review.
631.32 Reallotment of funds based on non-utilization.
631.33 Reporting requirements.
631.34 Role of Title III training in determining unemployment benefit eligibility.

PART 632—NATIVE AMERICAN PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT—[RESERVED]

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT—[RESERVED]

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT—[RESERVED]

PART 635—VETERANS' EMPLOYMENT PROGRAMS UNDER TITLE IV, PART C OF THE JOB TRAINING PARTNERSHIP ACT—[RESERVED]

PART 636—[RESERVED]

PART 637—[RESERVED]

PART 638—[RESERVED]

§ 626.4 Definitions.

In addition to the definitions contained in Section 4 of the Act, the following definitions apply to these regulations.

"Family" shall be defined by the Governor. An adult handicapped individual shall be considered a family of one when applying for programs under the Act (Section 4(8)).

"Family income" shall be defined by the Governor, consistent with the definition of family income for other State administered needs-based programs.

"Recipient" means the Governor.

"SDA grant recipient" means the entity that receives JTPA funds for a service delivery area (SDA) directly from the Governor.

"Secretary" means the Secretary of Labor or the Secretary's designated representative(s).

"Subrecipient" means any person, organization or other entity which receives JTPA funds either directly or indirectly from the Governor. Depending on local circumstances the Private Industry Council (PIC), local elected official, or administrative entity may be a subrecipient. SDA grant recipients are particular types of subrecipients.

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

Subpart A—State Planning Procedures

Sec.
627.1 Eligible grant recipients.
627.2 Governor's coordination and special services plan.
627.3 Funding.
627.4 State job training coordinating council.
627.5 Interstate agreements.

Subpart B—Statewide Programs

627.21 Distribution of State funds.
627.22 State education coordination and grants.
627.23 Training programs for older individuals.
627.24 State incentive grants.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

Subpart A—State Planning Procedures

§ 627.1 Eligible grant recipients.

To establish a continuing relationship under the Act, the Governor and the Secretary shall sign a Governor/Secretary Agreement. The agreement shall consist of a statement assuring that the State shall comply with (1) the Job Training Partnership Act and the applicable rules and regulations and (2) the Wagner-Peyser Act, as amended, and all applicable rules and regulations. The agreement shall specify that guidelines, interpretations and definitions adopted by the Governor shall, to the extent that they are consistent with the Act and applicable rules and regulations, be accepted by the Secretary.

§ 627.2 Governor's coordination and special services plan.

(a) *Submittal.* By a date established by the Secretary, and State seeking financial assistance under the Act shall submit to the Secretary a Governor's coordination and special services plan (Sec. 121(a)(2)).

(b) *Plan review.* The Secretary shall check the plan for overall compliance with the provisions of the Act. If the plan is disapproved, the Secretary shall notify the Governor in writing within 30 days of submission of the reasons for disapproval so that the Governor may modify the plan to bring it into compliance with the Act (Sec. 121(d)).

§ 627.3 Funding.

The Secretary will allot funds to the States in accordance with Section 162 of the Act. The Secretary will obligate such allotments through a Notification of Obligation.

§ 627.4 State job training coordinating council.

The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to Section 122 of the Act. The SJTCC shall have the specific functions and responsibilities outlined in Sections 122 and 501 of the Act.

§ 627.5 Interstate agreements.

The Secretary hereby grants authority to the several States to enter into interstate agreements and compacts in accordance with Section 127 of the Act.

Subpart B—Statewide Programs

§ 627.21 Distribution of State funds.

(a) The funds made available to the Governor under Section 202(b) of the Act shall be used to carry out activities and services in this subpart.

(b) Funds provided to the Governor under Section 202(b)(4) of the Act may be used to conduct auditing activities, administrative activities, and other activities described in Sections 121 and 122 of the Act (Sec. 202(b)(4)).

§ 627.22 State education coordination and grants.

(a) Expenditures for programs pursuant to Section 123(c)(2)(B) of the Act shall be subject to § 629.39(a).

(b) Not less than 75 percent of the funds shall be expended for activities for economically disadvantaged individuals (Sec. 123(c)(3)).

§ 627.23 Training programs for older individuals.

Expenditures for administration and participant support services for programs pursuant to Section 124 of the Act shall be subject to § 629.39 of these regulations.

§ 627.24 State incentive grants.

Funds provided under Section 202(b)(3)(A) of the Act shall be used by the Governor pursuant to Sections 202(b)(3)(B) and 106(h)(1) of the Act.

PART 628—SERVICE DELIVERY AREAS DESIGNATED UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.
628.1 Service delivery areas.
628.2 Private industry council.
628.3 Selection of SDA grant recipient, administrative entity and service providers.
628.4 Job training plan.
628.5 Review and approval.
628.6 State SDA submission.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et. seq.).

§ 628.1 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (Sec. 101(a) (1) and (2)).

(b) Pursuant to Section 101 of the Act, the Governor shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to Section 101(a)(4)(C) of the Act, an entity described in Section 101(a)(4)(A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, ATTENTION: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of Section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the denial is inconsistent with Section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (Sec. 101(a)(4)(C)).

§ 628.2 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to Section 102 of the Act.

(b) Pursuant to Section 103 of the Act, the PIC shall provide policy and program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act

of 1933, as amended, applicable to the SDA (Sec. 501(d)).

§ 628.3 Selection of SDA grant recipient, administrative entity and service providers.

(a) Pursuant to Section 103(b)(1) of the Act, a selection shall be made of the SDA grant recipient and the entity to administer the job training plan developed pursuant to Section 104 of the Act. These may be the same or different entities. The specific functions and responsibilities of these entities shall be spelled out in accordance with the agreement(s) between the PIC and the chief elected official(s), which should specifically address the provisions of Section 141(i) of the Act.

(b) Service providers shall be selected in accordance with (1) the agreement negotiated pursuant to Section 103(b)(1) of the Act, and (2) the provisions of Sections 107, 181(j)(2) and 205(b)(4) of the Act.

§ 628.4 Job training plan.

The Governor may issue instructions and schedules that will assure that job training plans and modifications for SDAs within the State conform to all requirements of the Act.

§ 628.5 Review and approval.

(a) (1) If the Governor disapproves the SDA job training plan or modification, the Governor shall notify the PIC and the appropriate chief elected official(s) for the SDA in writing as provided in Section 105(b)(2) of the Act.

(2) The Governor shall provide the PIC and the appropriate chief elected official(s) for the SDA 20 days to correct the deficiencies and resubmit the plan or modification. The Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) for the SDA of the final disapproval or approval within 15 days after the plan or modification was resubmitted.

(b) Pursuant to Section 105(b)(2) of the Act, any final disapproval of the job training plan or modification may be appealed to the Secretary.

(1) Appeals to the Secretary shall be submitted jointly by the PIC and the appropriate chief elected official(s) for the SDA to the Secretary, U.S. Department of Labor, Washington, D.C. 20210. ATTENTION: ASET. A copy of the appeal shall be simultaneously provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of the final disapproval from the Governor.

(3) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the disapproval is clearly erroneous within the context of Section 105(b)(1) of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 45 days after the appeal is received in accordance with Section 105(b)(2) of the Act.

§ 628.6 State SDA submission.

(a) Pursuant to Section 105(d), when the SDA is the State, the Governor shall, not less than 60 days before the beginning of the first of the two program years covered by the job training plan, submit to the Secretary, in a form determined by the Governor, a summary of the approach taken to meet the requirements of Section 104 of the Act as well as an assurance that the plan and the plan review comply with Sections 105 and 108 of the Act.

(b) The State's plan shall be considered approved unless, within 30 days of receipt of the submission described in paragraph (a), the Secretary notifies the Governor in writing of discrepancies between the submission and specific provisions of the Act.

(c) Nothing in this section shall preclude the Secretary from revoking approval in the event the assurance is not met.

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—Program Design Requirements

Sec.

629.1 General program requirements.
629.2 Public service employment prohibition.
629.3 Nondiscrimination and nonsectarian activities.

Subpart B—Payments, Benefits and Working Conditions

629.21 Needs-based payments.
629.22 Benefits and working conditions.

Subpart C—Administrative Standards and Procedures

629.31 Grant payments.
629.32 Program income.
629.33 Insurance.
629.34 Procurement.
629.35 Management systems, reporting and recordkeeping.
629.36 Reports required.
629.37 Allowable costs.
629.38 Classification of costs.
629.39 Limitations on certain costs.
629.40 Matching funds.
629.41 Property management standards.
629.42 Audits.
629.43 Oversight and monitoring.
629.44 Sanctions for violations of the Act.
629.45 Closeout [Reserved].
629.46 Performance standards.

Subpart D—Grievances, Investigations, and Hearings

Sec.

629.51 Scope and purpose.
629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.
629.53 Non-criminal grievance procedure at employer level.
629.54 Federal handling of administrative and civil complaints.
629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.
629.56 Opportunity for informal review.
629.57 Hearings before the Office of Administrative Law Judges.
629.58 Other authority.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

Subpart A—Program Design Requirements

§ 629.1 General program requirements.

(a) The conditions prescribed in Sections 141, 142 and 143 of the Act apply to all programs under Titles I, II and III of the Act, except as provided elsewhere in the Act or these regulations.

(b) Recipients shall ensure that: (1) An individual enrolled in a JTPA program meets the requirements of Sections 167(a)(5) of the Act, Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) and other requirements applicable to programs funded under the specific section or title of the Act under which the participant is enrolling (Sec. 504); and

(2) An individual is enrolled within 45 days of the date of application, or a new application must be taken.

(c) Programs operated under Titles I, II and III of the Act are not subject to the provisions of 41 CFR Part 29-70, except as otherwise explicitly provided in these regulations.

§ 629.2 Public service employment prohibition.

No funds available under Titles I, II-A or III of the Act may be used for public service employment (Sec. 141(p)).

§ 629.3 Nondiscrimination and nonsectarian activities.

(a) Recipients, SDA grant recipients and other subrecipients shall comply with the nondiscrimination provisions of Section 167 of the Act.

(b) Pursuant to Section 167(a) of the Act, the employment or training of participants in sectarian activities is prohibited.

Subpart B—Payments, Benefits and Working Conditions

§ 629.21 Needs-based payments.

(a) Subject to the provisions of Sections 106 and 142(a)(1) of the Act and in accordance with a locally developed formula or procedure, payments based on need may be provided to individual participants in cases where such payments are necessary to enable individuals to participate in a training program funded under the Act (Sec. 204(27)).

(b) Documentation supporting the locally developed formula or procedure for needs-based payments shall be maintained in accordance with instructions from the Governor (Sec. 204(27)).

(c) The formula or procedure shall provide for the maintenance of an individual record of the determination of the need for, and the amount of, any participant's needs-based payment.

§ 629.22 Benefits and working conditions.

(a) Where participants are not covered under a State's workers' compensation law, they shall be provided with adequate on-site medical and accident insurance. Income maintanence coverage is not required for these participants (Sec. 143(a)(3)).

(b) Where participants are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices (Sec. 143(a)(2)).

Subpart C—Administrative Standards and Procedures

§ 629.31 Grant payments.

(a) JTPA grant payments will be made to the Governor in accordance with Section 203 of the Intergovernmental Cooperation Act (42 U.S.C. 4213) and Treasury Circular No. 1075 (31 CFR Part 205).

(b) The Governor shall establish procedures that will minimize the time elapsing between the receipt of advanced funds and disbursement. Failure to establish such procedures or to take action to correct deficiencies in (1) financial management systems, or (2) fund drawdown and advance payment procedures may result in the Governor being funded through reimbursement by Treasury check payment.

§ 629.32 Program income.

Income generated under any program shall be used to further program objectives and may be retained by that program, unless the Governor requires that such income be turned over to the State. Program income may be used to satisfy the matching requirements of Sections 123(b) and 304 of the Act.

§ 629.33 Insurance.

(a) *General.* Each Governor, SDA grant recipient or subrecipient shall follow its normal insurance procedures except as otherwise indicated in this section.

(b) The DOL assumes no liability with respect to bodily injury, illness or any other damages or losses, or with respect to any claims arising out of any activity under a JTPA grant or agreement whether concerning persons or property in the Governor's, SDA grant recipient's or other subrecipient's organization or any third party.

(c) Governors, SDA grant recipients and subrecipients shall secure insurance coverage for injuries suffered by participants who are not covered by existing worker's compensation. Contributions to a reserve for a self-insurance program, to the extent that the type and extent of coverage and the rates and premiums would have been allowed had insurance been purchased to cover the risks, are allowable and are chargeable to participant support or training as appropriate (Sec. 143(a)(3)).

§ 629.34 Procurement.

Subject to the provisions of Section 107 of the Act, recipients and subrecipients shall administer procurement systems that reflect applicable State and local law, rules and regulations as determined by the Governor.

§ 629.35 Management systems, reporting and recordkeeping.

(a) The Governor shall ensure that financial systems within the State provide fiscal control and accounting procedures sufficient to (1) permit preparation of required reports; (2) permit the tracing of funds to a level of expenditure adequate to establish that funds have not been used in violation of the restrictions on the use of such funds; and (3) demonstrate compliance with matching requirements. (Secs. 104(b)(9), 164(a)(1), 165(a)(1), 156(c)(2), and 182).

(b) The financial management system and the participant data system shall provide federally-required records and reports that are uniform in definition, accessible to authorized Federal and State staff, and verifiable for monitoring, reporting, audit and evaluation purposes (Secs. 165(a)(1), 165(a)(2), and 182).

(c) Pursuant to Section 165(a) of the Act, the Governor shall ensure that records shall be maintained of each participant's enrollment in a JTPA program in sufficient detail to demonstrate compliance with the relevant eligibility criteria attending a particular activity and with the restrictions on the provision and duration of services and specific activities authorized by the Act.

(d) The Governor shall ensure that records shall be maintained of such participant information as may be necessary to develop and measure the achievement of performance standards established by the Secretary.

(e) The Governor shall insure that procedures are developed for retention of all records pertinent to all grants and agreements, including financial, statistical, property and participant records and supporting documentation, for a period of three years from the date of obligation of funds. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.

(f) The aforementioned records will be retained beyond the three years if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until the litigation, audit or claim has been finally resolved.

(g) In the event of the termination of the relationship with a subrecipient, the Governor or SDA grant recipient shall be responsible for the maintenance and retention of the records of any subrecipient unable to retain them.

§ 629.36 Reports required.

(a) The Governor shall report to the Secretary pursuant to instructions issued by the Secretary. Reports shall be submitted quarterly for the first year and annually thereafter. Reports shall be submitted to the Secretary within 45 calendar days after the end of the report period (Sec. 165(a)(2)).

(b) [Reserved]

§ 629.37 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as provided herein, not be a general expense required to carry out the overall responsibilities of the Governor or subrecipient. Costs charged to the

program shall be consistent with those normally allowed in like circumstances in nonfederally sponsored activities and with applicable State and local law, rules or regulations, as determined by the Governor.

(b) Direct and indirect costs shall be charged in accordance with 41 CFR 29–70.102.

(c) The Governor shall issue guidelines on allowable costs for SDA and statewide programs that shall include provisions that:

(1) Costs resulting from violations of, or failure to comply with, Federal, State or local laws and regulations are not allowable;

(2) Entertainment costs are not allowable;

(3) Insurance policies offering protection against debts established by the Federal Government are not allowable JTPA costs; and

(4) Personal liability insurance for PIC members is allowable.

(d) The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or staff solely for the purpose of discharging general responsibilities as a legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

§ 629.38 Classification of costs.

(a) To comply with the limitations on certain costs contained in Section 108 of the Act, allowable costs shall be charged against the following cost categories: training; administration; and participant support.

(b) Costs are allowable to a particular cost category to the extent that benefits are received by such category.

(c) For State-administered programs, the Governor is required to plan, control and charge expenditures against the aforementioned cost categories.

(d) The Governor is responsible for ensuring that SDA grant recipients and other subrecipients plan, control, and charge expenditures against the aforementioned cost categories.

(e) In assigning costs to the training category pursuant to paragraph (a) of this section, the Governor shall ensure that:

(1) Training costs include: The costs associated with on-the-job training services; employer outreach necessary to obtain job listings or job training opportunities; salaries, fringe benefits, equipment and supplies of personnel directly engaged in providing training (including remedial education; job related counseling for participants; employability assessment and job development; job search assistance; including preparation for work and labor market orientation); books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; and tuition and entrance fees that represent instructional costs which have a direct and immediate impact on participants. In addition, 50 percent of the costs of a limited work experience program, and 250 hours of youth tryout employment, are considered allowable training costs. A limited work experience program is one that meets the requirements of Section 108(b)(3) of the Act. Youth tryout employment is that which meets the requirements of Section 205(d)(3)(B) of the Act.

(2) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(i) Is for training;

(ii) Is fixed unit price; and

(iii) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(3) Training costs shall not include the direct or indirect costs associated with the supervision and management of the program.

(4) Training costs do not include supportive service costs as defined in Section 4 of the Act or other participant support costs which are determined to be necessary at the local level.

(5) All costs of employment generating activities to increase job opportunities for eligible individuals in the area and the remaining 50 percent of the costs of a limited work experience program, as well as 100 percent of the costs of other work experience programs, are not allowable training costs (Sec. 108(b)(2)(A)).

(6) The salaries and fringe benefits of project directors, program analysts, labor market analysts, supervisors and other administrative positions shall not be charged to training. The compensation of individuals who both instruct and supervise other instructors shall be prorated among the training and administration cost categories based on time records or other verifiable means.

(7) Construction costs may be allowable training or participant support costs only when funds are used to:

(i) Purchase equipment, materials and supplies for use by participants while on the job and for use in the training of such participants. Examples of such equipment, materials and supplies are handtools, workclothes and other low cost items; and

(ii) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

(8) The cost of incorporating a PIC or consortium administrative entity for the purpose of carrying out programs under the Act shall not be charged to training but may be charged to other cost categories as appropriate.

(9) Any single cost which is properly chargeable to training and to one or more other cost categories shall be prorated among training and the other appropriate cost categories.

§ 629.39 Limitations on certain costs.

(a)(1) Not less than 85 percent of the funds for programs under Titles I, II, and III of the Act may be expended for the costs of training and participant support, except as provided in paragraph (b) of this section.

(2) Administrative costs are limited to 15 percent of funds available. The 15 percent limitation on administrative costs may not be waived.

(b) Funds allotted under the following sections of the Act are exclusions to the paragraph (a) of this section requirement:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to Section 123(c)(2)(A);

(3) Section 202(b)(3); and

(4) Section 301(a).

(c)(1) Not less than 70 percent of the funds for programs under Titles I, II–A, and III of the Act may be expended for the costs of training, except as provided in paragraphs (d) and (e) of this section.

(2) There is an established 30 percent limitation on combined administrative and participant support costs. This limitation may be waived by the Governor only in accordance with paragraph (e) of this section.

(d) Funds allotted under the following sections of the Act are exclusions to the paragraph (c) of this section requirement:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to Section 123(c)(2);

(3) Section 202(b)(3), to provide technical assistance to SDAs within the State that do not qualify for incentive grants;

(4) Section 251; and

(5) Section 301(a).

(e) Expenditures may not be in excess of the limitation contained in paragraph

(c) of this section except as provided for in Section 108(c).

(f) The provisions of this section do not apply to any designated service delivery area which served as a concentrated employment program grantee for a rural area under the Comprehensive Employment and Training Act (Sec. 108(d)).

(g) Administrative funds within a service delivery area may, at the discretion of and pursuant to requirements established by the Governor, be pooled and used for all administrative costs of programs within the service delivery area assisted with funds under the Act.

§ 629.40 Matching funds.

The Governor shall define and assure the provision of adequate resources to meet the matching requirements of Sections 123(b) and 304 of the Act.

§ 629.41 Property management standards.

(a) Personal or real property procured with JTPA funds or transferred from programs under the Comprehensive Employment and Training Act must be used for purposes authorized by the Act. Subject to the Secretary's rights to such property, the Governor shall maintain accountability for property in accordance with State procedures and the records retention requirements of § 629.35.

(b) The JTPA program must be reimbursed the fair market value of any unneeded property retained by the Governor for use in a non-JTPA program. The proceeds from the sale of any property or transfer of property to a non-JTPA program must be used for purposes authorized under the Act.

§ 629.42 Audits.

(a) At least once every two years, the State shall perform or have performed, on a timely basis, independent financial and compliance audits of the Title II and III funds received by the State and shall be responsible for assuring that audit requirements are met with respect to PICs, SDA grant recipients, and other subrecipients receiving Title II and III funds throughout the State (Sec. 164(a)(2)). All such audits shall be conducted in accordance with the auditing standards specified in Section 164(a)(3) of the Act.

(b) The State shall submit the audit report(s), covering all Title II and III funds received by the State, to the cognizant Federal audit agency or the Inspector General, of the Department, as appropriate, when completed. The Inspector General shall determine the acceptability of such audit reports and shall forward each acceptable audit report to the Secretary for action pursuant to § 629.42(f) of this Part.

(c) The Governor may request the Secretary to exempt subrecipients from the audit requirements, except as otherwise provided in Section 164(a)(2) of the Act. This exemption request may be approved by: (1) the Secretary or (2) the cognizant Federal audit agency, when the Secretary delegates this authority to such agency (Sec. 164(a)(2)).

(d) Within a timely period after the State submits the audit report to the appropriate Federal official, the Governor shall submit an audit resolution report documenting the Governor's disposition of the reported questioned costs, i.e., whether allowed or disallowed, the basis for allowing questioned costs, and corrective actions taken.

(e) If the Governor intends to request waivers of liability under Section 164(e)(2) of the Act, such requests must accompany the audit resolution report along with supporting documentation.

(f) After receiving the audit resolution report, the Secretary shall review the report(s), the Governor's disposition, and any liability waiver request. If the Secretary is in agreement with all aspects of the Governor's disposition of the audit(s), the Secretary shall so notify the Governor, constituting final agency action on the audit(s). If the Secretary is in disagreement with the Governor's conclusion on specific points in the audit(s), the Secretary shall resolve the audit(s) through the initial and final determination process described in Subpart D of these regulations.

(g) Audits conducted or arranged by the Inspector General will generally supplement rather than duplicate audits of recipients, PICs, SDAs, or other subrecipients.

§ 629.43 Oversight and monitoring.

(a) The Secretary is authorized to monitor and investigate pursuant to Section 163 of the Act.

(b) The Governor is responsible for oversight of all SDA grant recipient activities and State supported programs.

(c) The PIC and local elected official(s) may conduct such oversight as they, individually or jointly, deem necessary or delegate to an appropriate entity pursuant to their mutual agreement.

§ 629.44 Sanctions for violations of the Act.

(a) Pursuant to Sections 164 (b), (d), (e), (f), (g), and (h) of the Act, the Secretary may impose approporiate sanctions and corrective actions for violations of the Act, Regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the Governor is or may be entitled under the Act, except as provided in Section 164(e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the Governor by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the Governor or subrecipient in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under Section 164(f) and 167 of the Act, to impose a sanction or corrective action, the Secretary shall utilize initial and final determination procedures outlined in Subpart D.

(c) To impose a sanction or corrective action regarding a violation of Section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d)(1) The Secretary shall hold the Governor responsible for all funds under the grant. The Governor shall hold subrecipients, including SDA grant recipients, responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the Governor for misexpenditures of grant funds in accordance with Section 164(e) of the Act, including the requirement that the Governor shall have taken prompt and appropriate corrective actions for misexpenditures by a subrecipient.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subrecipients ordinarily shall be considered a part of the corrective action required by Section 164(e)(2)(D) of the Act. In this regard, the Governor may request advance approval from the Secretary for contemplated corrective actions. Such requests may address debt collection actions or options which the Governor plans to initiate or to forego. The Governor's request shall include a description and assessment of all actions taken by the subrecipient to collect the misspent funds.

(4) In making the determination required by Section 164(e)(2) of the Act, the Secretary may determine, based on a request from the Governor, that the Governor may forego certain collection actions against a subrecipient where that subrecipient was not at fault with respect to the liability criteria set forth in Section 164(e)(2)(A) through Section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing

whether the Governor's corrective action was appropriate in light of Section 164(e)(2)(D) of the Act. At that time, the Secretary shall also consider advance approvals (previously granted pursuant to paragraph (d)(3) of this section) in light of the Governor's demonstrated efforts to undertake the approved course of action.

(5) The Governor shall not be released from liability for misspent funds under the determination required by Section 164(e) of the Act until the Secretary determines that further collection action, either by the Governor or subrecipient, would be inappropriate or would prove futile.

(e) The Governor shall have the authority to reduce allocations to a service delivery area if (1) the Secretary offsets a debt against funds allotted to the Governor and (2) the debt resulted from a misexpenditure by the SDA grant recipient, or its subrecipients.

(f) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subrecipient as authorized in Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.45 Closeout [Reserved].

§ 629.46 Performance standards.

(a) The Secretary shall prescribe performance standards for adults and youth under Title II–A and dislocated workers under Title III in accordance with Section 106 of the Act. Standards for youth employment competencies shall prescribe the framework for competency development.

(b) The Governor shall establish SDA standards within the parameters set annually by the Secretary pursuant to Section 106 of the Act and apply the standards in accordance with Section 202(b)(3) of the Act.

(c) Pursuant to initial and annual instructions issued by the Secretary, the Governor shall:

(1) Collect the data necessary to set standards pursuant to Section 165 of the Act; and

(2) Submit reports according to Sections 106 and 121(b)(3) of the Act.

(d) Pursuant to Section 106(h)(1) of the Act, the Governor shall, after exhaustion of remedies below, impose a reorganization plan if a subrecipient fails to meet performance standards for two consecutive years.

(1) Prior to imposition of a reorganization plan, the Governor must offer the subrecipient opportunity for a hearing.

(2) Should the hearing determination uphold the Governor's imposition of a reorganization plan, the subrecipient may appeal to the Secretary.

(3) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, Attention: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(4) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification from the Governor.

(5) The appealing party shall explain why it believes the Governor's decision is contrary to the provisions of Section 106 of the Act.

(6) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the Governor's decision is inconsistent with Section 106 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 60 days after this appeal is received (Sec. 106(h)).

Subpart D—Grievances, Investigations, and Hearings

§ 629.51 Scope and purpose.

(a) *General.* This subpart establishes the procedures to receive, investigate and resolve grievances, and conduct hearings to adjudicate disputes under the Act. Complaints of discrimination pursuant to Section 167(a) of the Act will be handled under 29 CFR Parts 31 and 32.

(b) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a Governor, SDA grant recipient or other subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the Governor, SDA grant recipient or other subrecipient without first exhausting the remedies in this subpart. Nothing in the Act or these regulations shall:

(1) Allow any person or organization to join or sue the Secretary with respect to the Secretary's responsibilities under JTPA except after exhausting the remedies in this subpart;

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart; or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the regulations.

§ 629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.

(a) *Policy.* This section deals with the handling of non-criminal complaints. Criminal complaints are to be handled as specified in § 629.55.

(b) *Procedures at Governor and SDA levels.*

(1) Pursuant to Section 144(a) of the Act, each Governor shall maintain a State level grievance procedure and shall insure the establishment of procedures at the SDA grant recipient level for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act. The procedures must include the handling of complaints and grievances arising in connection with JTPA programs operated by each SDA grant recipient and subrecipient under the Act. These procedures must also provide for resolution of complaints arising from actions, such as audit disallowances or the imposition of sanctions, taken by the Governor with respect to audit findings, investigations, or monitoring reports (Sec. 144(a)).

(2) The grievance hearing procedure shall include written notice of the date, time and place of the hearing, an opportunity to present evidence, and a written decision.

(c) *State review.* (1) If a complainant does not receive a decision at the SDA grant recipient level within 60 days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant then has a right to request a review of the complaint by the Governor. The request for review shall be filed within 10 days of receipt of the adverse decision or 10 days from the date on which the complainant should have received a decision. The Governor shall issue a decision within 30 days. The Governor's decision is final.

(2) The Governor shall also provide for an independent State review of a complaint initially filed at the State level on which a decision was not issued within 60 days or on which the complainant has received an adverse decision. A decision shall be made within 30 days. The Governor's decision is final.

(d) *Federal review of local level complaints without decision.*

(1) Should the Governor fail to provide a decision as required in paragraph (c) of this section, the complainant may then request from the Secretary a determination whether reasonable cause exists to believe that the Act or its regulations have been violated.

(2) The Secretary shall act within 90 days of receipt of the request and where there is reasonable cause to believe the Act or regulations have been violated shall direct the Governor to issue a decision adjudicating the dispute pursuant to State and local procedures. The Secretary's action does not constitute final agency action and is not appealable under the Act (Sec. 166(a) and Sec. 144(c)). If the Governor does not comply with the Secretary's order within 60 days, the Secretary may impose a sanction upon the Governor for failing to issue a decision.

(3) The request shall be filed no later than 10 days from the date on which the complainant should have received a decision as required in paragraph (c) of this section. The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint;

(ii) The full name and address of the respondent against whom the complaint is made;

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation;

(iv) The provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated;

(v) A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case; and

(vi) A statement of the date the complaint was filed with the Governor, the date on which the Governor should have issued a decision, and an attestation that no decision was issued.

(4) A request will be considered to have been filed when the Secretary receives from the complainant a written statement sufficiently precise to evaluate the complaint and the grievance procedure used by the State and SDA grant recipient.

§ 629.53 Non-criminal grievance procedure at employer level.

(a) Governors, SDA grant recipients and other subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, also have a grievance procedure relating to the terms and conditions of employment available to their participants (Sec. 144(b)).

(b) Employers under paragraph (a) of this section may operate their own grievance system or may utilize the grievance system established by the Governor or SDA grant recipient under § 629.52. Employers shall inform participants of the grievance procedure they are to follow.

(c) An employer system shall provide for, upon request by the complainant, a review of an employer's decision by the SDA grant recipient and the Governor, if necessary, in accordance with § 629.52(b).

§ 629.54 Federal handling of administrative and civil complaints.

(a) (1) The Comptroller General and Inspector General's authority to conduct audits, evaluations and investigations is as specified in § 629.42.

(2) The Secretary is authorized to monitor States (Sec. 163(a)).

(3) The Secretary shall each fiscal year investigate several States to evaluate whether the use of funds received under the Act is in compliance with the provisions of the Act (Sec. 165(b)(1)(A)).

(4) The Secretary may receive complaints alleging violations of the Act or regulations through the Department's incident reporting system.

(b) As a result of the findings or content of any of the activities listed in paragraph (a), of this section, the Secretary may:

(1) Direct the Governor to handle a complaint through local grievance procedures established under § 629.52; or

(2) Investigate and determine whether the Governor or subrecipients are in compliance with the Act and regulations (Sec. 163(b) and (c)).

(c) (1) The Secretary shall notify the Governor of the findings of the Secretary's investigation and shall give the Governor a period of time, not to exceed 60 days, depending on the nature of the findings, to comment and to take appropriate corrective actions.

(2) The Governor shall offer an opportunity for a hearing at the State level to those subrecipients adversely affected by the results of an investigation, audit or monitoring activity as specified in § 629.52(b). The Governor shall inform the Secretary of actions undertaken, including any disposition of an audit conducted by the State to deal with the Secretary's findings if one was undertaken within the time frame specified by the Secretary.

(3) The Secretary shall review the complete file of the investigation and the Governor's actions. The Secretary's review shall take into account the provisions of § 629.44. If the Secretary is in agreement with the Governor's handling of the situation, the Secretary shall so notify the Governor. This notification shall constitute final agency action.

(d) *Initial and final determination.* (1) *Initial determination.* If the Secretary is dissatisfied with the Governor's disposition of an audit as specified in § 629.42 or other resolution of costs, with the Governor's response to findings pursuant to parargraph (c) of this section, or if the Governor failed to comply with the Secretary's decision pursuant to § 629.52(d)(2), the Secretary shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants, contracts or other agreements, under the Act.

(2) *Informal resolution.* The Secretary shall not revoke a Governor's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the Governor with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the Secretary's initial determination. In the case of an initial determination pursuant to an audit, the informal resolution period shall be at least 60 days from issuance of the initial determination and no more than 170 days from the receipt by the Secretary of the final approved audit report. If the matters are resolved informally, the Secretary shall issue a final determination pursuant to paragraph (d)(3) of this section, which notifies the parties in writing of the nature of the resolution and may close the file.

(3) *Final determination.* (i) If the Governor and the Secretary do not resolve any matter informally, the Secretary shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Secretary of the final approved audit report.

(ii) The final determination shall:

(A) Indicate that efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(B) List those matters upon which the parties continue to disagree;

(C) List any modifications to the factual findings and conclusions set forth in the initial determination;

(D) Establish a debt if appropriate;

(E) Determine liability, method of restitution of funds and sanctions; and

(F) In the case of a final determination imposing a sanction or corrective action, offer an opportunity for a hearing in accordance with § 629.57.

(iii) The final determination constitutes the final agency action unless a hearing is requested.

(e) Nothing in this section shall preclude the Secretary from issuing an initial and final determination directly to a subrecipient in accordance with the authority of Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.

All information and complaints involving fraud, abuse or other criminal activity shall be reported directly and immediately to the Secretary of Labor.

§ 629.56 Opportunity for informal review.

(a) Parties to a complaint under § 629.57 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to Section 166(b) of the Act.

§ 629.57 Hearings before the Office of Administrative Law Judges.

(a) *Jurisdiction.* The jurisdiction of the OALJ extends only to those complainants identified in Sections 164(f) and 166(a) of the Act. All other disputes arising under the Act shall be adjudicated under the appropriate recipient or subrecipient grievance procedures or other applicable law.

(b) *Sanctions.* For the purpose of this section, "sanctions" will not include actions required by authority other than this Act. For example, the imposition of interest charges where required by the Debt Collection Act of 1982 is not a sanction for the purpose of this section.

(c) *Procedures for filing request for hearing.* (1) Within 21 days of receipt of the determination imposing the sanction or corrective action, or denying financial assistance, the applicant, Governor, SDA grant recipient or other subrecipient of funds may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Room 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, with one copy to the departmental official who issued the determination and one copy to the Special Counsel to the Assistant Secretary of Labor.

(2) The 21-day filing requirement is jurisdictional; failure to timely request a hearing acts as a waiver of the right to hearing.

(3) The request shall specifically state those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested within the 21 days, shall be considered resolved and not subject to further review. Only alleged violations of the Act, regulations, grant or other agreements under the Act fairly raised in the determination and the request for hearing are subject to review.

(4) The same procedure set forth in paragraphs (c) (1) through (3) of this section applies in the case of a complainant who has not had a dispute adjudicated by the informal review process of § 629.56 within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

(d) *Service and filing.* Copies of all papers required to be served on a party or filed with the OALJ shall be filed simultaneously with the OALJ and served upon the parties of record or their representatives, and shall contain proof of such service.

(e) *Rules of Procedure.* The rules of practice and procedure promulgated by the OALJ shall govern the conduct of hearings under this section.

(f) *Prehearing procedures.* In all cases, the OALJ should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(g) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the OALJ and shall be issued pursuant to the authority contained in Section 163(b) of the Act, incorporating 15 U.S.C. Section 49.

(h) *Timely submission of evidence.* The OALJ shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at least three weeks prior to the hearing date.

(i) *Burden of production.* The Department shall have the burden of production to support the Secretary's decision. To this end, the Secretary shall prepare and file an administrative file in support of the decision. Thereafter, the party or parties seeking to overturn the Secretary's decision shall have the burden of persuasion.

(j) *Relief.* In ordering relief, the OALJ shall have the full authority of the Secretary under Section 164 of the Act, except with respect to the provisions of paragraph (e) of that section.

(k) *Timing of decisions.* The OALJ should render a written decision not later than 90 days after the closing of the record.

§ 629.58 Other authority.

Nothing contained in this subpart shall be deemed to prejudice the separate exercise of other authorities in pursuit of remedies and sanctions available outside the Act.

PART 630—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT

Sec.

630.1 Adult and youth programs under Part A of Title II.

630.2 Summer youth employment and training programs under Part B of Title II.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 630.1 Adult and youth programs under Part A of Title II.

(a) Funding for programs under this section shall be provided in accordance with Sections 162, 201 and 202 of the Act. Funds may be used to provide services specified in Section 204 of the Act to persons meeting eligibility criteria specified in Sections 141(e) and 203 of the Act.

(b)(1) Pursuant to Section 203(b) of the Act, not less than 40 percent of funds shall be expended for services to eligible youth.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the SDA differs from the ratio of such individuals nationally as published by the Secretary, the percentage specified in paragraph (b)(1) of this section shall be reduced or increased by a local adjustment factor. This factor, which may be obtained by dividing the SDA ratio of economically disadvantaged

youth to economically disadvantaged adults by the national ratio as published by the Secretary, may be multiplied by 40 percent to derive the youth service level for the SDA. The Governor may provide for an alternative methodology to develop the local adjustment factor depending on the availability of data (Sec. 203(b)(2)).

(c) Funds may be used to conduct exemplary youth programs under Section 205 of the Act, as follows:

(1) Except for tryout employment authorized under Section 205(d)(3)(B) of the Act, exemplary youth programs may be modified to accommodate local conditions as specified in the job training plan (Sec. 205(a)); and

(2) Tryout employment in private for-profit worksites may be conducted only in accordance with Section 205(d) of the Act (Sec. 141(k)).

§ 630.2 Summer youth employment and training programs under Part B of Title II.

(a) Funding for programs under this section shall be provided in accordance with Sections 162 and 251 of the Act to provide services specified in Section 252 of the Act to economically disadvantaged youth meeting eligibility criteria set forth in Sections 141(e) and 253 of the Act.

(b) Not more than 15 percent of the funds available for programs under this section may be used for the costs of administration.

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
631.1 Scope and purpose.

Subpart B—Formula Allocated Programs

631.11 General.
631.12 State plan.
631.13 Limitations on use of funds.
631.14 Matching funds.

Subpart C—Discretionary Program

631.21 General.
631.22 Eligibility for funding.
631.23 Application for funding and selection criteria.

Subpart D—Program Design and Management

631.31 Allowable activities, coordination and consultation, planning and review.
631.32 Reallotment of funds based on non-utilization.
631.33 Reporting requirements.
631.34 Role of Title III training in determining unemployment benefit eligibility.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

Subpart A—General Provisions

§ 631.1 Scope and purpose.

This part contains the regulations governing programs designed to serve dislocated workers as authorized under Title III of the Act. Programs are operated pursuant to two allotments: (a) at least 75 percent of the funds appropriated for Title III shall be allotted by formula to the Governors; and (b) up to 25 percent of the funds appropriated for Title III may be reserved for distribution to Governors at the Secretary's discretion. Planning, application and other requirements applicable to formula funded programs are set forth in Subpart B of this Part. Requirements applicable to discretionary programs are set forth in Subpart C of this Part. Program design and management requirements applicable to all programs operated under Title III of the Act are set forth in Subpart D of this Part.

Subpart B—Formula Allocated Programs

§ 631.11 General.

(a) The Secretary shall allot at least 75 percent of the funds appropriated for Title III among the States pursuant to the formula in Section 301(b) of the Act.

(b) The allotment for the Virgin Islands, Guam, the Northern Mariana Islands, American Somoa and the Trust Territory of the Pacific Islands shall be based on the following computation: Allotments for these areas, pursuant to Section 201(a) of the Act, as a proportion of total allotments pursuant to Section 201 of the Act, applied to total funds available for allotment, pursuant to Section 301(b) of the Act.

§ 631.12 State plan.

(a) To receive financial assistance for formula allocated programs under Title III of the Act, the Governor shall include in the Governor's coordination and special services plan, submitted pursuant to Section 121 of the Act, a statement of intent to operate programs in compliance with matching provisions of Section 304 of the Act.

(b) If the Governor has stated, pursuant to paragraph (a) of this section an intent to operate formula allocated programs under Title III and subsequently determines not to operate such programs during the period covered by the Governor's coordination and special services plan, the Governor shall notify the Secretary of such a determination in writing on a timely basis.

§ 631.13 Limitations on use of funds.

(a) Subject to paragraph (b) of this section no more than 15 percent of the funds allotted pursuant to Section 301(b) of the Act may be used for administrative costs. In addition, the total of administrative costs and participant support costs may not exceed 30 percent (Sec. 307(a)).

(b) These limitations apply to that amount of Federal funds which is equivalent to no more than 50 percent of the total combined amount of Federal and non-Federal funds allotted to the formula funded State programs (Sec. 307(b)).

§ 631.14 Matching funds.

To qualify for financial assistance under Title III of the Act, the Governor shall provide matching funds pursuant to Section 304 of the Act as defined at § 629.40 of these regulations.

Subpart C—Discretionary Program

§ 631.21 General.

Of the funds appropriated for Title III, up to 25 percent may be awarded to Governors submitting applications for such funds based upon selection criteria determined by the Secretary pursuant to the provisions of this subpart.

§ 631.22 Eligibility for funding.

The Secretary shall make available to Governors funds reserved under Section 301(a) of the Act to serve individuals who are affected by mass layoffs, natural disasters, Federal Government actions (such as relocations of Federal facilities), high unemployment areas or designated enterprise zones. These circumstances must be sufficiently severe so that:

(a) The needs cannot be met by other JTPA programs or other State and local programs; and

(b) A substantial number of individuals concentrated in a labor market area or industry is affected.

§ 631.23 Application for funding and selection criteria.

To qualify for consideration for funding under this subpart, Governors shall submit applications to the Secretary pursuant to instructions issued by the Secretary on an annual basis specifying application procedures, selection criteria, and approval process.

Subpart D—Program Design and Management

§ 631.31 Allowable activities, coordination and consultation, planning and review.

(a) Allowable activities are specified in Section 303 of the Act. They shall be

coordinated with other programs in accordance with Section 308 of the Act. Affected labor organizations shall be consulted pursuant to Section 306 of the Act.

(b) Governors shall involve appropriate PICs and local elected officials in planning and providing opportunities for review in accordance with Sections 302 and 305 of the Act.

§ 631.32 Reallotment of funds based on non-utilization.

(a) The Secretary may reallot any amount of any allotment under this part to the extent that it is determined that the Governor will not be able to obligate such amount within one year of allotment (Sec. 301(d)).

(b) When the Secretary determines that a reallotment from a Governor is appropriate, the Governor and the general public shall be given a notice of the proposed action to remove funds. Such notice shall include specific reasons for the actions being taken and shall invite the Governor and the general public to submit comments on the proposed reallotment of funds. These comments shall be submitted to the Secretary within 30 days from the date of the notice. After considering any comments received, the Secretary shall notify the Governor of any decision to reallot funds.

(c) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Grievances, Investigations and Hearings provisions in Part 629, Subpart D.

(d) The Secretary may reallot funds using:

(1) The formula allocation described at Subpart B of this Part; or

(2) Procedures established in Subpart C of this Part.

§ 631.33 Reporting requirements.

The reporting requirements in § 629.36 apply to programs operated under this Part, except that the Secretary may establish special requirements for discretionary programs operated under Subpart C of this Part as part of the annual announcement of fund availability and selection criteria.

§ 631.34 Role of Title III training in determining unemployment benefit eligibility.

Whenever training opportunities pursuant to Section 302(c) of the Act are identified, information concerning the opportunities shall be made available to the individuals. Pursuant to Section 302(d) of the Act, the acceptance of training assisted under Title III shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

PART 632—NATIVE AMERICAN PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 635—VETERANS' EMPLOYMENT PROGRAMS UNDER TITLE IV, PART C OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 636—[RESERVED]

PART 637—[RESERVED]

PART 638—[RESERVED]

Signed at Washington, D.C. this 9th day of March, 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-6588 Filed 3-14-83; 8:45 am]

BILLING CODE 4510-30-M

federal register

Tuesday
March 15, 1983

Part IV

Environmental Protection Agency

Approval and Promulgation of State Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2252-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve a revision to the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2). This revision would approve a site-specific emission limitation of 9.57 pounds of SO_2 per million British Thermal Units (lbs/MMBTU) for the Indiana-Michigan Electric Company's (IMEC) Breed plant. These changes in the Indiana plan are being proposed at the request of the State. The State has demonstrated that the National Ambient Air Quality Standards (NAAQS) are protected if this change is approved.

DATE: Comments on this revision and on EPA's proposed action must be received by May 16, 1983.

ADDRESSES: Copies of the SIP revision, technical support document, and the supporting data are available at the following addresses for review. (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V office).

Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Indiana Air Pollution Control Division, 1330 W. Michigan Street, Indianapolis, Indiana 46206

Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP-11), Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Region V, Environmental Protection Agency, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Clean Air Act (CAA), the Administrator of EPA determined the status of attainment of the NAAQS for SO_2[1] in each area of Indiana (43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978)). EPA determined that Sullivan County, the County in which IMEC's Breed Plant is located, was attaining the NAAQS. On June 26, 1979 Indiana submitted a revised SO_2 plan for all counties in Indiana which established a 6.0 lbs/MMBTU emission limit for all existing fuel combustion sources in the State, except certain site-specific limits set forth in an appendix to the regulation. On March 12, 1982, EPA approved this regulation, recodified at 325 IAC Article 7, with certain exceptions (47 FR 10860).

325 IAC Article 7 provides that Indiana may adopt operating permits which contain site-specific emission limits less stringent than those contained within 325 IAC Article 7, as long as the NAAQS are protected with the less stringent limits. These relaxed limits supersede those in 325 IAC Article 7 and must be submitted to EPA as revisions to the SIP. Pursuant to this provision, Indiana adopted an operating permit for Breed that contained a 9.57 lbs/MMBTU SO_2 emission limit and submitted it to EPA on February 26, 1981.[2] EPA reviewed the technical information submitted with this revision and found that additional information was required to assure that the NAAQS would be maintained at the revised emission limits. Therefore, EPA returned the SIP revision to Indiana for additional information on August 20, 1981. On June 22, 1982, Indiana resubmitted the Breed emission limit to EPA with additional technical information.

The technical information submitted included computer dispersion modeling analyses which were based on EPA's CRSTER model, the reference model for single sources in rural areas. The CRSTER modeling predicts that at the revised emission limit Breed contributes second-high concentrations of 126 micrograms of SO_2/cubic meter ($\mu g/m^3$) on a 24-hour basis and 936 $\mu g/m^3$ on a 3-hour basis. It predicts an annual maximum contribution of 5 $\mu g/m^3$. When background SO_2 levels are added to the Breed contributions, these predicted ambient levels are below the NAAQS. Additionally, available data from the three continuous ambient SO_2 monitors operated by IMEC in the neighborhood of the Breed Plant do not show violations of the NAAQS for the three available years, 1979 to 1981.

Information presented by the State indicates that the 9.57 lbs/MMBTU emission limit within the permit is based on the sulfur content of the coal "as burned" on the second highest sulfur content day in 1975 at Breed. Fuel data for subsequent years show that the sulfur content has not changed significantly since 1975. The 9.57 lbs/MMBTU emission limit is, therefore, essentially a worst-case, status quo rate.

Impact on SO_2 Nonattainment Areas

Vigo County, Indiana is the only SO_2 nonattainment area within 50 kilometers (km) of the IMEC Breed plant. Breed is approximately 35 km from the area in Vigo County where the predicted SO_2 concentrations are highest. On May 13, 1982, EPA approved the SO_2 SIP for Vigo County (47 FR 20583). EPA's approval was partially based on data from a modeling analysis performed by the local task force. This analysis shows that the revised emission limits for Vigo County sources protect the SO_2 NAAQS. To further assess the impact of Breed's emissions in relationship to the Vigo County SIP, EPA remodeled Vigo County, using the proposed Breed emission limits, at the critical receptors for the five worst case days identified by the Vigo County modeling submitted by the State on which Breed could possibly contribute to impacts from the Virgo County sources. This analysis shows that the addition of Breed's contribution to the modeled impacts from the Vigo County sources does not result in a violation of the 24-hour SO_2 NAAQS (the constraining standard) on any day modeled. Therefore, it is concluded that the Breed revision will not interfere with the ability of the Vigo County SO_2 SIP to ensure attainment and maintenance of the SO_2 NAAQS in Vigo County.

Interstate Impact and Prevention of Significant Deterioration (PSD)

EPA also reviewed the proposed revision for consistency with Section 110(a)(2)(E) of the Clean Air Act. Due to present limitations on modeling, the modeling was limited to a 50km radius around the Breed Plant. (See *Guideline on Air Quality Models* (EPA-450/2-78-027, April 1978).)

The IMEC Breed plant is located in west central Indiana, approximately six km from the Wabash River, which forms the Indiana-Illinois border. Illinois is the only State within 50 km of the plant. The second highest predicted concentrations at receptors in Illinois within 50 km of the Breed plant are 76 $\mu g/m^3$ (24-hour) and 398 $\mu g/m^3$ (3-hour). These constraining impacts in Illinois are well below the corresponding NAAQS. Also, based on the CRSTER model results, Breed's predicted SO_2 impacts at 15 km

[1] The primary SO_2 NAAQS is violated when, in a calendar year, either: (1) the annual arithmetic mean value of a site's SO_2 concentration exceeds 80 micrograms per cubic meter of air (80 $\mu g/m^3$) (the annual primary standard), or (2) the maximum 24-hour concentration of SO_2 at any site exceeds 365 $\mu g/m^3$ more than once (the 24-hour primary standard). The secondary SO_2 NAAQS is violated when the maximum 3-hour concentration at any site exceeds 1,300 $\mu g/m^3$ more than once.

[2] This permit also contains requirements related to visable emissions. EPA will take separate action on that portion of the permit at a later time.

from the facility decrease to 62 $\mu g/m^3$ for the 24-hour NAAQS (49% of maximum), and to 265 $\mu g/m^3$ for the 3-hour NAAQS (28% of maximum). Because SO_2 concentrations decrease markedly within a short distance from the facility and fall well below the corresponding standards, Breed is not expected to contribute significantly to SO_2 concentrations in any area—nonattainment or attainment—in either nearby Illinois or distant States.

Under Part C of the Act, SIP relaxations must be reviewed for PSD increment consumption if the PSD baseline has been triggered in the affected area. However, since no PSD permit application for an SO_2 source has been submitted in Sullivan County and no such application has been submitted in any surrounding county for an SO_2 source which would trigger the PSD baseline in Sullivan County, the PSD baseline has not been triggered in the County. (This SIP revision itself does not trigger the baseline, since it is not associated with an increase in emissions from the Breed facility.) Since the baseline has not been triggered, the revision cannot consume PSD increment in the Sullivan County. Emissions from this plant will be reflected in whatever baseline concentration is established in the future in both Sullivan County and any more distant areas in which the baseline has not yet been triggered.

Based on emissions data supplied by Indiana, EPA believes that the revision establishes emission limitations no higher than the level of actual emissions over the past several years. For this reason, the emissions from this plant are already reflected in the PSD baselines in those areas in Indiana, Illinois, and surrounding States in which the baseline has already been triggered. Therefore, the revision will not consume PSD increments in those areas.

For the reasons discussed above, EPA believes that this proposed revision will neither prevent attainment nor intefere with PSD measures in other States. Therefore, EPA believes that the revision would be consistent with Section 110(a)(2)(E) of the Act.

All interested persons are invited to submit written comments on EPA's proposed SIP action. Written comments received by the date specified above will be considered in determining whether EPA will take action as proposed. After review of all comments submitted, EPA will publish in the **Federal Register** the Agency's final action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, and 7601(a))

Dated: November 17, 1982.

Alan Levine,

Acting Regional Administrator.

[FR Doc. 83-6626 Filed 3-14-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[Region II Docket No. 4; A-2-FRL 2194-4]

Approval and Promulgation of Implementation Plans; Revisions to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal.

SUMMARY: This notice announces the receipt of a request from the State of New York to revise its State Implemenation Plan (SIP). If approved by the Environmental Protection Agency (EPA), this revision would allow Orange and Rockland Utilities, Inc., to reconvert units 4 and 5 of its Lovett generating station from oil to coal. The revision would impose either a sulfur dioxide emission limit not to exceed 1.0 pound of sulfur dioxide per million British thermal units (Btu) heat input (equivalent to the use of 0.7 percent sulfur content coal) for units 4 and 5 if both are operated on coal, or an emission limit not to exceed 1.5 pounds of sulfur dioxide per mission Btu input (1.0 percent sulfur content coal equivalent) for one unit if the other unit is either operated on fuel oil (at 0.37 percent sulfur content, by weight) or natural gas or is not operated. Both of these options produce a similar air quality impact and therefore can be considered identical.

DATE: Comments must be received on or before April 14, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

New York State Department of Environmental Conservation, Region 3 Office, 202 Mamaroneck Avenue, White Plains, New York 10601

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Room 1005, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: On June 7, 1982 New York State submitted to the Environmental Protection Agency (EPA) a proposed revision to its State Implementation Plan (SIP). Supplemental information modifying the State's proposed revision was sent to EPA on October 14, 1982. This request, if approved by EPA, would allow Orange and Rockland Utilities, Inc. (O&R), to reconvert units 4 and 5 of its Lovett facility from oil to coal. The Lovett generating station is located on the west bank of the Hudson River in Tomkins Cove in the town of Stony Point, Rockland County, New York.

The current normally applicable regulatory sulfur dioxide emission limitation for coal-fired power plants in this part of New York State is 0.2 pounds of sulfur dioxide per million Btu heat input (0.14 percent sulfur content coal equivalent). The revision New York has submitted, established under State procedures as a "special limitation," would impose either a sulfur dioxide emission limit not to exceed 1.0 pound of sulfur dioxide per million British thermal units (Btu) heat input (equivalent to the use of 0.7 percent sulfur content coal) for units 4 and 5 if both are operated on coal or an emission limit not to exceed 1.5 pounds of sulfur dioxide per million Btu heat input (1.0 percent sulfur coal equivalent) for one unit if the other unit is either operated on complying fuel oil (at 0.37 percent sulfur content by weight) or natural gas or is not operated. Both of these options produce a similar air quality impact and therefore can be considered identical. It should be noted that the State rejected O&R's initial request to burn coal with a sulfur content of 1.5 percent, by weight, in both units on the basis that such operation would violate the National Ambient Air

Quality Standards and the Prevention of Significant Deterioration (PSD) increments for sulfur dioxide. The sulfur dioxide emission limits ultimately adopted by the State for inclusion in its SIP require the purchase of the lowest sulfur content coal which is reasonably available. This special limitation, authorized by Section 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, also requires O&R to meet eleven conditions which are described in detail in the State's submittal.

The State's submittal consists of an order signed by the Commissioner of the New York State Department of Environmental Conservation (NYSDEC), a public hearing officer's report, proof of publication of the State's hearing notice and a technical report prepared by NYSDEC in support of its SIP revision. The SIP revision was submitted in accordance with all EPA requirements under 40 CFR Part 51, including a public hearing, which was held by the State on June 22 and 23, 1981.

In addition to requiring O&R to burn low sulfur coal, the State found that O&R should raise the height of the affected stacks to "Good Engineering Practice" (GEP) height. The purpose of raising stacks to GEP height is to reduce the potential for emissions to be brought down to the ground level in excessive concentrations. At the Lovett plant, this phenomenon, known as "aerodynamic downwash", results from disturbed wind flow around the power house building. The State has determined that the GEP stack height for units 4 and 5 is 475 feet. Currently, the stack for unit 4 is 206 feet tall and the stack for unit 5 is 239 feet tall. In making its GEP finding, the State indicated that these two existing stacks would be combined into a single stack and raised to the GEP height.

EPA has conducted a thorough review of New York's SIP revision submittal, including the State's modeling of the sulfur dioxide impact of the Lovett coal conversion. EPA's *Guideline on Air Quality Models* (EPA–450/2–78–027, April 1978) states that no refined, widely available models applicable to complex terrain have been identified. The *Guideline* recommends, therefore, that a complex terrain situation, such as that found near the Lovett plant, be modeled on a case-by-case basis. The State investigated several air quality models to evaluate the impact of the Lovett coal conversion. None of the models the State reviewed, however, has been validated as being able to predict accurately the effect of burning low sulfur coal at the Lovett plant. While EPA believes that the State has made a good faith effort using the available data and modeling techniques to predict the air quality impact of the conversion, the Agency notes that the State's use of several unverified assumptions may have caused an inaccurate estimation of the sulfur dioxide concentrations for the extremely complex terrain that surrounds the Lovett facility.

Following receipt of the New York submittal, EPA performed its own modeling of the Lovett conversion's air quality impact. Although this modeling indicated that the SIP revision might not protect the national standards, the complex terrain modeling uncertainties discussed above prevent the Agency from verifying whether violations will occur. While in most instances EPA can rely on its *Guideline* models to fulfill relatively easily Section 110(a)(2)'s requirement that the Agency determine whether a SIP limitation will assure attainment of air quality standards, the uncertainties of models applicable to the Lovett plant complicate the Agency's task under that Section.

In this case, EPA considered another important factor relevant to the validity of the revision. Although the dispersion modeling performed by the State predicts protection of all ambient sulfur dioxide standards, New York has also required that, if this SIP revision is approved, O&R will perform a study to measure actual sulfur dioxide concentrations following the coal conversion. Air quality monitors would be positioned to measure the maximum impact of emissions from the Lovett facility. This monitoring study would enable EPA and the State to evaluate the State's initial modeling assumptions and to narrow the range of uncertainties in the modeling analysis. This would allow the State to validate an appropriate model soon after the post-conversion startup. If this modeling or monitoring were to show that a revised sulfur dioxide emission limit is necessary to protect national standards, the State would be required to submit such a revision and achieve the standards as expeditiously as practicable.

The facts discussed above leave EPA with essentially two options. The Agency could decide to approve the Lovett revision. The primary fact supporting approval is that only post-conversion monitoring can verify the accuracy (or inaccuracy) of the State's complex terrain modeling results. Alternatively, EPA could disapprove the proposed Lovett revision, based on the State's admitted difficulty in substantiating the accuracy of its modeling.

EPA believes that the second of these approaches would be tantamount to presuming the inadquacy of the State's attainment demonstration because of the uncertainties associated with state-of-the-art complex terrain modeling. The Agency is reluctant to presmue inadequacy in this case, given the strenuous, good faith efforts of the State and O&R to provide an adequate demonstration. Given the uncertainties and limitations on the analytical tools available here, the Agency believes this may be a proper case in which to expand its consideration beyond primary reliance on modeling in making regulatory decisions. In addition, it should be noted that the coal conversion would not affect the Lovett facility's ability to revert to burning low sulfur coal. Thus, the plant could easily avoid violations by complying with whatever stricter limitations might be proved necessary by the post-conversion monitoring results. This additional fact supports approval of the revision.

EPA reviewed the Lovett revision for consistency with Section 110(a)(2)(E) of the Clean Air Act. For the reasons discussed in EPA's technical background document, the Agency believes that the revision would neither prevent attainment of the ambient sulfur dioxide standards nor interfere with PSD measures in other States.

Because of the uncertainties presented here, EPA has decided that the proper course is to solicit public comment on the adequacy of the proposed Lovett SIP revision. This notice is issued as required by Section 110(a) of the Clean Air Act, as amended, to advise the public that comments may be submitted on or before [30 days from date of publication] on whether the proposed SIP revision should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed SIP revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 3709; January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because, generally, it only proposes to approve a regulation that currently applies under New York State law.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sec. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Dated: October 25, 1982.

Jacqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 83-6627 Filed 3-14-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
March 15, 1983

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining (OSM) has revised the fee collection regulations establishing a different interest rate to be assessed against delinquent fee payments and requiring that all quarterly fee payments of $100,000 or more per company be made by electronic transfer of funds to the Treasury Financial Communications System.

The previous interest rate of 12% per annum, promulgated by OSM on May 15, 1978, for reclamation fee debts, was established under an exception granted by the Department of the Treasury. That exception has now been revoked, and OSM is required to use the standard rate which varies quarterly and is required to be used by all Federal agencies. Use of the Treasury Financial Communications System for accounts of $100,000 or more will expedite the Government's collection efforts.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Thompson, Chief, Division of Abandoned Mine Land Reclamation, 1951 Constitution Ave., NW., Washington , D.C. (202) 343–7951.

SUPPLEMENTARY INFORMATION:

Background

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (the Act) (30 U.S.C. 1232(b)) provides that a reclamation fee on produced coal shall be paid no later than thirty days after the end of each calendar quarter. Section 412(a) of the Act (30 U.S.C. 1242(a)) authorizes the Secretary of the Interior to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of the Act relating to Abandoned Mine Reclamation (Title IV).

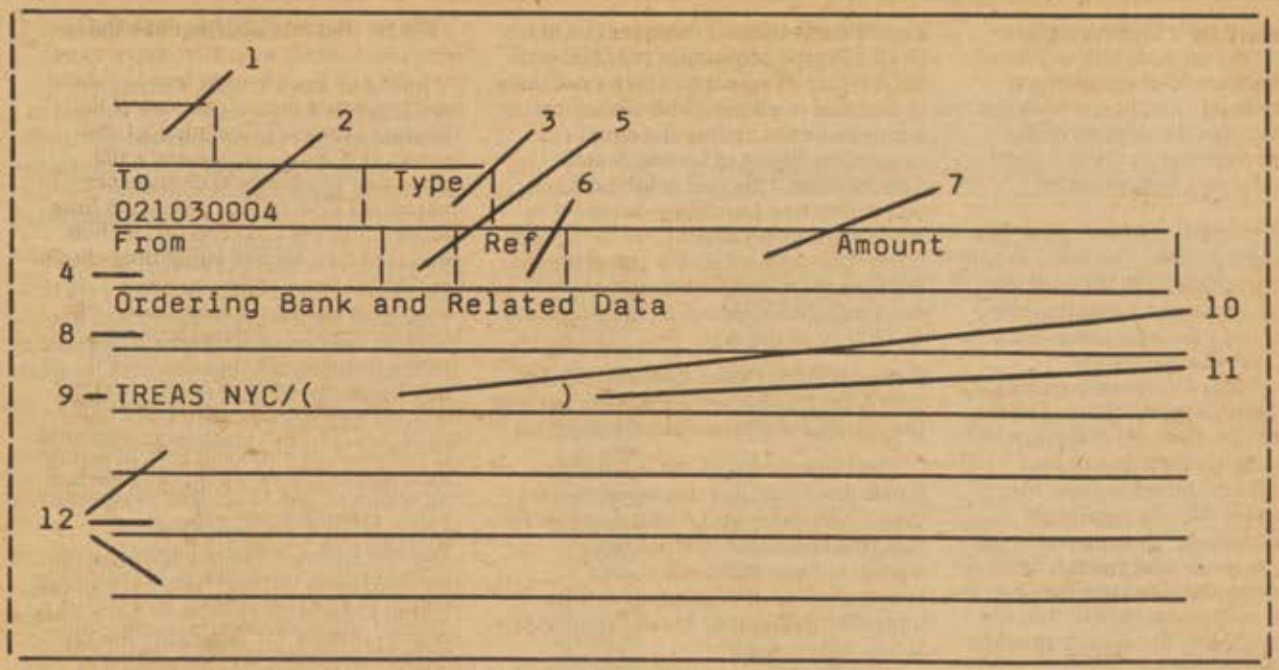
On June 30, 1982 (47 FR 28574), OSM published the latest revised rules to implement Section 402. On October 6, 1982, OSM published a proposed rule concerning the electronic transfer of fee payments and revised interest rates on delinquent fee payments. The previous interest rate of 12% per annum, promulgated by OSM on May 15, 1978, for reclamation fee debts (43 FR 20795), was established under an exception granted by the Department of the Treasury. That exception has now been revoked in the interest of applying a uniform Government-wide system. OSM is required to use the standard rate which varies quarterly. This rule establishes the interest rate on late reclamation fee payments as the same rate used for all Federal claims in applying late charges on late payments due the Federal Government. This interest rate is transmitted to Federal agencies quarterly as required under the Treasury Fiscal Requirements Manual (TFRM 6–8020.20). This percentage rate (a per annum figure) is based on the current value of funds to the Treasury and is transmitted to all Federal agencies via TFRM bulletins prior to the first day of each calendar quarter. For example, the percentage rate to be applied during the period of July 1 through September 30, 1981, was 16.19% (TFRM Bulletin No. 81–09) while the rate for this same period during 1982 was 14.26% (TFRM Bulletin No. 82–16).

Unless the Department of the Treasury grants an exception, this interest rate must be applied to all debts owed to Federal agencies (I TFRM 6–8020.20).

The revised rule also requires those companies which owe $100,000 or more for quarterly reclamation fees to submit such payments through the use of the Treasury Financial Communications System (TFCS). Approximately 100 companies pay $100,000 or more per quarter to OSM. In fact, payments from these companies total $35–$40 million per quarter. Instead of submitting checks to OSM for these amounts, these companies must have their banks wire funds through the Federal Reserve System to the account of the United States Treasury at the Federal Reserve Bank of New York (FRBNY). Through use of the TFCS for these large accounts, the Department will be able to expedite and streamline its fee collection efforts.

The Treasury Financial Communications System is the computer-to-computer link between the U.S. Department of the Treasury and the Federal Reserve Bank of New York. This system provides the capability for: (1) Automated receipt and processing of funds transfer and (2) computer-assisted generation of funds transfer between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TFCS also integrates such traffic into Treasury's Government-wide Accounting System which accounts for all Federal receipts and outlays. Treasury maintains an account at FRBNY. As a result, banks that maintain an account at a Federal Reserve bank may send funds transfers to Treasury through the FRCS for credit to the Account of the U.S. Treasury at FRBNY. Funds transfers between Treasury and banks that do not maintain an account at a Federal Reserve bank are processed through correspondent banks that do maintain an account at a Federal Reserve bank.

Following are the TFCS funds transfer message format and specific instructions from the Treasury Fiscal Requirements Manual for fund transfer messages to be used in paying reclamation fees:



Funds Transfer Message Format

Item 1—PRIORITY CODE—The priority code will be provided by the sending bank. (Note: Some Federal Reserve district banks may not require this item.)

Item 2—TREASURY DEPARTMENT CODE—The nine-digit identifier "021030004" is the routing symbol of the Treasury. This item is a constant and is required for all funds transfer messages sent to Treasury.

Item 3—TYPE CODE—The code will be provided by the sending bank.

Item 4—SENDING BANK CODE—This nine-digit identifier will be provided by the sending bank.

Item 5—CLASS CODE—The class code may be provided by the sending bank at its option (if permitted by its Federal Reserve district bank).

Item 6—REFERENCE NUMBER—The reference number may be inserted by the sending bank to identify the transaction.

Item 7—AMOUNT—The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.

Item 8—SENDING BANK NAME—The telegraphic abbreviation which corresponds to item 4 will be provided by the sending bank.

Item 9—TREASURY DEPARTMENT NAME—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, nonvariable sequence of 11 characters defined as follows:

Character #(s)	Character(s)	Definition
1-5	TREAS	First part of Treasury Department telegraphic abbreviation.
6		Space (leave blank).
7-9	NYC	Second part of Treasury Department telegraphic abbreviation.
10	/	Slash.
11	(	Left parenthesis.

The 11 characters must be left-justified on line 5 of the funds transfer message and must appear as follows: TREAS NYC/(

Item 10—AGENCY LOCATION CODE—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The agency location code refers to three-, four-, or eight-digit numeric symbols used to identify Government departments and agencies (e.g., accounting stations, disbursing and collecting offices). OSM's unique code must be specified in the funds transfer message in order for the funds to be correctly classified to the agency. The code must immediately follow the left parenthesis of item 9, must contain no spaces, dashes, or other extra characters, and must be immediately followed by a right parenthesis. This item would appear on line 5 of the funds transfer message in conjunction with item 9 as shown below:

TREAS NYC/(14180001)

Item 11—AGENCY NAME—OSM

Item 12—THIRD PARTY INFORMATION—Information to identify the reason for the funds transfer should be provided here. "Reclamation FEES 83/1" is an example, meaning reclamation fees for the first quarter of 1983.

These instructions will be mailed to coal-producing companies, along with Forms OSM-1's and OSM-1(a)'s, which are forms used to report quarterly coal production to OSM. Submission of OSM-1's and OSM-1(a)'s will remain the same, except that companies required to use wire transfer should indicate on the reporting form(s) that fees have been submitted via wire transfer.

These rules changes—the new interest rate and the requirement for electronic transfer of payments totalling $100,000 or more per quarter per company—become effective for all reclamation fees due or overdue on April 1, 1983.

Disposition of Comments

Comments from representatives of industry and various organizations were received and considered in the rulemaking process. All substantive comments received are addressed in the following preamble.

All comments received are available for inspection in the Administrative Record, Room 5315, 1100 L St., N.W., Washington, D.C.

One commenter objected to the proposed rule because it allegedly goes beyond the intent of Congress. This commenter states that the proper interpretation of the "payment by" language in Subsection 402(b) of the Act

is "post marked by". This commenter believes that unless a statute requires receipt of documents or money by a certain date, legal compliance with the date only requires the deposit of the document or payment in the U.S. mail, properly addressed with postage prepaid.

OSM's response is that Congress has specifically granted the Secretary broad discretionary authority to do all things necessary or expedient, including the promulgation of rules and regulations, to implement and administer the provisions of Title IV. Since payment is due by the 30th day after the end of the calendar quarter, this rule is merely designed to more efficiently collect monies owed the United States. The operator has no specific legal right under SMCRA to define the manner of payment. The mode and manner of payment is an administrative decision and as such properly comes within the authority granted to the Secretary under Section 412(a) of the Act.

Another commenter pointed out that since the AML fund earns no interest, the Government has no legitmate need for receiving the money quicker, and it is better to let the operator enjoy the use of his monies for the four or five extra days. OSM's response is that the present rule results from an effort to improve the management process and administrative system of the Federal Government. As part of this reform effort initiated by the President, agencies were asked to improve their cash management procedures including the acceleration of collection procedures and the electronic transfer of funds. This rule is in furtherance of this objective and is reasonably designed to collect the debt owed the Government as efficiently as possible. Accordingly, no change has been made to the rule.

One commenter noted that the proposed rule would establish a selective rate structure which favors those who produce at a lessor volume. As an alternative this commenter suggested that equal treatment be given to all affected companies regardless of the amount of payment. OSM's response is that this is a reasonable classification which does not violate the equal protection clause of United States Constitution. This rule establishes an administrative procedure designed to more efficiently collect large fees owed to the Government and is therefore in furtherance of the trust fund responsibilities placed on the Secretary in Title IV of the Act.

Determination Under Executive Order 12291, the Regulatory Flexibility Act and the National Environmental Policy Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

OSM has been granted a categorical exclusion from the procedures of the National Environmental Policy Act for the subject of reclamation fees imposed by Pub. L. 95-87 (46 FR 7487 January 23, 1981).

The information collection requirements contained in §§ 870.15 (c) and (d) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029-0063.

List of Subjects in 30 CFR Part 870

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: **February 18, 1983.**

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

30 CFR 870.15 (c) and (d) are revised to read as follow:

§ 870.15 Reclamation Fee Payment

* * * * *

(c) As of April 1, 1983, delinquent reclamation fee payments are subject to interest at the rate established quarterly by the U.S. Department of the Treasury for use in applying late charges on late payments to the Federal Government, pursuant to I Treasury Fiscal Requirements Manual 6-8020.20. The Treasury current value of funds rate is published by the Fiscal Service in the Notices section of the **Federal Register.** Interest shall begin to accure on the 31st day following the end of the calendar quarter and will run until the date of payment or until judgment is rendered by a court of competent jurisdiction in an action at law to compel payment of debts. OSM will bill delinquent operators on a monthly basis and initiate whatever action is necessary to secure full payment of all fees and interest. All operators, including those with zero production, will receive Form OSM-1 or Form OSM-1(a) must submit a completed form, as well as any fee payment due.

(d) An operator who owes total quarterly reclamation fees of $100,000 or more for one or more mines must use the Treasury Financial Communications System, forward its payments by electronic transfer, and use OSM's approved form(s) to report production to the Denver address below. An operator who owes less than $100,000 quarterly reclamation fees for one or more mines may forward payments by electric transfer, or must submit a check or money order payable to Office of Surface Mining, in the same envelope with OSM's approved form(s) to: Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, P.O. Box 25065—DFC, Denver, Colorado 80225.

* * * * *

[FR Doc. 83-6676 Filed 3-14-83; 8:45 am]

BILLING CODE 4310-05-M

Reader Aids

Federal Register

Vol. 48, No. 51

Tuesday, March 15, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MARCH

8425-8802	1
8803-8964	2
8965-9208	3
9209-9502	4
9503-9632	7
9633-9828	8
9829-10034	9
10035-10290	10
10291-10604	11
10605-10800	14
10801-11100	15

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

February 2, 1925 (Revoked by PLO 6356)	9282
5024	9831
5025	9833
5026	9835
5027	9837
5028	9839
5029	10035
5030	10605

Executive Orders:

June 8, 1926 (Revoked in part by PLO 6360)	9010
July 25, 1941 (Revoked in part by PLO 6353)	9007
March 27, 1943 (Revoked in part by PLO 6353)	9007
April 7, 1944 (Revoked in part by PLO 6353)	9007
September 14, 1945 (Revoked in part by PLO 6353)	9007
July 3, 1946 (Revoked in part by PLO 6353)	9007
12409	9829

5 CFR

900	9209, 10801
1201	8425

Proposed Rules:

960	9278

7 CFR

29	10291
51	10801
52	8985
58	10607
210	10291
272	9212
273	9212
274	9212
729	9214
770	9232
905	10804
906	8985
907	8987, 10037, 10609
910	8803, 9235, 10292
932	9633
967	10805
984	10806
1030	9636
1065	10610
1136	8425
1701	8426, 10807
1809	10293
1944	8987
1945	10293
1951	10293

Proposed Rules:

227	10848
319	10286
810	9280, 9282
944	9657
1013	10848
1033	10371
1106	9658
1910	9016
1944	9016

8 CFR

214	10296
235	9503
238	8988, 10611

Proposed Rules:

103	8820
109	8820

9 CFR

97	8803, 10808
112	9505
113	9505
201	8804

Proposed Rules:

317	9284
318	9284, 10065
319	9284
381	8820

10 CFR

430	9202

Proposed Rules:

140	9284

11 CFR

110	8809
114	9236

12 CFR

1	8427
5	8428
8	9637
29	9506
303	9841
308	9514
509a	9842
543	10612
544	8429
552	8431, 10612
561	8431
563	8429, 8431
563b	8429
615	10037

Proposed Rules:

3	9659
6	9659
7	9659, 10068

32 9659
204 10796
207 8466
221 8470
304 10371
307 10371
308 10371
333 10371
337 10371
339 10371
344 10371
563 ..... 8475, 8480, 9870, 10684
563c 10684
563g 10684
571 8480

13 CFR

101 9638

Proposed Rules:

108 9530
121 9529

14 CFR

21 8988
39 ..... 8989, 8990, 9515, 9516, 10623–10626
71 ..... 8991, 8992, 9517, 10038, 10039, 10627
75 10040
97 9518
204 10297
385 10628
389 ..... 8434, 10628
1215 9845

Proposed Rules:

39 10692
71 ..... 9022, 9531, 9532, 10072, 10693
73 9023
205 10073
294 10073
298 10073
320 8824

15 CFR

Ch. V 9849
325 10596
806 8993

Proposed Rules:

920 8484
921 8484
923 8484
928 8484
930 8484
931 8484
932 8484
933 8484
939 9286

16 CFR

13 ..... 8995, 8997, 9638, 10809, 10810
436 10040

Proposed Rules:

3 9289
4 9289
13 9023
33 00000
429 ..... 9032, 9033
1145 9034

17 CFR

1 ..... 8434, 8435
145 9849
190 8716
210 9520
211 10043
230 10297
231 10045
239 10297
240 10628
274 10297
279 9521

Proposed Rules:

33 10857
229 9536
230 9536
239 9536
240 9536
249 9536
270 ..... 8485, 9532

18 CFR

34 9849
154 9242
250 9851
270 9242
271 ..... 8437, 8438
273 9242
282 8999
284 9242
340 9242
711 10250
713 10250
714 10250
716 10250
1304 9638

Proposed Rules:

271 ..... 9290–9298, 9659–9663
1311 9496

19 CFR

19 9853
201 9242
210 9242
211 9242

Proposed Rules:

4 11032
6 11032
7 11032
10 11032
11 11032
12 11032
18 11032
19 11032
22 11032
24 ..... 10077, 11032
54 11032
101 11032
112 11032
113 ..... 10077, 11032
114 11032
123 11032
125 11032
127 11032
132 11032
133 11032
134 11032
141 11032
142 11032
144 11032
145 11032
146 11032
147 11032
148 11032
151 11032
162 11032
172 11032
174 11032

20 CFR

626 11076
627 11076
628 11076
629 11076
630 11076
631 11076
632 11076
633 11076
634 11076
635 11076
636 11076
637 11076
638 11076

Proposed Rules:

404 10694
635 9444

21 CFR

5 ..... 8439, 8442, 9639
74 10811
81 ..... 8443, 10811
82 10811
100 10811
101 10811
109 10811
133 9245
145 10812
155 10812
172 ..... 10811, 10814
176 9245
178 ..... 8444, 9245
182 10301
184 10301
520 ..... 9246, 10301
522 10302
529 9639
555 10302
558 ..... 9640, 10815
1308 ..... 10642, 10644

Proposed Rules:

133 ..... 8492, 9299
170 9299
172 ..... 9299, 10373
181 9299
182 10373
184 ..... 9300, 10373
348 10373
357 9300
500 10373
573 9299
1030 10373

22 CFR

41 10055
201 10056

23 CFR

Ch. I 10057
140 9000

24 CFR

10 10057
15 10057
50 10058
115 10058
200 10058
201 10058
235 10058
300 10059
570 10059
880 10058
881 10058
888 10058
890 10058
3280 10058

Proposed Rules:

203 9300
205 10858
207 10858
213 10858
221 10858
232 10858
241 10858
242 10858
244 10858

26 CFR

1 ..... 10302, 10645
15b 10816
51 10645
301 10060

Proposed Rules:

1 ..... 9871, 9886, 10374, 10376, 10702, 10860–10868
48 10718
51 10376
301 9306

27 CFR

4 10309
5 10309
7 10309

28 CFR

0 9522–9524
2 9247

29 CFR

1601 10645
1910 ..... 9641, 9738
2619 10819

Proposed Rules:

1928 8493

30 CFR

200 8982
211 8982
221 8982
226 8982
231 8982
270 8982
271 8982
290 8982
715 9788
780 9788
785 9478
816 ..... 9486, 9788
817 ..... 9486, 9788
843 9199
850 9486
870 ..... 10820, 11098
914 9248
916 8445
944 9524
948 8447

Proposed Rules:

37 9475
55 10593
56 10593
57 10593
886 9307
906 9541
928 10876
931 9541
933 8954
938 9541
944 10719

948.....9308
950.....9541

31 CFR

354.....9854

32 CFR

1.....9146
2.....9146
3.....9146
4.....9146
5.....9146
6.....9146
7.....9146
8.....9146
9.....9146
10.....9146
11.....9146
12.....9146
13.....9146
14.....9146
15.....9146
16.....9146
17.....9146
18.....9146
19.....9146
20.....9146
21.....9146
22.....9146
23.....9146
24.....9146
25.....9146
26.....9146
27.....9146
28.....9146
29.....9146
30.....9146
31.....9146
32.....9146
33.....9146
34.....9146
35.....9146
36.....9146
37.....9146
38.....9146
39.....9146
70.....9855
199.....10309
218.....10645
706.....9856, 9857
770.....9858
803.....10061
2400.....10820

33 CFR

100.....9002
165.....9003
207.....10061

Proposed Rules:

100.....9542, 10080
401.....9037

34 CFR

Proposed Rules:

263.....10280

35 CFR

103.....9003, 9253
113.....9003
119.....9003
123.....9003

36 CFR

Proposed Rules:

14.....9665

38 CFR

Proposed Rules:

21.....9309

39 CFR

111.....10649

Proposed Rules:

10.....9543

40 CFR

30.....9642
52.....8810, 8811, 9256, 9257, 9642, 9859, 9860, 10062 10650, 10828–10834
62.....10316, 10651
81.....9259, 9526, 10834, 10836
180.....8812, 8813, 9004, 9643, 9862, 9863

Proposed Rules:

52.....9665, 10081, 11092
81.....8497
86.....9666
122.....8825
123.....8825, 9667, 10721
180.....9886–9888
261.....10677
264.....8825
300.....9311
469.....10012

41 CFR

Ch. 101.....9822
1–3.....9005
1–7.....9005
1–15.....9005
15–1.....8814
101–41.....10316

Proposed Rules:

101–11.....8498

42 CFR

32.....10317
51b.....10318
65.....10318
405.....8902

Proposed Rules:

85.....10377
85a.....10377
431.....10378
433.....9038
435.....10378
440.....10378
441.....10378
447.....10378

43 CFR

3800.....8814
4700.....9260

Public Land Orders:

1967 (Revoked by PLO 6354).....9008
6353.....9007
6354.....9008
6355.....9008
6356.....9262
6357.....9008
6358.....9009
6359.....9009
6360.....9010
6361.....9643
6362.....9864
6363.....10319
6364.....10652

Proposed Rules:

2.....10382
2560.....9047
3460.....8501
3710.....8825
3720.....8825
3730.....8825
3740.....8825
3800.....8825
3810.....8825
3820.....8825
3830.....8825
3840.....8825
3850.....8825
3860.....8825
3870.....8825

44 CFR

2.....10836
64.....8451, 9263, 9527, 10842
65.....9264, 10652, 10654
67.....9644, 10655
70.....9265, 10675–10682
360.....9646

Proposed Rules:

67.....10877

45 CFR

46.....9266, 9814
84.....9630
96.....9270
1397.....8453

Proposed Rules:

77.....9668
1321.....8964
1328.....8964

46 CFR

536.....9646

Proposed Rules:

542.....9543
543.....9543
544.....9543

47 CFR

0.....9271
1.....8455, 9271
22.....9274
31.....10843
43.....10843
69.....10319
73.....8456, 9010, 9864, 10844
74.....9010
81.....9275, 10845
83.....8460, 9275, 10845
90.....8455, 9271
95.....8455

Proposed Rules:

2.....9890
15.....9889
22.....9048
25.....10024
73.....8503–8513, 9049, 10082, 10887–10895
76.....10082
81.....9890
83.....9890

49 CFR

Ch. X.....9012, 9648, 10846
171.....10218
172.....10218
173.....10063, 10218
174.....10218
175.....10218
176.....10218
177.....10218
178.....10218
195.....9013
387.....9014
1033.....8816
1039.....9276, 9648
1135.....9528
1151.....9649
1190.....10369
1191.....10369
1192.....10369
1201.....9015
1207.....9015
1241.....9015
1300.....9648
1301.....9648
1307.....10063
1331.....9867

Proposed Rules:

Ch. X.....9672
192.....10092, 10721
571.....10096, 10097

50 CFR

611.....9655, 10846
656.....9655
663.....8819
671.....10846
675.....10846

Proposed Rules:

13.....9544
17.....8514, 8814, 9544, 9893, 10896
20.....10101
21.....9544
23.....9545
285.....9547
611.....10383
630.....8826
658.....10104

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
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing March 11, 1983



Just Released

Code of Federal Regulations

Revised as of October 1, 1982

Quantity	Volume	Price	Amount
_____	Title 46—Shipping (Parts 1 to 29)	$6.00	$_____
_____	Title 46—Shipping (Parts 30 to 40)	5.50	_____
_____	Title 46—Shipping (Parts 200 to 399)	8.50	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1982 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		