

2-1-83
Vol. 48 No. 22
Pages 4447-4646

Registered Federal

OK
442-605
G.S.A.
8

Tuesday
February 1, 1983

Selected Subjects

Animal Drugs
Food and Drug Administration

Banks, Banking
Federal Reserve System

Color Additives
Food and Drug Administration

Consumer Protection
Civil Aeronautics Board

Cotton
Agricultural Marketing Service

Food Ingredients
Food and Drug Administration

Government Procurement
General Services Administration

Grant Programs—Health
Centers for Disease Control
Public Health Service

Loan Programs—Communications
Rural Electrification Administration

Marketing Agreements
Agricultural Marketing Service

Military Law
Navy Department

Natural Gas
Federal Energy Regulatory Commission

Pensions
Pension Benefit Guaranty Corporation

CONTINUED INSIDE



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

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

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

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

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

Selected Subjects

Polychlorinated Biphenyls

Environmental Protection Agency

Quarantines

Animal and Plant Health Inspection Service

Watersheds

Soil Conservation Service

Contents

Federal Register

Vol. 48, No. 22

Tuesday, February 1, 1983

- ACTION**
NOTICES
Meetings:
4494 National Voluntary Service Advisory Council
- Agricultural Marketing Service**
RULES
4448 Oranges, grapefruit, tangerines, and tangelos grown in Fla.
PROPOSED RULES
Cotton:
4477 Testing and standards; standards storage, geographical limitations deletion
NOTICES
4494 Wool and mohair advertising and promotion; results of referendum among producers
- Agricultural Stabilization and Conservation Service**
NOTICES
4494 Wool and mohair advertising and promotion; results of referendum among producers
- Agriculture Department**
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Federal Grain Inspection Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.
- Animal and Plant Health Inspection Service**
RULES
4447 Plant quarantine, domestic:
Witchweed; suppressive areas, list; interim rule affirmed
- Arts and Humanities, National Foundation**
NOTICES
Meetings:
4588 President's Committee on Arts and Humanities
- Centers for Disease Control**
RULES
Grants:
4472 Preventive health service programs
- Civil Aeronautics Board**
PROPOSED RULES
4479 Oversales; tariff filing requirements for foreign air transportation, etc.
- Commerce Department**
See International Trade Administration.
- Comptroller of Currency**
PROPOSED RULES
National banks:
4479 Lending limits; extension of time
- Consumer Product Safety Commission**
NOTICES
4595 Meetings; Sunshine Act (3 documents)
- Defense Department**
See also Navy Department.
NOTICES
Meetings:
4522 Electron Devices Advisory Group
- Economic Regulatory Administration**
NOTICES
Consent orders:
4524 Amerada Hess Corp.
4525 Petrolane-Lomita Gasoline Co./Petrolane Inc.
4526 Tauber Oil Co.
Remedial orders:
4526 Resources Extraction & Processing Co.
- Employment and Trading Administration**
NOTICES
Adjustment assistance:
4571 General Motors Corp. et al.
- Energy Department**
See also Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission.
NOTICES
4522 Environmental statements; availability, etc.:
Niagara Falls Storage Site, N.Y.; long-term management of existing radioactive wastes and residues
- Energy Research Office**
NOTICES
Meetings:
4526, 4527 Energy Research Advisory Board (2 documents)
- Environmental Protection Agency**
RULES
4467 Toxic substances:
Polychlorinated biphenyls (PCBs); manufacturing, processing, distribution in commerce, and disposal of electrical equipment; correction
- Federal Communications Commission**
NOTICES
4595 Meetings; Sunshine Act
- Federal Energy Regulatory Commission**
RULES
4458 Electric utilities (Federal Power Act):
Water power projects; license applications for major unconstructed and modified projects, transmission lines, and license amendments; correction
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
Louisiana

- 4459 New Mexico
4461 Oklahoma
- PROPOSED RULES**
Natural Gas Policy Act;
4483 High-cost gas produced from tight formations; recompletion tight formation gas
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
4480, Colorado (2 documents)
4482
- NOTICES**
Hearings, etc.:
4547 American Electric Power Service Corp.
4547 Carolina Power & Light Co.
4547 Pacific Power & Light Co.
4547 Pacific Power & Light Co. et al.
4549 Tampa Electric Co.
4549 Texas Eastern Transmission Corp.
4550 Wholesale Customers of Ohio Edison et al.
4549 Wisconsin Electric Power Co.
Natural Gas Policy Act;
4528, Jurisdictional agency determinations (2 documents)
4537
- Federal Grain Inspection Service**
NOTICES
Agency designation actions:
4495 Illinois
4495 Indiana and Illinois
4496 Iowa
4496 Iowa and Illinois
- Federal Home Loan Bank Board**
NOTICES
Applications, etc.:
4550 River City Federal Savings & Loan Association
4550 Stockton Savings & Loan Association
4596 Meetings; Sunshine Act
- Federal Maritime Commission**
NOTICES
4551 Agreements filed, etc.
Freight forwarder licenses:
4551 Beacon International Despatch Inc.
4551 CBC International, Inc., et al.
4596 Meetings; Sunshine Act
- Federal Procurement Policy Office**
NOTICES
4589 Commercial activities, performance (Circular A-76)
- Federal Reserve System**
RULES
Authority delegations:
4458 Consumer and Community Affairs Division, Director; preemption determinations
Interest on deposits (Regulation Q):
4453 Early withdrawal penalty; temporary suspensions; Louisiana
Truth in Lending (Regulation Z):
4454 Effect on State laws; Arizona, Florida, Missouri, and South Carolina; preemption determinations
NOTICES
4551 Agency forms submitted to OMB for review
Applications, etc.:
4552 First Bancorporation of Geraldine, Inc., et al.
4553 Texas Commerce Bancshares, Inc., et al.
- 4553 United Banks of Wisconsin, Inc.
Bank holding companies; proposed de novo nonbank activities:
4552 Ohio Valley Bancorp, Inc., et al.
4596 Meetings; Sunshine Act
- Fiscal Service**
NOTICES
Surety companies acceptable on Federal bonds:
4591 Equitable General Insurance Co.
4591 Travelers Indemnity Co. of Illinois
- Food and Drug Administration**
RULES
Animal drugs, feeds, and related products:
4463 Bayvet Division of Miles Laboratories, Inc.; sponsor name change
4463 Franklin Laboratories et al.; sponsor changes
4464 Lincomycin
Color additives:
4463 D&C Red No. 21 and D&C Red No. 22; use in drugs and cosmetics; permanent listing; effective date confirmed
PROPOSED RULES
Animal drugs, feeds, and related products:
4490 Penicillin and tetracycline (Chlortetracycline and oxytetracycline) containing premixes
GRAS or prior-sanctioned ingredients:
4486 Stearic acid and calcium stearate
NOTICES
Animal drugs, feeds, and related products:
4554 Penicillin and tetracycline (Chlortetracycline and oxytetracycline); petitions denied
Food additives, petitions filed or withdrawn:
4553 Lonza, Inc.; correction
Human drugs:
4554 Anticholinergic drugs containing tridihexethylchloride; pathilon sequels and pathilon with phenobarbital tablets; drug efficacy study implementation; approval withdrawn
Meetings:
4553 Consumer information exchange
- Forest Service**
NOTICES
Environmental statements; availability, etc.:
4497 Gifford Pinchot National Forest, Wash.; Mount St. Helens National Volcanic Monument; comprehensive management plan
- General Services Administration**
RULES
Procurement (GSA):
4468 Negotiation; structured approach profit/fee objective
- Health and Human Services Department**
See Centers for Disease Control; Food and Drug Administration; National Institutes of Health; Public Health Service; Social Security Administration.
- Housing and Urban Development Department**
NOTICES
4557 Agency forms submitted to OMB for review

Immigration and Naturalization Service**RULES**
Aliens:

- 4451 Orphan visa petitions, advance processing; classification as immediate relative of U.S. citizen or preference immigrant

Indian Affairs Bureau**NOTICES**

- 4558 Agency forms submitted to OMB for review

Interior Department

See also Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service.

NOTICES

- 4561 Water project cost sharing; inquiry

Internal Revenue Service**NOTICES**

- 4592 Individual retirement accounts (IRAs) and retirement plans for self-employed individuals (Keogh Plans); proposed class exemption for certain transactions involving participants

International Trade Administration**NOTICES**

- Antidumping:
4498 High-capacity pagers from Japan
Countervailing duties:
4501 Cotton sheeting and sateen from Peru
4508 Cotton yarn from Peru
4516 Prestressed concrete steel wire strand from Brazil

International Trade Commission**NOTICES**

- 4596, Meetings; Sunshine Act (2 documents)
4597

Interstate Commerce Commission**PROPOSED RULES****Rail carriers:**

- 4493 Freight ownership, car utilization, and distribution rules and practices; investigation of adequacy; extension of time

NOTICES**Motor carriers:**

- 4570 Bradley Freight Lines, Inc.; merger exemption
4562 Finance applications
4563, Permanent authority applications (2 documents)
4567

Rail carriers; contract tariff exemptions:

- 4570 Atchison, Topeka & Santa Fe Railway Co. et al.
Railroad freight rates and charges:

- 4562 Uniform railroad costing system (URCS); variable costs determinations in computing surcharges and jurisdictional threshold calculations; availability of decision

Justice Department

See Immigration and Naturalization Service.

Labor Department

See Employment and Training Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau**NOTICES****Classification of public lands:**

- 4559 Montana
Coal leases, exploration licenses, etc.:
4558 Utah
Exchange of public lands for private land:
4559 Wyoming
Meetings:
4560 Las Vegas District Grazing Advisory Board
Sale of public lands:
4559 California

Management and Budget Office

See Federal Procurement Policy Office.

Mine Safety and Health Administration**NOTICES****Petitions for mandatory safety standard modifications:**

- 4574 Consolidation Coal Co.
4574 Imperial Colliery Co.
4575 Milburn Colliery Co.
4575 Morgan Mining Co., Inc.
4575, Rio Algom Corp. (2 documents)
4576
4576 Petitions for mandatory safety standard modification; summary of affirmative decisions

Minerals Management Service**NOTICES**

- Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
4560 Louisiana

National Aeronautics and Space Administration**NOTICES****Meetings:**

- 4587, Advisory Council (2 documents)
4588

National Institutes of Health**NOTICES****Meetings:**

- 4556 Animal Resources Review Committee
4556 Cellular and Molecular Basis of Disease, Minority Access to Research Careers, and Pharmacological Sciences Review Committees
4556 Population Research Committee

National Park Service**NOTICES****Historic Places National Register; pending nominations:**

- 4560 California et al.
Meetings:
4561 Delta Region Preservation Commission

National Transportation Safety Board**NOTICES**

- 4597 Meetings; Sunshine Act

Navy Department**RULES****Personnel:**

- 4464 Manual of Judge Advocate General, changes; delivery of personnel, service of process, and official records production

Nuclear Regulatory Commission**NOTICES**

Applications, etc.:

- 4588 Arizona Public Service Co. et al.
4589 Public Service Co. of Colorado

Meetings:

- 4588 Nuclear Reactor Licensing Reform Proposals
Review Ad Hoc Committee

Petitions filed:

- 4589 Detroit Edison Co.

Oceans and Atmosphere, National Advisory Committee**NOTICES**

- 4587 Meetings

Pension and Welfare Benefit Programs Office**NOTICES**

Employee benefit plans; class exemptions:

- 4592 Individual retirement accounts (IRAs) and retirement plans for self-employed individuals (Keogh Plans); certain transactions involving participants

Employee benefit plans; prohibited transaction exemptions

- 4578 Alaska Teamsters Employer Pension Trust et al.

Pension Benefit Guaranty Corporation**PROPOSED RULES**

Multiemployer plans:

- 4632 Supplemental guarantee program

Public Health Service**PROPOSED RULES**

Grants:

- 4492 Advanced nurse training programs

NOTICES

National toxicology program:

- 4557 Cancer bioassay reports; allyl isothiocyanate

Rural Electrification Administration**RULES**

Telephone borrowers:

- 4450 Aerial and underground telephone cable, PE-22 (Bulletin 345-13)
4450 Parallel conductor drop wire, PE-7 (Bulletin 345-36)

PROPOSED RULES

Telephone borrowers:

- 4478 Filled barbed wire, PE-54 (Bulletin 345-70); withdrawn

Securities and Exchange Commission**NOTICES**

Hearings, etc.:

- 4590 Consolidated Gas Supply Corp. et al.
4590 Mississippi Power & Light Co.
4597 Meetings; Sunshine Act

Social Security Administration**NOTICES**

Organization, functions, and authority delegations:

- 4557 Press Office et al.

Soil Conservation Service**RULES**

Water resources:

- 4447 Emergency watershed protection program; policies and procedures; editorial changes

NOTICES

Environmental statements; availability, etc.:

- 4498 Mars Hill-Grove Street Critical Area Treatment RC&D Measure, Maine

Treasury Department

See Comptroller of Currency; Fiscal Service; Internal Revenue Service.

Veterans Administration**NOTICES**

- 4593 Health-Related Effects of Herbicides Advisory Committee; annual report availability

Separate Parts in This Issue**Part II**

- 4632 Pension Benefit Guaranty Corporation

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.

7 CFR

301.....	4447
624.....	4447
905.....	4448
1701 (2 documents).....	4450

Proposed Rules:

28.....	4477
1701.....	4478

8 CFR

103.....	4451
204.....	4451

12 CFR

217.....	4453
226.....	4454
265.....	4458

Proposed Rules:

3.....	4479
6.....	4479
7.....	4479
32.....	4479

14 CFR**Proposed Rules:**

250.....	4479
----------	------

18 CFR

4.....	4458
271 (3 documents).....	4459,
	4461

Proposed Rules:

271 (3 documents).....	4480-
	4483
274.....	4483

21 CFR

74.....	4463
81.....	4463
82.....	4463
510 (2 documents).....	4463
520.....	4463
558.....	4464

Proposed Rules:

182.....	4486
184.....	4486
558.....	4490

29 CFR

2690.....	4632
2691.....	4632
2692.....	4632
2693.....	4632
2694.....	4632
2695.....	4632

32 CFR

720.....	4464
----------	------

40 CFR

761.....	4467
----------	------

41 CFR

5-3.....	4468
----------	------

42 CFR

51b.....	4472
----------	------

Proposed Rules:

57.....	4492
---------	------

49 CFR**Proposed Rules:**

1033.....	4493
-----------	------

1. The purpose of these rules is to ensure the safety and well-being of all participants in the program.

2. All participants must adhere to the following guidelines:

- 2.1. Participants must arrive on time for all sessions.
- 2.2. Participants must maintain a respectful and professional demeanor at all times.
- 2.3. Participants are prohibited from using mobile devices during sessions.
- 2.4. Participants must follow all instructions from the program staff.
- 2.5. Participants are responsible for their own safety and the safety of others.
- 2.6. Participants must not engage in any form of harassment or discrimination.
- 2.7. Participants must not consume alcohol or use drugs while participating in the program.
- 2.8. Participants must not bring weapons or dangerous items to the program.
- 2.9. Participants must not leave the program premises without permission.
- 2.10. Participants must not disclose confidential information to anyone outside the program.

3. Violations of these rules may result in the following consequences:

- 3.1. First violation: A verbal warning.
- 3.2. Second violation: A written warning.
- 3.3. Third violation: Suspension from the program.
- 3.4. Fourth violation: Permanent removal from the program.

4. These rules are subject to change without notice.

5. The program staff reserves the right to modify these rules as needed.

6. All participants must agree to these rules before participating in the program.

7. The program staff will enforce these rules strictly.

8. The program staff will provide support and assistance to participants who may be struggling with these rules.

9. The program staff will ensure that all participants understand these rules.

10. The program staff will ensure that all participants are aware of the consequences of violating these rules.

11. The program staff will ensure that all participants are treated fairly and equitably.

12. The program staff will ensure that all participants are given the opportunity to be heard.

13. The program staff will ensure that all participants are given the opportunity to appeal any disciplinary action.

14. The program staff will ensure that all participants are given the opportunity to participate in the program.

15. The program staff will ensure that all participants are given the opportunity to learn and grow.

16. The program staff will ensure that all participants are given the opportunity to make a positive impact on the community.

17. The program staff will ensure that all participants are given the opportunity to develop their skills and abilities.

18. The program staff will ensure that all participants are given the opportunity to build self-esteem and confidence.

19. The program staff will ensure that all participants are given the opportunity to form positive relationships with others.

20. The program staff will ensure that all participants are given the opportunity to experience success.

21. The program staff will ensure that all participants are given the opportunity to achieve their goals.

22. The program staff will ensure that all participants are given the opportunity to live a fulfilling life.

23. The program staff will ensure that all participants are given the opportunity to make a difference in the world.

24. The program staff will ensure that all participants are given the opportunity to be part of something meaningful.

25. The program staff will ensure that all participants are given the opportunity to be the best version of themselves.

26. The program staff will ensure that all participants are given the opportunity to reach their full potential.

27. The program staff will ensure that all participants are given the opportunity to live their lives to the fullest.

28. The program staff will ensure that all participants are given the opportunity to experience joy and happiness.

29. The program staff will ensure that all participants are given the opportunity to find purpose and meaning in their lives.

30. The program staff will ensure that all participants are given the opportunity to live a life of service to others.

Rules and Regulations

Federal Register

Vol. 48, No. 22

Tuesday, February 1, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-354]

Witchweed Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of suppressive areas under the witchweed quarantine and regulations by adding areas in 5 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas; by deleting areas in 18 counties in North Carolina and South Carolina from the list of suppressive areas; and by deleting 1 entire county in South Carolina from the list of suppressive areas. This action is necessary to prevent the artificial spread of witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 122291

The amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the amendment will

have an annual effect on the economy of approximately \$500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small businesses and should not have a significant economic impact on any small organizations or small governmental jurisdictions. This action affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. Based on information compiled by the Department, it has been determined that there are approximately 290,000 small entities that move regulated articles interstate from such States and many hundreds of thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 20 entities move regulated articles interstate from the specified areas affected by this action. Further, the overall economic impact from this action is estimated to be only about \$500.

Background

A document published in the Federal Register on November 1, 1982, (47 FR 49335-49344), set forth an interim rule amending § 301.80-2a of the witchweed quarantine and regulations (7 CFR 301.80-2a). The document amended the quarantine and regulations by adding areas in 5 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas; by deleting

areas in 18 counties in North Carolina and South Carolina from the list of suppressive areas; and by deleting 1 entire county in South Carolina from the list of suppressive areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread of the witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of November 1, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the Federal Register on November 1, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantines, Transportation, Witchweed.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80)

Done at Washington, D.C., this 27th day of January 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-2733 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

7 CFR Part 624

Emergency Watershed Protection

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule; amendment to the rule.

SUMMARY: Minor editorial changes are being made in the Soil Conservation Service's (SCS) Rule for emergency watershed protection. This action clarifies several points in the rule for this program published November 17, 1981.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT:

John W. Peterson, Director, Project Development and Maintenance, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202) 447-3527.

SUPPLEMENTARY INFORMATION: Since this rule became effective, several inconsistencies have been brought to light requiring the need to update it with several minor editorial changes. These changes do not significantly affect the rule.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective on publication in the FR. Since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 624

Emergency watershed protection, Disaster assistance, Watersheds, Flood prevention, Grant programs—natural resources, Soil conservation, Technical assistance, Flood assistance.

PART 624—[AMENDED]

Part 624—Emergency Watershed Protection is amended as follows:

1. Section 624.5 is amended by revising (b)(2), (c)(3), and by removing (c)(1)(i) and renumbering (c)(1)(ii) through (iv) as (c)(1)(i)–(iii).

§ 624.5 Eligible emergencies, recipients, and assistance.

(b) *Eligible recipients.* * * *

(2) Have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards. Interested persons other than Federal agencies must be represented by a project sponsor. Project sponsors must:

(i) Be a State or political subdivision of a State or a qualified Indian tribe or tribal organization;

(ii) Have legal authority and agree to use such authority to obtain needed landrights, water rights, and permits; and

(iii) Agree to provide for the operation and maintenance of completed emergency measures.

(c) *Eligible assistance.* * * *

(3) Sponsors may provide their share of construction costs in the form of cash;

in-kind services such as labor, equipment, etc.; or a combination of cash and in-kind services. Cost sharing is waived for measures to be installed on Federal lands such as national forests or national grasslands.

2. Section 624.6 is amended by revising paragraphs (a)(1), (a)(5), and (c)(1) by redesignating paragraphs (c) (2) and (3) as (c) (3) and (4) and by adding a new paragraph (c)(2) as follows:

§ 624.6 Eligible measures.

(a) *Eligibility.* * * *

(1) Retard runoff, prevent flooding, or prevent soil erosion;

(5) Yield beneficial effects to more than one individual except in an exigency; and

(c) *Implementation.* (1) When planning emergency measures, emphasis should be placed on measures that are the least expensive and most environmentally sound. The measures are to be accomplished by using the least damaging construction techniques and equipment that will retain as much of the existing characteristics of the channel and riparian habitat as possible. Emergency measure construction practices may include but are not limited to such things as seasonal construction, minimum clearing, reshaping soil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

(2) Measures needed to offset adverse impacts should be planned for installation concurrent with installation of the emergency measures. If they cannot be installed then, plans should be included to ensure their installation within 30 days. Cost sharing for these measures is at the same rate as for the original emergency construction.

3. Section 624.7 is amended by revising paragraph (d), removing (e) and redesignate (f), (g), and (h) as (e), (f), and (g).

§ 624.7 Limitations on use of emergency funds.

(d) Perform work on features of projects installed under the authority of Pub. L. 83-566, Pub. L. 78-534, Resource Conservation and Development, or measures installed by other Federal agencies. Exceptions may be made at the discretion of the Chief of SCS.

4. Section 624.8 is revised as follows:

§ 624.8 Environment.

Environmental aspects of emergency work are to be given careful

consideration. A program environmental impact statement (EIS) for EWP work has been developed in compliance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). An environmental evaluation is to be prepared for all nonexigency situations. State conservationists shall notify concerned area and field offices of the Fish and Wildlife Service, the Environmental Protection Agency, and, through existing coordination mechanisms of State clearinghouses, the State fish and game and other appropriate agencies of anticipated EWP work. They shall invite the assistance of these agencies in preparing the environmental evaluation and in planning and implementing the emergency work. Archeological, historical, or other special expertise needed is to be solicited from appropriate agencies and groups. Environmental and other considerations are to be integrated into emergency work by using an interagency and interdisciplinary planning approach.

Dated: January 27, 1983.

Peter C. Myers,

Chief, Soil Conservation Service.

[FR Doc. 83-2731 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

Agricultural Marketing Service**7 CFR Part 905**

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 20]

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 grade requirement applicable to fresh domestic and export shipments of Honey tangerines from Florida No. 1 to Florida No. 1 Golden. This action also lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3 1/8 inches to 3 1/2 inches. The amendment is effective for the period January 31, 1983 through August 21, 1983. This action allows an increase in the supply of Honey tangerines and pink seedless grapefruit in recognition of demand conditions and the grade and size composition of the available supply

in the interest of growers and consumers.

EFFECTIVE DATE: January 31, 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 determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Honey tangerine and pink seedless grapefruit 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 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 and pink seedless grapefruit as hereinafter provided, will tend to effectuate the declared policy of the Act.

The minimum grade and size requirements, specified herein, reflect the Committee's and Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit and the grade requirements applicable to Florida Honey tangerines. Such revision will augment the total available supply of Honey tangerines and pink 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 pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink 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 pink seedless grapefruit, and imports of pink 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) * * *

(b) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, pink	Jan. 31, 1983 to Aug. 21, 1983	Improved No. 2 (External) U.S. No. 1 (Internal).	3½
	On and after Aug. 22, 1983	Improved No. 2 (External) U.S. No. 1 (Internal).	3½
Tangerines:			
Honey	Jan. 31, 1983 to Aug. 21, 1983	Florida No. 1 Golden	2½
	On and after Aug. 22, 1983	Florida No. 1	2½

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
Tangerines:			
Honey	Jan. 31, 1983 to Aug. 21, 1983	Florida No. 1 Golden	2½
	On and after Aug. 22, 1983	Florida No. 1	2½

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

Dated: January 26, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-2667 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; REA Specification for Aerial and Underground Telephone Cable, PE-22

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by issuing a revised REA Bulletin 345-13, REA Specification for Aerial and Underground Telephone Cable, PE-22. This revision incorporates the following changes: (1) Allows the use of an optional, lower cost shield design, (2) the preconnectorization of cables 100 pair and larger, and (3) tightening, in two steps, the capacitance unbalance to ground requirement. These options along with their respective requirements reflect aerial and underground cable products that are being manufactured and used currently in rural telephone systems.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12991, Federal Regulation. This 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 geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background

A review of the current specification revealed that by not allowing these options and their associated requirements, the specification would not reflect today's aerial and underground cables being produced by manufacturers. These options which are improvements in the production of aerial and underground cables have been achieved through advancements in technologies.

This action brings REA's specification into conformance with present-day aerial and underground cables without affecting the current designs or manufacturing techniques of wire and cable manufacturers. This action affects REA borrowers in that they will receive and install improved quality aerial and underground telephone cables without increased cable cost. Also, these cables will provide better service performance which will result in reduced maintenance costs for our borrowers.

A Notice of Proposed Rulemaking was published in the *Federal Register* on August 24, 1982, Volume 47, Number 164, page 36851. However, no public comments were received in response to the notice.

7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended by the issuance of a revised REA Bulletin 345-13, REA Specification for Aerial and Underground Telephone Cable, PE-22.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: January 25, 1983.

Harold V. Hunter,
Administrator.

[FR Doc. 83-2818 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins, REA Specification for Parallel Conductor Drop Wire, PE-7

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by issuing a revised Bulletin 345-36, REA Specification for Parallel Conductor Drop Wire, PE-7. Improved materials and manufacturing techniques have resulted in the development of a smaller, more physically rugged drop wire which is less costly than designs reflected in the existing PE-7. The revision permits REA borrowers to take advantage of

this improved technology in the provision of rural telephone service.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This 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 geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background

This document was last revised in 1966, and there have been significant advances in technology since that time. The document was not applicable to much of the new technology, so that its continuation would have forced REA borrowers to use outmoded less cost-effective technology. If the existing specification was withdrawn rather than revised there would be no minimum acceptable performance criteria for the product. Unacceptable material could be sold to REA borrowers which would result in the loss of telephone system effectiveness and a threat to REA loan security. As a result, revision of the document along these lines was considered to be in the best interest of the program.

A Notice of Proposed Rulemaking was published in the *Federal Register* on August 24, 1982, Volume 47, Number 164, pages 36851 and 36852. However, no public comments were received in response to the notice.

7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended by the issuance of a revised REA Bulletin 345-36, REA Specification for Parallel Conductor Drop Wire, PE-7.

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: January 25, 1983.

Harold V. Hunter,
Administrator.

[FR Doc. 83-2619 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 204

Powers and Duties of Service Officers; Availability of Service Records and Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revised Procedures for Advance Processing of Orphan Visa Petitions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule streamlines the procedure for advance processing of orphan petitions. This action is necessary to improve service to the public and eliminate delays in processing of orphan petitions filed by individuals traveling abroad to locate or adopt orphans. Previously, an unmarried petitioner or a petitioner and spouse who traveled abroad to locate or adopt a child in a country with no Immigration and Naturalization Service office had to file the orphan petition at a Service office located in a country other than where the child was residing. Under this rule, an American consular officer assigned to a country where there is no Service office is permitted to approve a clearly approvable orphan petition where the petitioner and spouse have traveled abroad. All advance processing of the petition, however, must be completed by the Service.

DATE: Effective February 28, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service,

425 I Street NW., Washington, D.C. 20536, Telephone (202) 633-3048.

For Specific Information: Alice Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington D.C. 20536, Telephone: (202) 633-5014.

SUPPLEMENTARY INFORMATION: A procedure for advance processing of orphan petitions filed pursuant to section 101(b)(1)(F) of the Act, 8 U.S.C. 1101(b)(1)(F), was published in the Federal Register (44 FR 49430) on August 23, 1979. Advance processing is a procedure for completing that part of an orphan petition relating to the prospective adoptive parent or parents before an orphan is located so that there will be no unnecessary delays in processing the petition after an orphan is located. This procedure was developed in order to process orphan cases expeditiously in accordance with the humanitarian intent of the orphan legislation while complying with its complex statutory requirements. Existing regulations permit advance processing of an orphan petition in any case where a child has not been located and identified or where the unmarried prospective petitioner or the married prospective petitioner or spouse or both are going abroad to adopt or locate a child. The new procedure is a further step towards processing orphan cases expeditiously.

Under the former procedure, petitioners who traveled abroad to adopt or locate children and who desired to file their orphan petitions overseas were required to submit their petitions to Service offices. One of the major changes is that the new procedure permits American consular officers to approve clearly approvable orphan petitions in cases where all advance processing has been completed by this Service and the petitioners have traveled abroad to locate or adopt children and desire to file their petitions overseas in countries with no Service offices. For example, a petitioner who has traveled to India may file his or her orphan petition at the closest American consulate or embassy instead of at our Hong Kong office. This simplified procedure eliminates a very cumbersome step. A precedent for the procedure exists in that consular officers assigned to countries where there are no Service offices, are authorized to approve clearly approvable relative petitions when the petitioners and beneficiaries are physically present in the area over which the consular officer has jurisdiction.

Under the new procedure, an Application for Advance Processing of Orphan Petition, Form I-600A, is being instituted. Under the former procedure, the part of the Petition to Classify Orphan as an Immediate Relative, Form I-600, relating to the petitioner and spouse, if married, was used for a request for advance processing. Use of the new Form I-600A will make it easier to understand the advance processing procedure. The filing fee will be the same as for the Form I-600. The use of the Form I-600 for advance processing is somewhat confusing to the public because it was not initially developed for that purpose.

Under this rule a formal determination is made upon completion of all advance processing. This is necessary because in some advance processing cases, all action by this Service is completed at that point. Furthermore, in all advance processing cases, prospective petitioners should be given determinations on which they can reasonably rely concerning their ability to care for beneficiary orphans. A prospective petitioner needs to know about any adverse factors which may result in denial of an orphan petition, especially if he or she plans an expensive trip abroad to locate a child.

In a case where an unfavorable determination is made, the prospective petitioner has the right of appeal. It is only fair to permit a prospective petitioner in an advance processing procedure the same right as a petitioner in an orphan case when there has been an adverse determination concerning his or her ability to provide proper care to a beneficiary orphan.

The amendment to § 103.1(m)(5) adds determinations in advance processing cases to the types of decisions which may be appealed to the regional commissioners. The amendment to § 103.7(b)(1) adds the Application for Advance Processing of Orphan Petition to the listing of petitions and applications requiring fees. Section 204.1(b)(1) is revised to permit American consular officers to approve orphan petitions in the circumstances described above. The revised § 204.1(b)(3) outlines the requirements for filing the newly devised Application for Advance Processing of Orphan Petition, Form I-600A, and for filing an orphan petition, Form I-600, in cases where an advance processing application has been submitted. It also provides that a formal determination will be rendered in each case, with the right of appeal where there is an adverse determination. The revised § 204.2(f) eliminates the requirement for submission of certain

information which was required by the Application for Advance Processing of Orphan Petition.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making is unnecessary because the rule is beneficial to the public and relates to Service procedures.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegation, Fees, Forms, Organization and functions.

8 CFR Part 204

Administrative practice and procedure, Adoption, Orphans.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In § 103.1, paragraph (m)(5) is revised to read as follows:

§ 103.1 Delegations of Authority.

(m) * * *

(5) Determinations concerning the ability of prospective adoptive parents to furnish proper care to beneficiary orphans made as a result of applications for advance processing of orphan petitions filed pursuant to § 204.1(b)(3) of this chapter.

2. In § 103.7(b)(1), a new fee description is added between existing fee descriptions 15 and 16. The amendment to § 103.7(b)(1) reads as follows:

§ 103.7 Fees.

(b) * * *

(1) * * *

For filing application for advance processing of orphan petition, \$35.00.

(Sec. 103 of the INA, as amended; 8 U.S.C. 1103, 31 U.S.C. 483a, and OMB Circular No. A-25)

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

3. In § 204.1 paragraphs (b)(1) and (3) are revised to read as follows:

§ 204.1 Petition.

(b) Orphan—(1) Jurisdiction—(i) Petitioner residing in the United States. A petitioner residing in the United States shall file a petition in behalf of a child defined in section 101(b)(1)(F) of the Act or an application for advance processing the petition with the Service office having jurisdiction over the place where the petitioner resides.

(ii) Petitioner residing abroad—(A) General. A petitioner residing outside of the United States shall file an orphan petition or advance processing application with the overseas or stateside office of the Service designated to act on the petition or application. This can be ascertained by consulting an American consul.

(B) Petitioner residing in Canada. Since no Service office in Canada is designated to process orphan cases, a petitioner residing in that country shall file an orphan petition or advance processing application with the office of the Service having jurisdiction over the place of the child's intended residence in the United States.

(iii) Petitioner proceeding abroad when a district director at a stateside office has made a favorable determination concerning an advance processing application—(A) Jurisdiction retained by stateside office. When a district director at a stateside office has made a favorable determination concerning an advance processing application and an unmarried petitioner or either a married petitioner or spouse or both are traveling abroad to locate a child, or are traveling abroad to adopt a child, the petition in behalf of the child may be filed at the stateside office if it will facilitate processing the petition.

(B) Jurisdiction assumed by American consulate or embassy. In an advance processing case where the petitioner does not wish to have the jurisdiction retained by the stateside Service office as provided in paragraph 204.1(b)(1)(iii)(A) of this section, the orphan petition may be filed at the American consulate or embassy having jurisdiction over the place where the child is residing unless the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, or Thailand.

(C) Authority of consular officers. American consular officers are

authorized to approve orphan petitions when the district director at a stateside Service office has made a favorable determination concerning an advance processing application and the unmarried petitioner or either the married petitioner or spouse or both have traveled abroad to locate or adopt a child. Consular officers, however, shall refer any petition which is not clearly approvable for a decision by the Service office having jurisdiction over the place where the child is residing. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the ability of the prospective adoptive parent or parents to furnish proper care to the beneficiary orphan.

(D) Jurisdiction assumed by overseas Service office. If the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, or Thailand, the orphan petition may be filed at the overseas Service office having jurisdiction over the child's place of residence.

(3) Advance processing application—(i) Circumstances when advance processing application may be filed. A prospective petitioner may file an application for Advance Processing of Orphan Petition, Form I-600A, when—

(A) The petitioner is unmarried and is traveling abroad to locate a child for adoption in the United States;

(B) The petitioner is unmarried and is traveling to a foreign country to locate and adopt a child while abroad;

(C) The petitioner and spouse are traveling abroad to locate a child for adoption in the United States;

(D) The petitioner and spouse are traveling to a foreign country to locate and adopt a child while abroad; or

(E) The married petitioner or the married petitioner's spouse is traveling abroad to locate a child for adoption in the United States.

(ii) Filing the application. A United States citizen may file Form I-600A. The certification of prospective petitioner must be completed. The form must be accompanied by the fee specified in § 103.7(b)(1) of this chapter. If the petitioner is married, the petitioner's spouse shall also sign the Form I-600A. If unmarried, the petitioner must be at least twenty-four years of age at the time of filing Form I-600A and at least twenty-five years of age at the time of the child's adoption and the filing of a petition, Form I-600, in behalf of the child.

(iii) Disposition of advance processing application—(A) Favorable

determination. If the district director or officer in charge makes a favorable determination concerning the ability of the prospective adoptive parent or parents to furnish proper care to a beneficiary orphan if admitted to the United States, the district director or officer in charge shall advise the petitioner of the action taken. The district director or officer in charge shall also advise the petitioner that the advance processing application will be retained for one year from the date of completion of all advance processing, that if a child is not identified to this Service within that year, the application will be considered abandoned, and that any further proceedings will require the filing of a new advance processing application or an orphan petition.

(B) *Unfavorable determination.* When adverse information about the prospective adoptive parent or parents is developed which indicates that an orphan petition should not be approved because the prospective adoptive parent or parents are unable to furnish proper care to a beneficiary orphan, the district director or officer in charge shall render an unfavorable determination concerning the advance processing application. The district director or officer in charge shall advise the petitioner of the reasons for the unfavorable determination and of the right of appeal in accordance with the provisions of Part 103 of this chapter. When an unfavorable determination is made concerning an advance processing application, the fee will not be refunded.

(iv) *When a child is identified—(A) Pending advance processing application.* When a child is identified while an advance processing application is pending, the petitioner shall submit a completed Form I-600 with all documentary evidence relating to the child. A new fee is not required.

(B) *Completed advance processing application—favorable determination.* When a child is identified after there has been a favorable determination concerning an advance processing application, the petitioner shall submit a completed Form I-600 with all documentary evidence relating to the child. A new fee is not required if the petitioner submits the Form I-600 within one year from the date of completion of all advance processing.

(C) *Completed advance processing application—unfavorable determination.* If the petitioner submits a petition, Form I-600, in behalf of a child when there has been an unfavorable determination concerning an advance processing application, the fee specified in § 103.7(b)(1) of this chapter must be submitted. If the

grounds for the unfavorable determination have not been overcome, the district director or officer in charge shall deny the petition.

4. In § 204.2, paragraph (f) is revised to read as follows:

§ 204.2 Documents.

(f) *Evidence to be furnished with application for advance processing of orphan petition.* An Application for Advance Processing of Orphan Petition, Form I-600A, must be accompanied by—

(1) Fingerprints on Form FD-258 of the United States citizen petitioner and spouse, if married;

(2) Documentary evidence relating to the petitioner and spouse, if married, as provided in paragraph (d)(1) of this section; and

(3) A valid home study as described in paragraph (d)(2) of this section, if available. If not available, the home study must be submitted within one year from the date of submission of the advance processing application or the application will be considered abandoned.

(Secs. 101(b)(1) (E) and (F), 103, 204 Immigration and Nationality Act, as amended (8 U.S.C. 1101(b)(1) (E) and (F), 1103, 1154))

Dated: January 14, 1983.

Andrew J. Carmichael, Jr.,
Associate Commissioner, Examinations,
Immigration and Naturalization Service.

(FR Doc. 83-2875 Filed 1-31-83; 8:45 am)

BILLING CODE 4410-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0447]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Amendment of Board Order temporarily suspending the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Quachita, Rapides, and Winn on January 13, 1983. This action extends that

Order to include additional parishes in Louisiana.

EFFECTIVE DATE: January 17, 1983, for the Louisiana parishes of Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union, and Vernon.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711).

SUPPLEMENTARY INFORMATION: On January 11, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Quachita, Rapides, and Winn, major disaster areas. The Board regarded the President's actions as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board of Governors, acting through its Secretary, pursuant to delegated authority, suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors suffering property or other financial loss in the disaster areas as a result of severe storms and flooding beginning on or about December 19, 1982. (48 FR 2315). Subsequent to this action, the Presidential declaration of a major disaster was amended to include additional parishes. The Board therefore believes it appropriate to amend its Order to include the additional parishes. The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of severe storms and flooding beginning on or about December 19, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This amendment will be retroactive to January 17, 1983, for the Louisiana parishes of Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union, and Vernon and will remain in effect until 12 midnight, July 11, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated parishes of Louisiana directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, January 26, 1983.

William W. Wiles,
Secretary of the Board.

[FR Doc. 83-2050 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 226

[Reg. Z; Doc. No. R-0395]

Truth in Lending: Determinations of Effect on State Laws (Arizona, Florida, Missouri, and South Carolina)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determinations.

SUMMARY: In accordance with Appendix A to 12 CFR Part 226 and in response to four requests, the Federal Reserve Board is publishing in final form determinations as to whether certain state laws are inconsistent with the Truth in Lending Act or Regulation Z and therefore preempted. The laws of three states, Arizona, Florida (two requests), and Missouri, are the subject of the requests. A request for a preemption determination with regard to South Carolina law has been withdrawn. Effective October 1, 1983, creditors in Arizona, Florida, and Missouri are prohibited from using the preempted disclosures, but creditors may omit those disclosures immediately.

EFFECTIVE DATE: October 1, 1983, with compliance optional before that date.

FOR FURTHER INFORMATION CONTACT: Lynn Goldfaden or Rugenia Silver, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-3867.

SUPPLEMENTARY INFORMATION:

(1) *General.* Section 111(a)(1) of the Truth in Lending Act authorizes the

Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. If the Board determines that a state-required disclosure is inconsistent with the federal law, the state law is preempted to the extent of the inconsistency, and creditors in that state may not make disclosures using the inconsistent term or form.

Section 226.28(a)(1) of Regulation Z, which implements § 111 of the act, provides that state requirements are inconsistent with the federal provisions if the state law requires a creditor to make disclosures or take actions that contradict the federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Section 226.28(a)(1) provides two examples of contradictory state laws: a law that requires the use of the same term for a different amount or a different meaning than the federal law, or one that requires the use of a term different from the federal term to describe the same item.

If the Board determines that a state law is inconsistent with, and therefore preempted by, the federal law, creditors in that state may not make disclosures using the inconsistent term or form. The Board interprets the provision set forth in section 111(a)(1) of the act, regarding use of the preempted law, as an absolute prohibition against giving preempted disclosures at all. Making those disclosures, even on a separate document from the federal disclosures, would not be permissible.

Under section 111(d) of the Truth in Lending Act, a state law is not preempted if preemption would adversely affect the validity or enforceability of any contract or obligation under state or federal law. Based on its own research and discussions with state officials, the Board understands that none of the preempted terms in the current requests are necessary for a valid or enforceable contract under state law.

When the Board makes a determination of preemption, it will provide a transition period for creditors to make the necessary forms changes. Pursuant to the timing provisions in section 105(d) of the act, determinations will have an effective date of the October 1 that follows the determination by at least 6 months. As permitted by the statute, the Board may lengthen the time if necessary for creditors to accommodate new requirements, or it

may shorten the time if necessary to comply with court findings or to prevent unfair or deceptive disclosure practices. The current determinations will become effective on October 1, 1983. At their option, however, creditors may begin complying with the determinations prior to the effective date.

Pursuant to 12 CFR 285.2(h)(2), the Board has delegated authority to the Director of the Division of Consumer and Community Affairs to make preemption determinations. Therefore, all future determinations will be made by the Director, subject to Board review in accordance with § 265.3 of the Board's Rules Regarding Delegation of Authority. The determinations will be published in the Official Staff Commentary on Regulation Z (TIL-1).

In response to five requests, the Board reviewed state law provisions in Arizona, Florida (two requests), Missouri, and South Carolina. Proposed determinations on these four states were published for comment on April 15, 1982 (47 FR 18201). The Board received approximately 60 comments on the proposal.

As stated previously, a state law is inconsistent with the federal law if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Several commenters questioned this interpretation of inconsistency either on the ground that it exceeded the Board's authority or was too imprecise. However, the Board continues to believe that the "interference" principle is synonymous with the standard of "inconsistency" and is necessary to the application of that standard. There may be instances in which the state law under examination cannot be reviewed in the context of the examples of "contradictory" that are given in § 226.28(a)(1) of Regulation Z; that is, the state law might not deal with disclosures of terms and amounts. In such a case, state law must be measured against the general definition of inconsistency: whether the state law significantly impedes the operation of the federal law or interferes with the intent of the federal scheme.

In April, the Board determined that certain disclosures were preempted on the basis of this general definition of inconsistency. The Board has evaluated the proposal in light of the comments received and has found that use of the general definition is unnecessary for the current determinations, since the same disclosures are preempted based on the specific examples of contradictory laws set forth in the regulation. However, the Board continues to believe that the

definition is necessary and proper, and the definition will be applied, without reference to the examples, where appropriate.

(2) *Principles followed in the preemption analysis.* After review of the comments received and further analysis of the proposal, the Board has developed a more detailed set of principles that were followed in making the current determinations and will be applied by the staff in making future determinations. These principles are discussed below.

1. *For purposes of making preemption determinations, state law is deemed to require the use of specific terminology in the state disclosures if the state statute uses certain terminology in the disclosure provision.* Under § 226.28(a)(1), a state law is preempted if it requires the use of the same term to represent a different amount or meaning than the federal law, or requires the use of a term different from that required by the federal law to describe the same item. Therefore, in deciding whether a state law contradicts the federal law, the Board must determine whether state law requires the use of specific terminology in the state disclosures.

Based on the comments, information received from the relevant state agencies, and a review of the state statutes themselves, the Board believes that terms used in the statute should be considered required for purposes of making preemption determinations. Even if the state imposes no penalty for failure to use the specified term, creditors are likely to use that term.

2. *A state disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a federal disclosure.* For example, a state statute might require a disclosure, such as the unpaid balance of cash price under Florida law, which is used in deriving the amount financed. Such a disclosure is not the functional equivalent of the federal amount financed, even though in some transactions the two may be the same amount. The federal amount financed is designed to reflect the net amount of credit available to the consumer, while the Florida disclosure is a subtotal in the mathematical progression leading to that amount.

As another example, Arizona requires a disclosure of the rate at which the finance charge is computed. This is a disclosure of the contract interest rate, while the federal annual percentage rate expresses in percentage terms the total credit cost; that is, the federal disclosure may include other components in addition to the contract rate. Therefore, the state disclosure is not the functional

equivalent of the federal annual percentage rate, even though the two may be the same amount in some cases. These types of state disclosures do not "describe the same item" as the federal disclosures and are not preempted.

3. *Preemption occurs only in those transactions in which an actual inconsistency exists between the state law and the federal law.* In the proposed determinations, any state law that might in certain instances be inconsistent was preempted, even if in many instances the state and federal laws would produce the same disclosures (either the same dollar amount, percentage, or terminology). For example, Arizona's final cash price balance disclosure was proposed to be preempted since the law required the use of a different term than the federal law for what in some cases might be the same amount as the federal amount financed.

After consideration of the comments received and a review of the issue, the Board believes that a state law should be preempted only in cases of actual contradiction. Using the above example, Arizona's final cash price balance disclosure is preempted only if that amount is the same as the federal amount financed. The Board believes that this position best fulfills the congressional purpose underlying the preemption provision, and will ease the burden on creditors and others in dealing with preemption determinations.

The Board believes that these principles provide a flexible approach to preemption. With respect to Arizona, Florida, and Missouri, this approach avoids preemption in those situations in which state law allows creditors to use any descriptive terminology in giving the required disclosures. The approach also provides a means for limiting preemption to actual as opposed to potential conflicts, an approach that commenters indicated would substantially ease the compliance burden and avoid unnecessary disruption of state laws. Furthermore, a state considering revisions to its consumer credit laws may find the principles useful in reconciling any differences between those laws and the federal law.

(3) *Effect on other laws.* When the Board published the proposed determinations for public comment, it also addressed the issue of the impact of those determinations on similar laws in other states. Although the preemption requests arise from specific laws in four states, similar provisions exist in other states' laws. The Board solicited comment on what impact, if any, a determination as to a particular state's law should have on similar provisions in

other states that are not the subject of the specific request. A majority of the commenters favored the approach whereby a determination on one state's law will have no effect on the validity of similar provisions in other states. The Board believes that this approach is the most practical one and will best allow the thorough analysis necessary for each state law question that arises.

(4) *Discussion of specific requests and final determinations.* The final determinations regarding the state laws at issue, together with the reasons for the Board's action, are set forth below.

Arizona. Section 44-287 of the Arizona Motor Vehicle Time Sales Disclosure Act, Chapter 2.1, sets forth the items that must be included in a contract for the sale of a motor vehicle, such as the cash price, the amount and type of downpayment, and the amount of the finance charge and the rate at which it is computed. The Board was asked to determine whether this section is inconsistent with the closed-end credit provisions in § 128 of the federal act and § 226.18 of Regulation Z.

• Section 44-287 B.5. requires that the contract disclose the final cash price balance. This amount, which represents the net amount of credit available to the consumer, describes the same item as the amount financed disclosure in § 226.18(b) of Regulation Z. Since the Arizona law uses the term "final cash price balance" for what may be the same as the federal amount financed, the state provision is contradictory and preempted in those transactions in which the final cash price balance is the same as the federal amount financed. In such transactions, creditors are prohibited from using the term "final cash price balance" in their disclosures, but are free to substitute the term "amount financed" for the contradictory term in the state disclosures instead of omitting the disclosure completely.

In those cases in which the amount of the final cash price balance is different from the federal amount financed, no preemption occurs. In such cases, the state and federal laws require the use of different terms to describe different amounts, so that no contradiction results.

• Section 44-287 B.6. requires a disclosure of the finance charge. The law uses the term "finance charge," but it is not defined in the same manner as the federal finance charge in § 226.4 of Regulation Z. Therefore, in those transactions in which the amount is different from the amount of the federal finance charge, the disclosure is preempted, since the state law requires the use of the same term as the federal

law to represent a different amount than the federal law. In such cases, creditors are prohibited from using the term "finance charge" in the state disclosures to represent a different amount than is given in the federal disclosures, but they are free to substitute the federal finance charge amount in the state disclosures. In those transactions in which the state amount is the same as the federal amount, the state finance charge disclosure is not preempted.

- Section 44-287 B.6. also requires a disclosure of the rate at which the finance charge is computed. The Board finds that this disclosure is not preempted by the federal law, since the two disclosures do not represent the same "item." The state disclosure is for the contract rate only, and does not describe the same item as the federal "annual percentage rate," which expresses the total credit cost.

- Section 44-287 B.7. requires a disclosure of the time balance. That term, which is specified by state law, describes the same item as the total of payments in § 226.18(h) of Regulation Z. Therefore, the time balance disclosure is preempted in those transactions in which the amount is the same as the federal total of payments amount, since in those cases the state law requires the use of a term different from the federal term to represent the same amount. In such transactions, creditors are prohibited from disclosing in accordance with the state law, but are free to replace the contradictory state term with the federal term. If the time balance is a different amount from the total of payments amount, then there is no contradiction and therefore no preemption.

- Section 44-287 B.7. also requires a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

Florida. The Board was asked to determine whether the disclosure requirements of Florida Statute 520, Retail Installment Sales, Parts I and II, contradict the requirements of Regulation Z. Part I covers motor vehicle sales financing, and Part II contains analogous disclosures for other retail installment sales.

- Sections 520.07(2)(c) and 520.34(2)(c) require that the contract show the "unpaid balance of cash price." In the April proposal, this disclosure would have been preempted on the basis that it requires the use of a different term than the federal law to describe what may be the same item as the federal amount financed. After review, however, the Board believes that the state disclosure is not the functional equivalent of the

amount financed, but is instead a subtotal figure showing the difference between the cash price of the goods and the downpayment. It is not designed, like the amount financed, to reflect the net amount of credit available to the consumer after taking into account other charges that may be imposed and other amounts that may be financed. Therefore, the provision is not preempted.

- Sections 520.07(2)(g), 520.34(2)(g), and 520.35(2)(d) require that the contract include the amount of the finance charge. The finance charge definitions under the state law differ from the federal finance charge definition in the treatment of certain fees, taxes, and other items. Because of these variations, the state finance charge may include certain amounts that would be excluded from the federal finance charge while excluding other amounts that the federal finance charge would reflect.

Because the state law uses the same term as the federal law to represent a different amount than the federal law, the state finance charge disclosures are preempted in those transactions in which the amount is different from the amount of the federal finance charge. In such cases, creditors are prohibited from disclosing the state finance charge but are free to substitute the amount of the federal finance charge in the state disclosure.

- Sections 520.07(2)(g) and 520.35(2)(d) also require creditors to disclose an itemization of the finance charge. The federal law allows creditors to itemize the finance charge so long as that itemization is not disclosed with the segregated federal disclosures. Therefore, a state law requirement to itemize the finance charge is not preempted, assuming that itemization is not given with the segregated federal disclosures.

- Sections 520.07(2)(f) and 520.34(2)(f) require a disclosure of the amount financed. The state law uses the same term as that required by § 226.18(b) of Regulation Z for what may be a different amount. In those transactions in which the amount differs from the federal amount, the provision is preempted because the state law requires the use of the same term as the federal law to represent a different amount. In such transactions, creditors are prohibited from giving the preempted state disclosure but are free to substitute the federal amount in the state disclosures, instead of omitting the state disclosure completely. In any case in which the state amount matches the federal amount, the state provision is not preempted because the same term is

used under both laws to describe the same amount.

- Sections 520.07(2)(h) and 520.34(2)(h) require a disclosure of the total of payments. The state law uses the same term as that required by § 226.18(h) of the federal regulation for what may be a different amount. In those transactions in which the amount differs from the federal amount, the provision is preempted because the state law requires the use of the same term as the federal law to represent a different amount. In such transactions, creditors are prohibited from giving the preempted state disclosure but are free to substitute the federal amount in the state disclosures, instead of omitting the state disclosure completely. In any case in which the state amount matches the federal amount, the state provision is not preempted because the same term is used under both laws to describe the same amount.

- Sections 520.07(2)(h) and 520.34(2)(h) require a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

- Sections 520.07(2)(i) and 520.34(2)(i) require that the contract show the deferred payment price, which corresponds to the federal disclosure of the total sale price in § 226.18(j) of Regulation Z. In those transactions in which the amount of the deferred payment price is the same as the amount of the federal total sale price, the state provision is preempted because it uses a different term than that required by the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing in accordance with the state provision, but are free to replace the term "deferred payment price" with the term "total sale price" in the state disclosures. If the state and federal amounts are different, the provision is not preempted in those transactions, since different terms would be used to describe different amounts.

Missouri. The Board was asked to determine whether or not certain provisions of Missouri law are inconsistent with the federal law. The subjects of the request were § 365.070 on motor vehicle time sales and § 408.260 on retail credit sales of all other goods. The two sections contain almost identical disclosure requirements.

- Sections 365.070-6(9) and 408.260-5(6) require that the contract show the amount of the principal balance. That term, which is used in the state law, describes the net amount of credit and is thus the functional equivalent of the federal amount financed. Therefore, the

provision is preempted in those cases in which the amount of the principal balance is the same as the federal amount financed, since state law uses a different term than the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing the principal balance, but are free to replace the term "principal balance" with the term "amount financed" in the state disclosures. If the amount of the principal balance is different from the federal amount financed, the provision is not preempted because state and federal law would require different terms to describe different amounts.

• Section 365.070-6(10) requires that the contract show the time price differential, and 408.260-5(7) requires that the contract disclose the time charge. Both of these disclosures, which express the dollar cost of credit, correspond to the federal finance charge disclosure found in § 106 of the federal act and in § 226.4 of Regulation Z, but do not use the federal definition. Therefore, the amounts computed and disclosed under state law may contradict the amount computed and disclosed under the federal law. In those cases in which the amount of the time price differential or the time charge is the same as the federal finance charge, the state provision is preempted because it uses a different term than the federal law to represent the same item. In such cases, creditors are prohibited from disclosing the time price differential or time charge, and would simply disclose the cost of credit in accordance with the rules specified in the federal law. In those transactions in which the amount of the time price differential or time charge is different from the federal finance charge amount, no preemption occurs because different terms are required by state and federal law to describe different amounts.

• Sections 365.070-2 and 408.260-2 require that the contract contain certain notices to the buyer, using the language set forth in the statute. The notices use the terms "time price differential" and "time charge." In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the term in the notice is also preempted. In such cases, the creditor is free to include the notice in the state disclosures but substitute "finance charge" for the preempted term.

• Sections 365.070-6(11) and 408.260-5(8) require that the contract show the time balance. These disclosures correspond to the federal total of payments disclosure in § 226.18(h). If the

time balance is the same amount as the federal total of payments, the state provision is preempted in those transactions, since the state law uses a different term than the federal law to represent the same item. In such cases, creditors are prohibited from using the state disclosure but may replace that disclosure with the federal term or amount instead of omitting it completely. If the time balance is a different amount than the federal total of payments, no preemption occurs in those transactions because there is no contradiction.

• Sections 365.070-6(11) and 408.260-5(8) also require a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

• Sections 365.070-6(12) and 408.260-5(9) require that the contract show the time sale price, which corresponds to the total sale price disclosure in § 226.18(j) of Regulation Z. In those transactions in which the amount of the time sale price is the same as the amount of the total sale price, the provision is preempted because it uses a different term than the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing the time sale price, but may replace the term with "total sale price" in the state disclosures. If the time sale price is not the same amount as the federal total sale price, no preemption occurs because state and federal law would require different terms to describe different amounts.

South Carolina. The final request involved S.C. Code Ann. §§ 37-5-203 and 37-5-204. However, recent legislation in South Carolina amended § 37-5-203(2) to make it identical to § 130(b) of the federal act, and § 37-5-204 was repealed. Therefore, the South Carolina request has been withdrawn.

(5) *Preemption determinations.* The following order sets forth the preemption determinations. Notice of the determinations will be included in the Official Staff Commentary of Regulation Z (Supplement I to Part 226).

Order

Pursuant to section 111 of the federal Truth in Lending Act as revised on March 31, 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221), the Board has determined that certain laws in the states of Arizona, Florida, and Missouri are inconsistent with and preempted by the federal law. These determinations are as follows:

Preemption determination—Arizona. Effective October 1, 1983, the Board has determined that the following provisions

in the state law of Arizona are preempted by the federal law:

• Section 44-287 B.5.—Disclosure of final cash price balance. This provision is preempted in those transactions in which the amount of the final cash price balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

• Section 44-287 B.6.—Disclosure of finance charge. This provision is preempted in those transactions in which the amount of the finance charge is different from the amount of the federal finance charge, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.

• Section 44-287 B.7.—Disclosure of the time balance. The time balance disclosure provision is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

Preemption determination—Florida. Effective October 1, 1983, the Board has determined that the following provisions in the state law of Florida are preempted by the federal law:

• Sections 520.07(2)(f) and 520.34(2)(f).—Disclosure of amount financed. This disclosure is preempted in those transactions in which the amount is different from the federal amount financed, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.

• Sections 520.07(2)(g), 520.34(2)(g), and 520.35(2)(d).—Disclosure of finance charge and a description of its components. The finance charge disclosure is preempted in those transactions in which the amount of the finance charge is different from the federal amount, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount. The requirement to describe or itemize the components of the finance charge, which is also included in §§ 520.07(2)(g) and 520.35(2)(d), is not preempted.

• Sections 520.07(2)(h) and 520.34(2)(h).—Disclosure of total of payments. The total of payments disclosure is preempted in those transactions in which the amount differs from the amount of the federal total of payments, since in such transactions, the state law requires the use of the same term as the federal law to

represent a different amount than the federal law.

• Sections 520.07(2)(i) and 520.34(2)(i)—Disclosure of deferred payment price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount as the federal law.

Preemption determination—Missouri. Effective October 1, 1983, the Board has determined that the following provisions in the state law of Missouri are preempted by the federal law:

• Sections 365.070-6(9) and 408.260-5(6)—Disclosure of principal balance. This disclosure is preempted in those transactions in which the amount of the principal balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

• Sections 365.070-6(10) and 408.260-5(7)—Disclosure of time price differential and time charge, respectively. These disclosures are preempted in those transactions in which the amount is the same as the federal finance charge, since in such transactions, the state law requires the use of a term different from the federal law to represent the same amount.

• Sections 365.070-2 and 408.260-2—Use of the terms "time price differential" and "time charge" in certain notices to the buyer. In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the terms in this notice also is preempted. The notice itself is not preempted.

• Sections 365.070-6(11) and 408.260-5(8)—Disclosure of time balance. The time balance disclosure is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount.

• Sections 365.070-6(12) and 408.260-5(9)—Disclosure of time sale price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term from the federal law to represent the same amount.

By order of the Board of Governors of the Federal Reserve System, January 26, 1983.

William W. Wiles,
Secretary of the Board.

[FR Doc. 83-2001 Filed 1-31-83; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 265

[Docket No. R-0448]

Rules Regarding Delegation of Authority; Preemption Determinations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of the Division of Consumer and Community Affairs the authority to make determinations under § 226.28 of Regulation Z and § 213.7 of Regulation M regarding the effects of the Truth in Lending Act on analogous state laws.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lynn Goldfaden or Rugenia Silver, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3867.

SUPPLEMENTARY INFORMATION: (1) The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of the Division of Consumer and Community Affairs the authority to make determinations under § 226.28 of Regulation Z and § 213.7 of Regulation M regarding the effect of the Truth in Lending Act, as amended by the Truth in Lending Simplification and Reform Act of 1980 (Pub. L. 96-221), on analogous state laws. The Director has authority to make decisions, under Sections 111, 171(a) and 186(a) of the act and the Board's Regulation Z (12 CFR 226.28) and Regulation M (12 CFR 213.7) regarding the relationship of state laws to the federal act. The Board finds that delegation of its authority to make such determinations is necessary and appropriate because of the highly technical nature of these decisions, and because they will be made within standards adopted by the Board.

(2) The Board finds that the notice, opportunity for comment, and deferral of effective date procedures of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44

FR 3957), will not be followed in connection with this proceeding.

PART 265—[AMENDED]

(3) Pursuant to the provisions of Section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.2 by revising paragraph (h)(2) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

(h) * * *

(2) Pursuant to Section 111, 171(a) and 186(a) of the Truth in Lending Act (15 U.S.C. 1610(a), 1666j(a) and 1667e(a)) and the Board's Regulation Z (12 CFR 226.28) and Regulation M (12 CFR 213.7), to make determinations regarding the effect of the Truth in Lending Act on state laws.

By order of the Board of Governors of the Federal Reserve System, January 26, 1983.

William W. Wiles,
Secretary of the Board.

[FR Doc. 83-2000 Filed 1-31-83; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM80-39-000]

Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment To License; Correction

Issued: January 17, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: On November 6, 1981, the Federal Energy Regulatory Commission issued a Final Rule in Docket No. RM80-39-000 implementing "Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment to License" (46 FR 55,926, November 13, 1981).

This document corrects typographical errors.

FOR FURTHER INFORMATION CONTACT:

Fredric D. Chananian, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8033.

PART 4—[AMENDED]

Accordingly, the Commission corrects 18 CFR Part 4 as follows:

§ 4.41 [Corrected]

1. In § 4.41(g)(3)(v), shown at 46 FR 55,941, the reference to "in detail sufficient detail to independent staff evaluation," is corrected to read "in sufficient detail to permit independent staff evaluation."

§ 4.201 [Corrected]

2. In § 4.201(b)(5), shown at 46 FR 55,944, the reference to "§ 4.61 of this chapter" is corrected to read "§ 4.51 of this chapter."

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-2839 Filed 1-31-83; 8:45 am]

BILLING CODE 8717-01-M

18 CFR Part 271

[Docket No. RM79-76-138 (New Mexico—17; Order No. 275)]

High-Cost Gas Produced From Tight Formations, New Mexico; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Oil Conservation Division that portions of the Dakota Formation underlying certain lands in San Juan County, New Mexico be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Jane Oliver, (202) 357-8571 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include a portion of the Dakota Formation underlying lands in San Juan County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued September 10, 1982 (47 FR 40814, September 16, 1982,¹ based on a recommendation by the State of New Mexico Oil Conservation Division (New Mexico) in accordance with § 271.703, that certain areas of the Dakota Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that portions of the Dakota Formation meet the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

[Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553]

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below, effective January 21, 1983.

By the Commission,
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(115) to read as follows:

§ 271.703 Tight formations.

• • • • •
(d) *Designated tight formations.*
• • • • •

¹ The notice established a 45-day period for submission of written comments. No comments or requests for hearing were received.

(115) *Dakota Formation in New Mexico.* RM79-76-138 (New Mexico-17).

(i) *Delineation of formation.* The Dakota Formation is located in the northwestern portion of the San Juan Basin in San Juan County, New Mexico. The Dakota Formation underlies all of Township 26 North, Ranges 12 and 13 West; Township 27 North, Range 12 West, Section 8-S/2, 9-S/2, and 16 through 36; Township 27 North, Range 13 West, Sections 3-W/2, 4 through 9, 10-W/2, and 14 through 36; Township 28 North, Range 13 West, Sections 7 through 9, 16 through 21, 28 through 33, and 34-W/2; Township 29 North, Range 13 West, Sections 4 through 9, 16 through 19, 20-W/2, 29-W/2, 30, 31, and 32-W/2; Township 29 North, Range 14 West, Sections 1, 2-W/2 and SE/4, 3 through 18, 19-NE/4, 20 through 27, 28-N/2 and SE/4, 34-N/2, 35 and 36; Township 29 North, Range 15 West, Sections 1 through 6, 7-N/2, 8-N/2, 9-N/2, 10-N/2 and SE/4, 11, 12, 13-N/2 and 14-N/2; Township 30 North, Range 14 West, Sections 1 through 12, 15 through 23, and 26 through 34; and all of Township 30 North, Range 15 West, NMPM.

(ii) *Depth.* The Dakota Formation ranges in thickness from 250 to 300 feet. The average depth to the top of the Dakota Formation is 5,952 feet.

[FR Doc. 83-2834 Filed 1-31-83; 8:45 am]

BILLING CODE 8717-01-M

18 CFR Part 271

[Docket No. RM79-076-089 (Louisiana—3 Addition); (Order No. 276)]

High-Cost Gas Produced From Tight Formations, Louisiana; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation

of the State of Louisiana Office of Conservation (Louisiana) that additional areas of the Cotton Valley Group be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571 or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:
Issued: January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include additional areas of the Cotton Valley Sandstone Formation, located in the northern part of the State of Louisiana, as a designated tight formation eligible for incentive pricing under § 271.703. On October 29, 1981, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a recommendation that additional areas of the Cotton Valley Group, consisting of the Cotton Valley Sandstone and the Bossier Shale Formation, be designated as a tight formation. The recommendation appeared in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (Director), issued December 28, 1981 (47 FR 39, January 4, 1982). An Amended Notice of Proposed Rulemaking was issued by the Director on August 6, 1982 (47 FR 35232, August 13, 1982). This amendment was based on an alternative recommendation submitted by Louisiana, in accordance with § 271.703, that only specified additional areas of the Cotton Valley Sandstone Formation be designated as a tight formation.

In its original recommendation, Louisiana recommended that the Cotton Valley Sandstone and Bossier Shale Formations be designated as tight formations. Upon review of this recommendation, Staff questioned Louisiana on several aspects of the recommendation. One question involved the appearance of certain oil productive areas in the Cotton Valley Sandstone. Section 271.703(c)(2)(i)(C) provides that "no well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day." Further, Staff noted that the recommendation was insufficient as to the Bossier Shale Formation, as it lacked data from any of that formation's producing intervals. Section 271.703(c)(3) stipulates that a jurisdictional agency's recommendation must be accompanied by engineering, geological, geographic, and other information identifying the characteristics of the formation. These criteria were not met. Finally, Staff

questioned Louisiana's manner of calculating the permeability and flow rate for the recommended area.

Responding to the Staff inquiry, Louisiana filed its alternative recommendation which excluded the Bossier Shale entirely, excluded oil productive areas in the Cotton Valley Sandstone, and further revised the recommended area of the Cotton Valley Sandstone by excluding certain areas found in twenty-two fields, in order to meet the Commission's guidelines.

On November 12, 1982, the Commission held a hearing¹ in this docket² on the issue of the proper methodology of calculating permeability and flow rate values under the Commission's regulations in § 271.703. However, the issue of the appropriate methodology need not be addressed by the Commission in deciding whether to designate Louisiana's alternative recommendation, since this recommendation satisfies the guidelines in § 271.703 under any of the methodologies proposed.

Therefore, so as not to delay the designation of an area which meets the guidelines under any of the various methodologies under consideration, the Commission hereby finds that the evidence submitted in this docket supports the assertion that the additional areas of the Cotton Valley Sandstone Formation be designated as a tight formation, pursuant to the guidelines contained in § 271.703(c)(2), and the Commission adopts Louisiana's alternative recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good

¹ On September 17, 1982, the Commission issued a Notice of Hearing on Proposed Rules (47 FR 41987, September 23, 1982). The hearing was scheduled for October 14, 1982. On September 24, 1982, Southern California Gas Company and Pacific Lighting Gas Supply Company filed a motion for a rescheduling of the public hearing. In response to this motion, the Commission issued a Notice Rescheduling Public Hearing on October 6, 1982 (47 FR 44748, October 12, 1982).

² For purposes of the hearing, the following tight formation cases, in which a similar issue concerning the proper methodology of calculating permeability values and flow rates was raised, were consolidated:

Docket No. RM79-76-136 (Utah-5); Docket No. RM79-76-090 (Texas-9 Addition II); Docket No. RM79-76-091 (Texas-10 Addition); Docket No. RM79-76-093 (Texas-18); Docket No. RM79-76-094 (Texas-19); Docket No. RM79-76-101 (Colorado-23); Docket No. RM79-76-130 (Colorado-28); and Docket No. RM79-76-098 (Montana-1).

cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3422; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I *Code of Federal Regulations*, is amended as set forth below, effective January 21, 1983.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(37) to read as follows:

§ 271.703 Tight Formations.

(d) *Designated tight formations.*

(37) Cotton Valley Sandstone Formation in Louisiana. RM79-76-089 (Louisiana—3).

(i) *Delineation of formation.* The Cotton Valley Sandstone Formation is located in northern Louisiana. It is situated in all of Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Franklin, Jackson, Lincoln, Natchitoches, Quachita, Red River, Sabine, Tensas, Union, Vernon, Webster and Winn Parishes and parts of Allen, Beauregard, Catahoula, Concordia, Grant, La Salle, Madison, Morehouse, Rapides and Richland Parishes. Certain portions of the Cotton Valley Sandstone Formation in the following fields are excluded from the designated area: Arkana, Athens, Beekman, Benton, Blackburn, Caddo-Pine Island, Cadeville, Calhoun, Cartwright, Cheniere, Cotton Valley, East Dykesville, East Haynesville, Greenwood-Waskom, Haynesville, Hico-Knowles, Lisbon, Longwood, Middlefork, Millhaven, Minden, North Carlton, Northeast Lisbon, North Missionary Lake, Plain Dealing, Ruston, Sentell, Shongaloo, Sligo, South Drew, South Downsville, Sugar Creek, Terryville, Tremont, Unionville and West Lisbon. Additional excluded areas that are not included in the fields are: Section 12, Township 19 North, Range 16 West; Sections 5 and 20, Township 21 North, Range 4 West; Sections 5 and 6, Township 21 North, Range 6 West; Section 30, Township 21 North, Range 7 West; Sections 28 and 32, Township 21 North, Range 11 West; Sections 30 and 32, Township 22 North, Range 4 West;

Section 1, Township 22 North, Range 8 West; Section 34, Township 23 North, Range 2 East; Section 36, Township 23 North, Range 4 West; Sections 26, 34 through 36, Township 23 North, Range 6 West; Section 24, Township 23 North, Range 7 West; Section 9 and 29, Township 23 North, Range 9 West; and Section 28, Township 23 North, Range 15 West.

(ii) *Depth.* The Cotton Valley Sandstone Formation is defined as that interval encountered between the measured depths of 9,740 feet and 11,421 feet on the induction electrical log of the Phillips Petroleum Company—Martin B No. 1 Well located in Section 32, Township 11 North, Range 10 West, Natchitoches Parish, Louisiana.

[FR Doc. 83-2635 Filed 1-31-83; 9:45 am]

BILLING CODE 9717-01-M

18 CFR Part 271

[Docket No. RM79-76-120 (Oklahoma—2); Order No. 278]

High-Cost Gas Produced From Tight Formations, Oklahoma; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Oklahoma Corporation Commission that the "Cleveland Sand" of the "Kansas City Group" be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jane Oliver, (202) 357-8316 or Webster Gray, (202) 357-8693.

SUPPLEMENTARY INFORMATION: Issued January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include the "Cleveland Sand" of the "Kansas

City Group" located in Ellis County, Oklahoma, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (Director), issued June 30, 1982 (47 FR 29265, July 6, 1982), based on a recommendation by the Oklahoma Corporation Commission (Oklahoma), in accordance with § 271.703, that the "Cleveland Sand" of the "Kansas City Group" be designated as a tight formation.

The Commission received two comments in response to the Notice of Proposed Rulemaking.¹ Champlin Petroleum Company supported the recommendation. Southern California Gas Company and Pacific Lighting Gas Supply Company (hereinafter SoCal) jointly filed comments in opposition to Oklahoma's recommendation. Jordan Oil and Gas Company (Jordan) and Oklahoma² submitted responses to the comments filed by SoCal. Oklahoma and Jordan, in their responses, further explained the analysis of the data previously submitted to the Commission by Oklahoma, and also presented additional data to corroborate the previously submitted permeability data.

Under § 271.703(c)(2)(i)(A) of the Commission's regulations, for an area to be designated as a tight formation, the estimated average *in situ* permeability throughout the pay section must be expected to be 0.1 millidarcy (md) or less. Additionally, §§ 271.703(c)(2)(i) (B) and (C) require that the stabilized production rate of wells completed in the formation, without stimulation, is not expected to exceed the production rates established therein, and no well drilled into the recommended interval is expected to produce, without stimulation, more than five barrels of crude oil per day.

SoCal asserts that no core data from the Cleveland Sand was submitted to support the claim that the *in situ* permeability of the recommended formation meets the guidelines. Therefore, SoCal concludes that Oklahoma had no basis upon which it could support its recommendation that the Cleveland Sand be designated as a tight formation. Specifically, SoCal noted that a discrepancy exists between what Oklahoma states to be the top of the Cleveland Sand for the Stuart No. 1-4 Well, which is at a drilled depth of 8048 feet, and the Core Laboratories,

Inc. report, which Oklahoma submitted to the Commission, which lists the drilled depth of the core sample used to support the application as ranging from 8030 feet to 8047 feet. Thus, SoCal contends that the core samples may not have come from the recommended formation, and that no justification was given for using this possibly erroneous data. To further buttress its argument that the core samples in question did not come from the recommended formation, SoCal claims that the response of the gamma ray and neutron curves shown for the Stuart No. 1-4 Well in the drilled depth interval of 8020 to 8046 feet, (which is above the recommended formation), shows that the interval can be interpreted as a sandy silty section, and that this matches the "gross" description of the cored interval.

Both Oklahoma and Jordan agree with SoCal that the depths reported for the core samples do not correspond with the depth to the top of the Cleveland Sand as determined from the cement bond log in the Stuart No. 1-4 Well. Jordan explained in its reply that the discrepancy was a result of uncorrected measurements, for both coring depth and cased hole "top of the Cleveland Sand" depth. Jordan further stated that severe hole sloughing made it impossible to obtain open hole logs on the Stuart Well, although casing was run to the total depth, and that Jordan did not adjust the drilling and cased hole measurements to open hole depths, as is the normal industry practice. Additionally, Jordan asserts that a geologist at the wellsite inspected both the drill time curve and the drilling samples to verify that they were in the Cleveland Sand. Oklahoma also indicated that it believes that the cores came from the Cleveland Sand in spite of the discrepancy in measurements.

In response to SoCal's argument regarding the interpretation of the gamma ray and neutron curves, Jordan states that the Cleveland Sand is easily discernible from both drill times and sample descriptions as evidenced by the open hole logs and mud logs on the nearby Mason No. 2, Harrell No. 1, and Ehrlich No. 1-11 Wells. In each case, Jordan asserts the top of the Cleveland Sand can be easily seen on the drill time curve. The sample descriptions of the sands are clearly different from those of shale, and a clear demarcation between the shale zone and the top of the Cleveland Sand has always been found.

Next, SoCal argues that even if the problem of drill depths and core samples are resolved, and the cores do represent the recommended formation, it appears, based on the transcript of the

¹ No one requested a public hearing and no hearing was held.

² Oklahoma submitted its own response and appended Jordan's response thereto.

hearing convened by Oklahoma, that only two feet of the core sample was usable for permeability measurements. SoCal asserts that no explanation was provided as to how the permeability for four additional one foot intervals of the core sample was derived or why such questionable data was used. Jordan responded that permeability tests were run on ten feet of the core sample, but that eight feet of the sample had defects (i.e., cracks, fractures or failure to recover a full core) caused in preparation of the core or in the actual coring operation. Jordan contends, and the Commission agrees, that the defects result in permeability measurements which are higher than those actually encountered in the formation. Jordan additionally submitted 28 core samples, taken by a previous operator from the Cleveland Sand Formation; only two of these samples yielded permeability values in excess of .1 md, and one of these samples was found to have horizontal cracks. If all samples are averaged, the permeability is .119 md. If the sample with the cracks is excluded, the average permeability is .076 md.³

SoCal next alleges that there is a lack of record evidence to justify the slope of the line adopted by Oklahoma, in its use of the Horner Plot method, to determine *in situ* permeability of the recommended formation. Specifically, SoCal points out that initial data readings from wells reflect the results of well bore storage, rather than the actual conditions of the formation. Therefore, SoCal contends that failure to use special Log-Log plots to determine if the length of the test was long enough to conclude that the well bore storage period was completed was improper, and thus the tests do not accurately demonstrate *in situ* permeability for the Cleveland Sand. SoCal contends that for low permeability gas reservoirs, the time required to evaluate the reservoir is much longer than the shut-in test time actually used, which was at the maximum eight days. Thus, SoCal concludes reservoir permeability so calculated should be disregarded by the Commission, absent additional data which shows that such permeability calculation is in fact representative of the formation.

Jordan responded to SoCal's argument by asserting that rather than determining true or actual permeability for the Cleveland Sand, the tests used attempted to show that the permeability

is less than 0.1 md. Jordan states that it agrees with SoCal that the slope of the line drawn on the Horner Graph should be drawn through the final several points on the plot. Jordan asserts that this slope would yield permeability values of 0.0275 md for a pay section which is 20 feet thick, and 0.0117 md for a 47 foot thick pay section. Furthermore, Jordan maintains that these permeability calculations agree with the values calculated for three other wells in the Cleveland Sand: the Ehrlich No. 1-3 Well, the Berry No. 1-3 Well, and the Hough No. 1-35 Well. Oklahoma in its reply stated that the permeability has been demonstrated to be less than 0.1 md, because what was calculated was the upper limit of the permeability, not the actual permeability, and the result was less than 0.1 md.

Jordan claims that it followed the procedure recommended in the technical sources relied on by SoCal to determine permeability in a well which has been hydraulically fractured in order to determine the upper limit of permeability for the three test wells. Jordan claims that further procedures are unnecessary since they will only serve to reduce the calculated permeability, which already satisfies the guidelines.

Finally, SoCal finds fault with the pressure buildup study which was used to determine reservoir permeability. SoCal indicates that the test well did not flow for 45.5 hours, as was reported, but rather flowed for only 2.5 hours. SoCal's concern is that use of the wrong flow-rate, which is a key factor in determining reservoir permeability, results in an inaccurate analysis of the pressure buildup data. Jordan's response indicates, and the Commission agrees, that if the longer flow times as asserted by SoCal were used in the calculations of permeability, the result would be a lower calculated permeability. The lower calculated permeability can be expected because the flow rate had already decreased to a negligible rate within 2.5 hours, thus, the calculated results were an upper limit and still within the limits of the Commission's regulations.

The Commission has reviewed the comments and issues raised by SoCal and the responses thereto submitted by Jordan and Oklahoma. The Commission finds that the evidence submitted supports the assertion that the "Cleveland Sand" of the "Kansas City Group" meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Oklahoma recommendation.

This amendment shall become effective immediately. The Commission

has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subject in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below, effective January 21, 1983. By the Commission

Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding new paragraph (d) (123) to read as follows:

§ 271.703 Tight formations.

• • • • •
(d) Designated tight formations.
• • • • •

(123) "Cleveland Sand" of the "Kansas City Group" in Oklahoma. RM79-76-120 (Oklahoma-2).

(i) *Delineation of formation.* The designated interval of the Cleveland Sand is found in Sections 6 through 8 and 16 through 18, Township 20 North, Range 24 West; Sections 1 through 6, 11 through 13, Township 20 North, Range 25 West; and Sections 35 and 36, Township 21 North, Range 25 West, in the Gage Southwest Field, northwestern Oklahoma, in Ellis County.

(ii) *Depth.* The depth to the top of the designated interval ranges from 7,850 to 8,300 feet. The top of the designated interval ranges from 71 to 114 feet below the base of the "Checkerboard limestone" (a drillers' term), and the base of the interval is marked by the top of the Marmaton Group of Des Moinesian age. The gross thickness of the "Cleveland Sand" ranges from 40 to 60 feet and averages 54 feet; the net sandstone thickness ranges from 5 to 32 feet and averages 19 feet.

[FR Doc. 83-2636 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

³ There is some indication that the second sample above .1 md may have contained fractures induced by drilling or coring operations. If this sample is also excluded, the average permeability for the remaining 26 core samples is .036 md.

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

(Docket No. 82N-0341)

D&C Red No. 21 and D&C Red No. 22;
Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of
effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of January 3, 1983, for regulations that permanently list D&C Red No. 21 and D&C Red No. 22 as color additives for general use in drugs and cosmetics excluding use in the area of the eye.

DATE: Effective date confirmed: January 3, 1983.

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 the Federal Register of November 30, 1982 (47 FR 53843), FDA published a final rule that amended the color additive regulations by "permanently" listing D&C Red No. 21 under §§ 74.1321 and 74.2321 (21 CFR 74.1321 and 74.2321) and D&C Red No. 22 under §§ 74.1322 and 74.2322 (21 CFR 74.1322 and 74.2322). The final rule also amended § 81.1(b) (21 CFR 81.1(b)) by removing D&C Red No. 21 and D&C Red No. 22 from the provisional lists of color additives and § 81.27(d) (21 CFR 81.27(d)) by removing D&C Red No. 21 and D&C Red No. 22 from the conditions of provisional listing. Additionally, the final rule amended § 82.1321 (21 CFR 82.1321) for D&C Red No. 21 to conform the identity and specifications to the requirements of § 74.1321(a)(1) and (b) and amended § 82.1322 (21 CFR 82.1322) for D&C Red No. 22 to conform the identity and specifications to the requirements of § 74.1322(a)(1) and (b).

FDA gave interested persons until December 30, 1982, to file objections. The agency did not receive any objections or requests for a hearing on any aspect of the final rule. Therefore, FDA concludes that the final rule published on November 30, 1982, for D&C Red No. 21 and D&C Red No. 22 should be confirmed.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 stat. 399-403 (21 U.S.C. 371, 376 (b) (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for hearing were filed in response to the November 30, 1982 final rule. Accordingly, the amendments promulgated thereby became effective on January 3, 1983.

Dated: January 24, 1983.
William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 83-2518 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

New Animal Drugs; Change of Sponsor
Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for several new animal drug applications (NADA's) from Bayvet Division of Cutter Laboratories, Inc., to Bayvet Division of Miles Laboratories, Inc.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV-145), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Bayvet informed the agency that Cutter Laboratories, Inc., has been merged into Miles Laboratories, Inc., with the latter being the surviving corporation. The change of sponsor name for these NADA's is the result of a corporate

merger which does not involve changes in manufacturing facilities, equipment, procedures, or personnel. The animal drug regulations are amended in 21 CFR 510.600(c) to reflect this change of sponsor name.

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

List of Subjects in 21 CFR Part 510

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

PART 510—NEW ANIMAL DRUGS

§ 510.600 [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 510 is amended in § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for the entry "Bayvet Division of Cutter Laboratories, Inc." and (c)(2) for "000859" under the "Firm name and address" headings by revising the firm name to read "Bayvet Division of Miles Laboratories, Inc."

EFFECTIVE DATE: February 1, 1983.

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

Dated: January 26, 1983.

Robert A. Baldwin,
Associate Director for Scientific Evaluation.

[FR Doc. 83-2042 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 520

New Animal Drugs; Change of Sponsor
and Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address in several new animal drug applications (NADA's) held by Franklin Laboratories, and for a change of sponsor for an NADA transferred from Franklin Laboratories to Fort Dodge Laboratories.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV-145), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Franklin Laboratories, P.O. Box 669, Amarillo, TX 79105, has revised several NADA's to reflect a change of sponsor address from 2620 S. Parker Rd., Suite 240, P.O. Box 441470, Aurora, CO 80044. In addition, the firm provided for a change of sponsor for NADA 101-715 (dichlorophenotoluene capsules) to Fort Dodge Laboratories.

These actions concern a change of sponsor address and a change of sponsor, and do not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations are amended to reflect the changes.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Reporting requirements.

21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) for the entry "Franklin Laboratories" and (c)(2) for No. "010290" under "Firm name and address" by revising the address to read "P.O. Box 669, Amarillo, TX 79105."

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

§ 520.580 [Amended]

2. In Part 520, § 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(1) by removing No. "010290."

Effective date: February 1, 1983.

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

Dated: January 26, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation,

[FR Doc. 83-2641 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for use of certain lincomycin premixes for the manufacture of a complete swine feed. The feed is used for control and treatment of swine dysentery.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 128, Lewisburg, OH 45338, is sponsor of NADA 132-657 filed in its behalf by the Upjohn Co. The NADA provides for use of 8- and 20-gram-per-pound lincomycin premixes for making 40- and 100-gram-per-ton lincomycin complete swine feeds used for the control and treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97-505. Upjohn has authorized use of the data in NADA 97-505 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the safety and effectiveness data in the original approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11 (e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers

Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

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), § 558.325 is amended by adding new paragraph (b)(5) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

• • • • •

(b) • • •

(5) Premix levels of 8 and 20 grams per pound have been granted to No. 017790 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

• • • • •

Effective date: February 1, 1983.

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

Dated: January 24, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-2519 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 720

Delivery of Personnel—Service of Process and Subpoenas—Production of Official Records

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its regulations concerning delivery of personnel, service of process, and production of official records to

reflect changes to Chapter XIII of the Manual of the Judge Advocate General.
EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Commander Patricia M. Gormley, JAGC, U.S. Navy, Assistant Division Director, Litigation Division, Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332. Telephone number: (202) 325-9870.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 720, which is derived from Chapter XIII of the Manual of the Judge Advocate General, to reflect changes in that regulation. The amendment relates to internal naval management and personnel practices, and is being published by the Department of the Navy solely for the guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on this amendment prior to adoption would be impracticable and is not required under the public rulemaking provisions of 32 CFR Parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 720

Courts, Military law.

PART 720—[AMENDED]

Accordingly, 32 CFR Part 720 is amended as follows:

1. The authority citation for Part 720 reads as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5146; 32 CFR 700.206 and 700.1202.

§ 720.1 [Amended]

2. Section 720.1 is amended by adding, to the end of the paragraph the following sentence which reads: "A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected if reasonably practicable."

§ 720.4 [Amended]

3. Section 720.4 is amended by removing "720.8," from line 7.

§ 720.5 [Amended]

4. Section 720.5 is amended by inserting a heading which reads "(a) *Delivery under 10 U.S.C. 814.*" Additionally, this paragraph (a) is amended by removing the language "A-13-b of the Manual of the Judge Advocate General" wherever it appears and inserting in their place the words "A to this section".

5. Section 720.5 is amended by adding a new paragraph (b) which reads as follows:

(b) *Delivery under Interstate Agreement on Detainers Act.* Special forms, not contained in the Manual of the Judge Advocate General, are used when delivering prisoners under the Interstate Agreement on Detainers Act. The Act is infrequently used and most requests are pursuant to 10 U.S.C. 814. See § 720.15 for a detailed discussion of the Act.

6. Section 720.5 is amended by adding a new Appendix A which reads as follows:

Appendix A to § 720.5—Delivery Agreement

In consideration of the delivery of (name of person delivered) _____, United States Navy (United States Marine Corps), to _____, at _____, for trial upon the charge of _____, I hereby agree pursuant to the authority vested in me as _____ that (name of person delivered) _____, United States Navy (United States Marine Corps) will be transported to the State of _____ without expense to him or the United States and that the Commanding Officer of the _____ will be notified immediately of the outcome of the trial and that the said (name of person delivered) _____, will be returned to the _____, or to such place as the Secretary of the Navy shall designate, or transportation issued thereto, without expense to the United States or to the person delivered immediately upon dismissal of the charges or completion of the trial in the event he is acquitted, or immediately upon satisfying the sentence of the court in the event he is convicted and a sentence imposed, or upon other disposition of the case, provided that the Department of the Navy shall then desire his return.

§ 720.8 [Amended]

7. Section 720.8(a) is amended by removing the words "must obtain specific authority from the Secretary of the Navy (Judge Advocate General) to deliver personnel to Federal, State, Territory, Commonwealth, or local authorities" and by inserting in their place the words "should obtain legal guidance from a judge advocate of the Navy or Marine Corps prior to delivery of personnel to Federal, State, Territory, Commonwealth, or local authorities if reasonably practicable."

8. Section 720.8(b) is amended by inserting the word "only" between the words "refused" and "in", and inserting the word "limited" between the words "following" and "circumstances".

9. Section 720.8(d) is amended by removing the words "delivery is refused" and inserting in their place the words "refusal of delivery is intended".

10. Section 720.15 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 720.15 Request for delivery of personnel serving sentence of court-martial.

(a) *General.* Authority to honor requests for delivery of military personnel serving a sentence of court-martial is provided by 10 U.S.C. 814. Although seldom utilized, additional authority and mandatory obligation to deliver such personnel is provided by the Interstate Agreement on Detainers Act (18 U.S.C. Appendix, hereinafter "the Act") which applies to the Federal agency that is holding the prisoner and has been adopted by approximately four-fifths of the state jurisdictions. The Department of the Navy as an agency of the Federal Government shall comply with the Act. The Act is designed to avoid speedy-trial issues and to aid in rehabilitation efforts by securing a greater degree of certainty about a prisoner's future. The Act provides a way for the prisoner to be tried on charges pending before state courts, either at the prisoner's request, or at the request of the state where the charges are pending.

(b) *Interstate Agreement on Detainers Act.* Upon request under the Act by either the prisoner himself or state authorities, the cognizant Navy or Marine Corps staff judge advocate, as appropriate, shall effect liaison with the appropriate state officials and shall monitor and ensure that action is taken by the cognizant commander on all such requests. While requests between Federal authorities do not appear to be specifically covered by the Act, prisoner requests for disposition of Federal charges shall generally be handled in accordance with the procedures outlined herein except that no delivery agreement is required by Federal authorities. In the case of requests by state authorities under the Act, liaison shall be established with the Director, Bureau of Prisons, Washington, D.C. 20537, who has sole authority to deny the request. The Act provides that the court-martial sentence shall continue to run during temporary custody.

(1) *State Request.* State officials may demand delivery of prisoners in military custody under section 2, Article IV, of the Act if (i) a detainee has been lodged against the prisoner; and (ii) the prisoner is serving a sentence (regardless of whether an appeal is in process). Delivery of such prisoner upon state request is mandatory as to Navy/Marine Corps authorities and may be refused only if the request is disapproved by the Director of the Bureau of Prisons.

Washington, D.C., as the designee of the Attorney General for this purpose. 28 CFR 0.96(a). There has been no further delegation to military authority. The consent of the prisoner is not required and the Director of the Bureau of Prisons is the only authority who can provide relief to the prisoner.

(2) *Prisoner Request.* The obligation to grant temporary custody under the Act applies with equal force to requests to be delivered to state authority made by the prisoner. Section 2, Article III(c), of the Act requires the prisoner's custodial official to inform him of the existence of any detainer and of his right to request disposition. The prisoner's request is directed to the custodial official who is required to forward it to the appropriate prosecuting official and court together with a certificate of prisoner status, all as provided by Article III of the Act.

(3) *Delivery.*—(i) *Requests under Detainers Act.* When a request for delivery is received from civil authorities pursuant to section 2, Article IV of the Act, the prisoner should be informed that he may request the Director of the Bureau of Prisons, Washington, D.C. 20537, to deny the request, within 30 days after such request is received. Upon the expiration of such 30-day period or upon denial of the prisoner's request by the Director of the Bureau of Prisons, whichever occurs first, the prisoner shall be delivered to the requesting authority as soon as practicable.

(c) *10 U.S.C. 814.* When a request for custody does not invoke the Interstate Agreement on Detainers Act, delivery of custody shall be governed by 10 U.S.C. 814 and 32 CFR Part 720. The request shall be honored unless, in the exercise of discretion, there is an overriding reason for retaining the accused in military custody, e.g., situations where additional courts-martial are to be convened or the delivery would severely prejudice the prisoner's appellate rights. The agreement discussed in § 720.5 will be required as a condition precedent to delivery. Unlike delivery under the Act, delivery of custody pursuant to 10 U.S.C. 814 operates to interrupt the execution of the court-martial sentence.

11. Section 720.20(c)(2) is revised to read as follows:

§ 720.20 Service of process upon personnel.

(c) * * *

(2) Any military member or civilian employee who is served with Federal or State court civil or criminal process or pleadings (including traffic tickets) arising from actions performed in the course of official duties shall

immediately deliver all such process and pleadings to the commanding officer. The commanding officer shall ascertain the pertinent facts, notify the Judge Advocate General (Code 14), preferably by telephone, of the service, and immediately forward to that Office the pleadings and process in the case.

The military member or civilian employee will be advised concerning his/her right to remove civil or criminal proceedings from State to Federal court under 28 U.S.C. 1442 and 1442a, his/her rights under the Federal Driver's Act (28 U.S.C. 2679B), (if applicable), and the right of a Federal employee to be represented by Department of Justice attorneys in State criminal proceedings and in civil and Congressional proceedings in which that employee is sued or subpoenaed in an individual capacity, as delineated in 28 CFR 50.15. Any letter requesting representation shall be addressed to the Secretary of the Navy (Judge Advocate General), and shall be endorsed by the commanding officer, who shall provide all necessary data bearing upon the question as to whether the employee was acting within the scope of employment at the time of the incident out of which the suit arose.

12. Section 720.20(e) is amended by inserting the symbol and word "/her" after the word "him", and by adding at the end of the paragraph the following sentences:

In cases where a member is being called as a witness for a nongovernmental party only because of performance of official duties, the commanding officer is authorized to issue the member permissive orders authorizing attendance at the trial at no expense to the Government. Members are permitted to accept fees and mileage tendered.

§ 720.30 [Amended]

13. Section 720.30(a) is amended as follows:

A. By inserting after the second sentence the following new sentence:

* * * See the provisions in the Secretary of the Navy Instruction 5211.5 series which set forth the additional requirement that reasonable efforts be made to notify all individuals to whom the record pertains of (1) the disclosure, and (2) the nature of the information provided, when the court order has become a matter of public record and the record is contained in a system of records as defined in the Secretary of the Navy Instruction 5211.5 series.

B. By removing the word "all" in line 20, and insert in its place the words "one or more"; insert after the word "order" in line 24 the words "when such records are not in a 'system of records' as defined by the Privacy Act (5 U.S.C. 552a)"; and add in line 28 after "section." the sentences:

* * * In determining whether or not a record contained in a "system of records" will be furnished in response to a written request for that record, consideration shall be given to the provisions of the Secretary of the Navy Instruction 5720.42 series. If the record is in a "system of records," it may be produced upon written request of one or more parties in interest or their respective attorneys in the absence of a court order only if the individuals to whom the record pertains give written consent to the production or if the production is otherwise authorized under the Privacy Act and the Secretary of the Navy Instruction 5211.5 series.

C. By adding in line 35 after "notified," the sentence "Any release of classified information for civil court proceedings (whether civil or criminal in nature) must also be coordinated within the office of the Chief of Naval Operations (OP-009D) in accordance with the Chief of Naval Operations Instruction 5510.1 series."

14. Section 720.30(b)(2) is amended by inserting after the word "officers" the words "or officials".

15. Section 720.30(c) is amended by removing in line 3 the words "confidential matters" and by inserting in their place the words "personal information, the release of which would result in a clearly unwarranted invasion of personal privacy," and by inserting in line 14 after "Navy," the following sentence: "When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility in the area."

16. Section 720.30(d) is amended by removing in line 15 the words "otherwise confidential material" and by inserting in their place the words and symbol "For-Official-Use-Only information,".

§ 720.31 [Amended]

17. Section 720.31(b) is amended by removing the word "Advocate" and inserting in its place the word "Advocates", inserting after the words "(Civil Law)" the words "and (Military Law)", inserting after the word "herein"

the language "if less than a release of the complete requested record will result. In all other instances the Deputy Assistant Judge Advocates General, who have cognizance of the record(s) in issue, may release such records.", and by inserting before the word "include" the word "necessarily".

18. Paragraph (b)(1) of § 720.31 is amended by removing the remainder of the paragraph beginning with "Exception." and ending with "releaser."

19. Paragraph (c) of § 720.31 is redesignated as paragraph (d); and a new paragraph (c) is added to read as follows:

(c) *Affirmative Claims Files.* Affirmative claims files (including Medical Care Recovery Act files), except to the extent that such files contain copies of reports of investigations prepared under the Manual of the Judge Advocate General, or classified or privileged information, may be released by local holders to insurance companies to support claims; to civilian attorneys representing the injured party's and the Government's interests; and to other components of the Department of Defense, without the prior approval of the Judge Advocate General, provided that the amount of the claim is within the monetary settlement authority of the releaser. When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility for the area.

Dated: January 26, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy,
Alternate Federal Register, Liaison Officer.

[FR Doc. 83-2749 Filed 1-31-83; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62017D, TSH-FRL 2295-2]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule; correction.

SUMMARY: This Notice corrects and inadvertent error in 40 CFR 761.3(nn) of the final rule on the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs) in closed and controlled waste manufacturing processes, which was published in the Federal Register of October 21, 1982 (47 FR 46980). Section 761.3(nn) of the Final Rule incorrectly implies that controlled wastes containing any concentration of PCBs can be destroyed in any incinerator listed under the definition of "qualified incinerator." However, the preamble to the Final Rule states that incineration in high efficiency boilers is limited to PCBs in concentrations below 500 ppm, and incineration in RCRA-approved incinerators is limited to PCBs in concentrations below 50 ppm. This Notice adds these restrictions on PCB concentrations to § 761.3(nn) of the Final Rule.

DATE: Effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), in Washington, DC.: (554-1404). Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of October 21, 1982 (47 FR 46980), EPA issued final amendments to the rule governing the manufacture, processing, distribution in commerce, and use of PCBs. These amendments exclude PCBs that are produced in closed and controlled waste manufacturing processes from the Toxic Substances Control Act (TSCA) ban on the manufacture, processing, distribution in commerce, and use of PCBs. Section 761.3(kk) of the rule contains the following definition of a "controlled waste manufacturing process":

(kk) "Controlled waste manufacturing process" means a manufacturing process in which PCBs are generated but from which less than 10 micrograms per cubic meter from any resolvable gas chromatographic peak are contained in any release to air; less than 100 micrograms per liter from any resolvable gas chromatographic peak are contained in any release to water; less than 2 micrograms per gram from any resolvable gas chromatographic peak are contained in any product, and the remainder of PCBs are incinerated in a qualified incinerator, landfilled in a landfill approved under the provisions of § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

Section 761.3(nn) of the rule contains the following definition of a "qualified incinerator":

(nn) "Qualified incinerator" means one of the following:

(1) An incinerator approved under the provisions of § 761.70.

(2) A high efficiency boiler approved under the provisions of § 761.60(a)(3).

(3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA). The manufacturer seeking to qualify a process as a controlled waste process by disposing of waste in a RCRA-approved incinerator must make a determination that the incinerator is capable of destroying less readily burned compounds than the PCB homologs to be destroyed. The manufacturer may use the same guidance used by EPA in making such a determination when issuing an approval under section 3005(c) of RCRA. The manufacturer is also responsible for obtaining a reasonable assurance that the incinerator, when burning PCB wastes, will be operated under conditions which have been shown to enable the incinerator to destroy the less readily burned compounds.

The preamble to the Final Rule explained that incineration of PCBs in high efficiency boilers is limited to PCBs in concentrations below 500 ppm, and that incineration of PCBs in RCRA-approved incinerators is limited to PCBs in concentrations below 50 ppm (see 47 FR 46987 and 46988). However, these limitations on the concentration of PCBs that can be destroyed in these two types of incinerators were inadvertently excluded from § 761.3(nn) of the Final Rule. This Notice corrects this inadvertent error by adding these restrictions to § 761.3(nn).

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements, Environmental protection.

Dated: January 24, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 761—[AMENDED]

Therefore, in § 761.3, paragraph (nn) is revised to read as follows:

§ 761.3 Definitions.

(nn) "Qualified incinerator" means one of the following:

(1) An incinerator approved under the provisions of § 761.70. Any concentration of PCBs can be destroyed in an incinerator approved under § 761.70.

(2) A high efficiency boiler approved under the provisions of § 761.60(a)(3).

Only PCBs in concentrations below 500 ppm can be destroyed in a high-efficiency boiler approved under § 761.60(a)(3).

(3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA). Only PCBs in concentrations below 50 ppm can be destroyed in a RCRA-approved incinerator. The manufacturer seeking to qualify a process as a controlled waste process by disposing of wastes in a RCRA-approved incinerator must make a determination that the incinerator is capable of destroying less readily burned compounds than the PCB homologs to be destroyed. The manufacturer may use the same guidance used by EPA in making such a determination when issuing an approval under section 3005(c) of RCRA. The manufacturer is also responsible for obtaining a reasonable assurance that the incinerator, when burning PCB wastes, will be operated under conditions which have been shown to enable the incinerator to destroy the less readily burned compounds.

[FR Doc. 83-2700 Filed 1-31-83; 845 am]

BILLING CODE 8560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 5-3

[APD 2800.2 CHGE 29]

Procurement by Negotiation; Structured Approach Profit/Fee Objective

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations GSPR, Chapter 5, are amended to prescribe uniform policies for establishing profit or fee prenegotiation objectives in acquisitions requiring cost analysis. The basis for the regulation is Office of Federal Procurement Policy (OFPP) Policy Letter 80-7, dated December 9, 1980, (45 FR Part 82593, December 15, 1980), and the implementation of the Policy Letter in the Federal Procurement Regulations on October 14, 1982, (47 FR 50251, November 5, 1982). The GSPR satisfies the OFPP policy letter requirement that each agency meeting threshold requirements develop an individual structured approach for determining profit or fee objectives. The intended effect is to provide a structured

approach for determining profit or fee objectives.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202-523-4755).

List of Subjects in 41 CFR Part 5-3

Accounting, Cost accounting standards, Government procurement, and Procurement by negotiation.

PART 5-3—PROCUREMENT BY NEGOTIATION

1. The table of contents for Subpart 5-3.8, is revised by adding the following:

Sec.
* * * * *

5-3.808-3 Structured approach for determining profit/fee objectives.

Authority: (Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

2. Section 5-3.808-3, Structured approach for determining profit/fee objectives, is added to read as follows:

§ 5-3.808-3 Structured approach for determining profit fee objectives.

(a) General

(1) The structured approach provides contracting officers with a technique that will ensure consideration of the relative value of prescribed profit factors for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to the Government before negotiations. Such information is furnished in proposals, audit data, performance reports, preaward surveys and the like. The structured approach also provides a basis for documentation of a profit objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value and complexity of the proposed procurement.

(2) The negotiation process does not require agreement on estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(3) When cost analysis is performed pursuant to § 1-3.807-2(c) of this title, profit consideration shall be in accordance with the structured approach set forth in paragraph (c) of this section. The structured approach shall be used in all contracts, including lease alterations, where cost analysis is

performed except as set forth in paragraph (b) of this section.

(b) Exemptions from requirement to use the structured approach.

(1) Under exempted procurements, other methods for establishing profit objectives may be used. Generally, such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective). However, factors within the structured approach considered inapplicable to the procurement shall be excluded from the profit objectives. The following type of procurements are exempt from the structured approach:

(i) Management contracts for operation and/or maintenance of Government facilities;

(ii) Contracts primarily requiring delivery of material supplied by subcontractors;

(iii) Termination settlements;

(iv) Cost-plus-award-fee contracts;

(v) Contracts where only price analysis is required (FPR 1-3.807-2(a));

(vi) Contracts and contract modifications of \$100,000 or less in value; and

(vii) Architect-engineer and construction contracts.

(2) Other exemptions may be made in the negotiation of contracts having unusual pricing situations where the structured approach is determined to be unsuitable. Such exemptions shall be justified in writing and approved by the head of the procuring activity.

(c) Profit factors and weight ranges for use in the structured approach.

(1) The following factors shall be considered in all situations in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used when the structured approach is used.

Profit factors	Weight ranges (percent)
Contractor effort:	
Material acquisition	1 to 4
Direct labor	4 to 12
Overhead	3 to 8
Other costs	1 to 3
General management	4 to 8
Other factors:	
Cost risk	0 to 7
Investment	-2 to +2
Performance	-2 to +2
Socio-economic programs	-5 to +5
Special situations	-2 to +2

(2) GSA Form 1766, Structured Approach Profit/Fee Objective, shall be used to facilitate the profit objective computation. The contracting officer shall measure the "Contractor Effort" by the assignment of a profit percentage

within the designated weight ranges to each element of cost recognized. The amount calculated for facilities capital cost of money shall not be included in the cost base for the computation of the profit objective (see §§ 1-15.205-51(a) and 1-3.1301).

(3) The categories listed under "Contractor Effort" are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic they provide sufficient guidance to evaluate all items of cost.

(4) After computing a total dollar profit for "Contractor Effort", the contracting officer shall calculate the specific profit dollars for cost risk, investment, performance, socio-economic programs, and special situations. This is accomplished by multiplying the total Government cost objective, exclusive of any cost of money for facilities capital, by the specific weights assigned to the elements within the "Other Factors" category.

(5) In determining the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in paragraphs (d) and (e) of this section.

(d) Considerations for assigning weights to the "Contractor Effort" category.

The "Contractor Effort" category measures how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to past experience or only refinements on existing technology. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(1) *Material acquisition (subcontracted items, purchased parts, special tooling, and other material).*

(i) Analysis of these cost items for the purpose of assigning profit weights shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements.

Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should also be made for purchases of raw materials or basic commodities.

(ii) Recognized costs proposed as direct material costs, such as scrap charges, shall be treated as material for profit evaluation. If intracompany transfers are accepted at price in accordance with § 1-15.205-22(e), they shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(2) *Direct labor (engineering, professional services, manufacturing, and other labor).* Analysis of the various labor items of the cost content of the contract for the purpose of assigning profit weights should include evaluation of the comparative quality and level of the engineering or professional talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating professional or engineering labor, consideration should be given to the amount of notable, unusual, or scarce talent needed in contrast to journeyman effort or supporting personnel. The diversity, or lack thereof, of professional or engineering specialties required for contract performance and the corresponding need for supervision and coordination should be evaluated. Such circumstances as whether the caliber or class of an engineer involved is that of an "idea-man," or whether the

contractor is required by the nature of the contract to assign unusually skilled talent to the work, should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., construction, quality control, receiving, inspection etc.) which do not fall within professional, engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above shall be applied.

(3) *Overhead and general management.*

(i) Analysis of conversion related indirect costs (overhead) and general management costs (general and administrative expense (G&A)) includes an evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis for the purpose of assigning profit weights should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contribution elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(ii) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, unless dictated otherwise by applicable Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the

composite rate which would be classified as engineering overhead, manufacturing overhead, other overhead pools and general and administrative expenses, and follow the appropriate evaluation technique.

(iii) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which involves advanced state of the art techniques will cause more problems and require more managerial time and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(iv) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in paragraph (d)(3)(iii) of this section are involved.

(4) *Other costs.* Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of costs for the purpose of assigning profit weights shall include: (i) The significance of the costs, (ii) the nature of the costs, and (iii) how much they contribute to contract performance.

(e) Considerations for assigning weights to the "Other Factors" category.

(1) *Contract cost risk.* The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the contract cost risk has been shifted to the Government through cost-reimbursement or price-redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. The contracting officer will need to consider the type of contract anticipated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to

be borne by the contractor. This factor is one of the most important in arriving at prenegotiation profit objectives.

(i) Evaluation of contract cost risk requires a determination of (A) The degree of cost responsibility the contractor assumes, (B) the reliability of the cost estimates in relation to the task assumed, and (C) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract cost. Thus, such risks on the part of the contractor as reputation, losing a commercial market, or risk of losing potential profits in other fields are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of the total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

	Percent
Cost reimbursement type contracts	0 to 3.
Fixed-price type contracts	3 to 7.

(A) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads. In such cases, up to 1% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the 0 to 3 percent range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The weight range for fixed-price contracts is wide enough to accommodate the many types of fixed-price arrangements. These include fixed-price incentive, firm fixed-price with economic price adjustment, fixed-price with prospective or retroactive price determination, and firm fixed-price contracts. Weighting should be indicative of the cost risk assumed, with only firm fixed-price contracts reaching the top end of the range.

(B) The contractor's subcontracting program may have significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the

contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract cost represents subcontracts without any substantial transfer of contractor's risk.

(C) In making a contract cost risk evaluation in procurement actions that involve definitization of letter contracts, unpriced change orders, and unpriced orders under basic ordering agreements, consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just to the portion of costs incurred or percentage of work completed prior to definitization.

(D) Time and materials contracts, labor-hour contracts, and overhaul contracts priced on a time and material basis shall be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights.

(E) Service contracts, such as janitorial, guard service, etc., shall have a weight range for cost risk of 0 to 4%. There may be instances where a firm fixed-price contract, which is not priced on a labor-hour method, warrants additional consideration for contractor cost risk. In those circumstances, a weight of up to 4% is authorized. Conversely, a cost-plus-a-fixed-fee service contract normally should be priced using a zero cost risk factor.

(iii) The second determination of the degree of cost responsibility assumed relates to the reliability of the cost estimate. Sound price negotiation requires well defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar items or services. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract

price, thereby dictating a reduction in the profit weight assigned for contract cost risk.

(iv) The third determination of the degree of cost responsibility assumed relates to the difficulty of the contractor's task. The contractor's task can be difficult or simple, regardless of the type of contract. Profit weights for contract cost risk should be adjusted accordingly.

(2) *Investment.* GSA contractors are normally encouraged to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. It is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor for profit weights should include an analysis of the following:

(i) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source of financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. Contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Situations between the above examples should be evaluated on their merits with either a positive or negative profit weight adjustment, as appropriate, being made. However, when a highly facilitated contractor is to perform a contract which does not benefit from this facilitation, or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(ii) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly, with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for payments less frequent than the contractor's or the industry's normal practice.

(3) *Performance.* A contractor's past and present performance should be evaluated in such areas as quality of

product or service, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas as compared with other contractors in similar circumstances, such performance merits a proportionately higher profit weight is appropriate. A poor record in this regard should be reflected by a reduced or negative weight.

(4) *Federal socio-economic programs.* This factor relates to the extent of successful participation in Government sponsored programs such as small business, small disadvantaged business, labor surplus area programs, energy conservation efforts, etc. The contractor's policies and procedures which energetically support such Government programs and achieve successful results should be given positive consideration. Failure or unwillingness on the part of the contractor to support these programs should be assigned negative profit weight consideration.

(5) *Special situations.*

(i) *Independent development.* The contractor may be provided additional profit consideration in recognition of independent development efforts relevant to the contract end item, including manufacturing or engineering processes, specialized or unique services, or other technologies. In assigning an appropriate profit weight of this factor, the contracting officer should consider the extent of the Government's contribution to the contractor's independent research and development program during the time in which the applicable development was taking place.

(ii) *Unusual pricing agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract costs. In such circumstances, a positive profit weight may be assigned for this factor commensurate with cost savings.

(iii) *Spin-off benefits.* A negative weight may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

(f) *Facilities capital cost of money.* When facilities capital cost of money (cost of capital committed to facilities) is

included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with §1-15.205-51(a).

(g) *Nonprofit organizations.*

(1) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in paragraph (g)(2) of this section, shall be used to establish fee objectives for nonprofit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objectives for such a contract as calculated under the structured approach.

(2) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(3) For contracts with nonprofit organizations where fees are involved, an adjustment of up to 3% will be subtracted from the total profit-fee objective. In developing this adjustment, it will be necessary to consider the following factors:

- (i) Tax position benefits;
- (ii) Granting of financing through letters of credit;
- (iii) Facility requirements of the nonprofit organization; and
- (iv) Other factors which may work to the advantage or disadvantage of the contractor in its position as a nonprofit organization.

PART 5-16 (AMENDED)

3. The table of contents for Part 5-16 is amended by adding the following:

Sec.	
5-16.950-1766	GSA Form 1766, Structured Approach Profit/Fee Objective.
Authority:	Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Note.—The form illustrated in this § 5-16.950-1766 is filed with the original document and does not appear in this issue.

Dated: January 13, 1983.

Allan W. Beres,
Assistant Administrator for Acquisition
Policy.

[FR Doc. 83-2021 Filed 1-31-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 51b

Project Grants for Preventive Health Services

AGENCY: Centers for Disease Control,
Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations in 42 CFR Part 51b which apply to grants awarded to State and local government agencies, and, in certain cases, to nonprofit entities, to assist them in implementing preventive health service programs authorized by Section 317(a) of the Public Health Service Act, and venereal disease control programs authorized by Section 318(c). This final rule adds an additional subpart to Part 51b. Subpart F is added to govern project grants for venereal disease research, demonstrations, and special public information and education under Section 318(b).

EFFECTIVE DATE: March 3, 1983.

FOR FURTHER INFORMATION CONTACT:
Anthony M. Scardaci, Center for
Prevention Services, Centers for Disease
Control, 1600 Clifton Road NE, Atlanta,
Georgia 30333, telephone (404) 329-3773
or FTS: 236-3773.

SUPPLEMENTARY INFORMATION: This
final rule implements revisions proposed
in a Notice of Proposed Rulemaking
(NPRM) published in the *Federal
Register* July 17, 1980 (45 FR 47878).

The rule implements changes made in
Section 318 of the Public Health Service
Act by the Health Services and Centers
Amendments of 1978 (Pub. L. 95-626),
approved November 10, 1978. Section
318 governs Federal assistance related
to the prevention and control of
venereal disease. The most significant
statutory amendment requires that not
less than 5 percent of funds
appropriated under Section 318 be
obligated to support programs
authorized by Section 318(b). These
programs include research,
demonstrations, and public information
and education activities for the
prevention and control of venereal
disease. Grants for support of basic
venereal disease control program

activities at the State and local level,
except public information and
education, are authorized under Section
318(c).

Since public information and
education regarding venereal disease is
an essential component of any federally
assisted control program, these
regulations permit State and local health
agencies to request funds for this
purpose as part of the application under
Subpart D for support of other venereal
disease control activities such as
surveillance, contact, identification, and
screening. Separate justification of an
accounting for funds for public
information and education activities is
required, since support of the activities
is authorized separately from other
control program activities. The
Department must be able to ensure that
at least 5 percent of the funds
appropriated under Section 318
generally are obligated for venereal
disease research, demonstrations, or
public information and education.

A new Subpart F governs grants under
Section 318(b) for support of research,
demonstrations, and special public
information and education activities not
provided through a grant made under
Subpart D. Also, Subpart D is revised to
reflect another amendment to Section
318 by Pub. L. 95-626 which provides for
expanded professional venereal disease
education, training, and clinical skills
improvement activities.

The NPRM proposed a new Subpart
H—Grants for Lead-Based Paint
Poisoning Prevention Programs. This
grant program was previously
authorized under the Lead-Based Paint
Poisoning Prevention Act (Pub. L. 91-
695, as amended). Public Law 95-626
transferred this authority to a new
Section 316 of the Public Health Service
Act. Subpart H was intended to replace
regulations codified at 42 CFR Part 91
and to reflect the transfer of authority,
including two statutory changes.
However, Subpart H is omitted from this
final rule because this grant program
was transferred to the Maternal and
Child Health Services Block Grant by
the Omnibus Budget Reconciliation Act
of 1981 (Pub. L. 97-35), and the
regulations at 42 CFR Part 91 were
repealed effective October 1, 1982 (46 FR
48592-48593, October 1, 1981).

This final rule includes a revision of
§ 51b.204, Subpart B, Grants for
Childhood Immunization Programs,
which was not proposed in the NPRM.
Section 51b.204 has been revised for
clarity and to state the program
elements more specifically. This revision
is not a change in current requirements.
In addition, the revision distinguishes
between the information required in the

initial application covering the project
period and information required in the
application required annually for the
budget period. The purpose is to reduce
the burden imposed on applicants in
completing grant applications by
specifying the minimum information
necessary to enable CDC to administer
the program and meet the statutory
requirements of the Act. Similar
clarification has been added under the
application requirements for § 51b.405,
Subpart D, and § 51b.604, Subpart F.

Attention is called to two other
changes made in the final rule. The first
is the transfer to § 51b.103(c), Subpart A,
General Provisions, of the provision
currently contained in § 51b.204(d)(3) of
Subpart B and § 51b.405(a)(9) of Subpart
D. The provision requires grantee
assurances that no one will be denied
services because of inability to pay, and
that services will be provided in a
manner which preserves human dignity
and maximizes acceptance of the
program. The provision is applicable to
all programs under Part 51b and,
therefore, should be in the General
Provisions in Subpart A. The second
change is the omission in the final rule
of the provision in § 51b.405(b), Subpart
D, of the NPRM which required that a
rate schedule for any third party
reimbursements be submitted with the
application for approval, and that
confidentiality of patient records be
protected in any billing arrangements.
These requirements were omitted in the
final rule because they are
unnecessarily burdensome, and
confidentiality requirements related to
venereal disease control are currently
contained in § 51b.404, Subpart D.

Comments

Comments were received from only
one source in response to the NPRM.
One comment suggested adding
language under § 51b.106(e) indicating
that if additional conditions are imposed
by the Secretary, additional funding
would be provided. In response,
additional conditions included in an
award notice as used in this context
normally means limitations or
requirements of an administrative
nature. They do not generally establish
requirements of a program operation
nature that would require additional
resources. If there are required activities
which the applicant has not included in
the project plan and for which grant
funds are available, the applicant would
be required to amend the grant
application before an award notice
would be issued.

Another comment related to venereal
disease grants stated that the provision

in § 51b.405(a)(7)(i), "to be served with special reference to those federally assisted programs (for example, community health centers, family planning clinics, and migrant health programs)," be deleted until the Secretary can provide a detailed up-to-date list of federally assisted programs related to venereal disease control in given geographic areas. All of the provisions enumerated as § 51b.405(a)(7) in the NPRM have been deleted.

Another comment, in regard to venereal disease grants, suggested deletion of the requirement for a separate itemization and justification of funds for public information and education activities under § 51b.405(a)(8). The commenter believes this provision represents a duplicative and undue paperwork burden on the applicant since a separate budget and justification are required for programs regulated by Subpart F. In response, the requirement under Subpart D, § 51b.405(8), that "public information and education activities * * * must be itemized and justified separately" is for the purpose of relieving applicants for funds under Subpart D (States and large cities) of the need to submit a separate project application for venereal disease public information and education activities, while at the same time permitting the Secretary to ensure that at least 5 percent of funds appropriated under Section 318 are used to support research, demonstrations, and public information and education as required by law.

Another comment, applicable to Subpart D, § 51b.407, recommended deletion of the restrictions on use of funds for diagnosis, treatment, and data processing equipment. The commenter believes that the provision is too cumbersome and restrictive, and that applicants should have flexibility to deal with the situations which they have had to justify already in the application. In response, the provision is not intended to forbid use of grant funds for these situations, but only to require advance approval. It is intended that the grant program supplement the efforts of State and local health agencies rather than supplanting activities which they would normally provide.

The requirements of the Regulatory Flexibility Act do not apply to these regulations since the Notice of Proposed Rulemaking was issued prior to January 1, 1981, the effective date of the Act. Nevertheless, the Secretary believes this rule will not have a significant economic impact on a substantial number of small entities. Further, the Secretary has determined that the costs associated

with this regulation are negligible, and therefore a regulatory impact analysis is not required under Executive Order 12291.

The Department was required to submit to the Office of Management and Budget (OMB) for review and approval §§ 51b.103, .105, .204, .405, and .604 of the regulations which deal with reporting and/or recordkeeping requirements. The reporting requirements in all of these sections have now been approved by OMB (OMB approval Numbers 0937-0011, 0920-0110, and 0920-0112).

List of Subjects in 42 CFR 51b

Communicable diseases, Grant programs—health immunization, Maternal and child health, Venereal diseases.

Accordingly, Part 51b of Title 42 is amended as set forth below.

(Catalog of Federal Domestic Assistance (CFDA) numbers which have been assigned to programs governed by Part 51b are as follows:

Subpart B—Grants for Childhood

Immunization Programs, CFDA—13.268.

Subpart D—Grants for Venereal Disease Control Programs, CFDA—13.977.

Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease, CFDA—13.978.)

Dated: September 2, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 16, 1982.

Richard S. Schweiker,

Secretary.

PART 51b—[AMENDED]

42 CFR Part 51b is amended as follows:

1. The table of sections for Subpart A and Subpart D are revised, a table of sections is added for the new Subpart F, and the authority citation is revised as follows:

Subpart A—General Provisions

Sec.

51b.101 To which programs do these regulations apply?

51b.102 Definitions.

51b.103 What are the general application requirements?

51b.104 Can personnel, supplies, and related items be provided in lieu of cash?

51b.105 Which other HHS regulations apply to these grants?

51b.106 What other conditions apply to these grants?

51b.107 Is participation in preventive health service programs required by these regulations?

* * *

Subpart D—Grants for Venereal Disease Control Programs

Sec.

51b.401 To which programs does this subpart apply?

51b.402 Definitions.

51b.403 Who is eligible for a grant under this subpart?

51b.404 What are the confidentiality requirements?

51b.405 What information is required in the application?

51b.406 How will grant applications be evaluated and the grants awarded?

51b.407 How can grant funds be used?

* * *

Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease

51b.601 To which programs does this subpart apply?

51b.602 Who is eligible for a grant under this subpart?

51b.603 What are the confidentiality requirements?

51b.604 What information is required in the application?

51b.605 How will grant applications be evaluated and the grants awarded?

51b.606 How can grant funds be used?

* * *

Authority: Secs. 317 and 318 of the Public Health Service Act, 42 Stat. 3574 and 3582 (42 U.S.C. 247b, 247c); Sec. 1743 of Pub. L. 97-35, 95 Stat. 763 (31 U.S.C. 1243 note).

2. Subpart A is revised to read as follows:

Subpart A—General Provisions

§ 51b.101 To which programs do these regulations apply?

The regulations in this Part apply to grants for preventive health service programs authorized under Section 317 (42 U.S.C. 247b) and for venereal disease prevention and control programs authorized under Section 318 (42 U.S.C. 247c) of the Act.

§ 51b.102 Definitions.

As used in these regulations:
"Act" means the Public Health Service Act, as amended.

"Secretary" means the Secretary of Health and Human Services (HHS) or any other officer or employee of that Department to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 51b.103 What are the general application requirements?

(a) The project application shall contain a full description of the program

objectives, plans, and activities. With respect to programs authorized by Section 317 of the Act only, the application shall also provide, as the Secretary may require:

(1) The amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program.

(2) A description of the services provided by the applicant for this accounting period covered under subparagraph (1) above.

(3) The amount of Federal funds needed by the applicant to continue providing these services.

(4) A description of any proposed changes in the provision of the services, reasons and priorities, and the amount of Federal funds needed by the applicant to make the changes.

(b) The application shall contain evidence satisfactory to the Secretary that it has been submitted, as appropriate, for action to the planning agency designated by the Secretary under Title XV of the Act (42 CFR Parts 122 and 123). These grants are subject to the intergovernmental review of Federal programs of Executive Order 12372.

(c) The application shall contain assurances that no one will be denied services because of inability to pay, and that the services are provided in a manner which preserves human dignity and maximizes acceptance.

§ 51b.104 Can personnel, supplies, and related items be provided in lieu of cash?

The Secretary may reduce a grant by the amount of the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished a grant recipient when furnished at the request of the recipient. The Secretary also may reduce a grant by the amount of the pay, allowances, travel expenses, and any other costs in connection with the detail of any officer or employee of the Government to the recipient when the detail is at the request of the recipient. The amount the grant is reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing personnel and shall be deemed to have been paid to the recipient.

§ 51b.105 Which other HHS regulations apply to these grants?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals procedure

45 CFR Part 16—Department grant appeals process

45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants

45 CFR Part 75—Informal grant appeals procedures (indirect cost rates and other cost allocations)

45 CFR Part 76—Debarment and suspension from eligibility for financial assistance

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80

45 CFR Part 83—Regulation for the administration and enforcement of Sections 704 and 855 of the PHS Act

45 CFR Part 84—Nondiscrimination on the basis of handicap in federally assisted programs

45 CFR Part 86 and Appendix A—Nondiscrimination on the basis of sex in federally supported education programs

45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance.

§ 51b.106 What other conditions apply to these grants?

(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompute for funds. This period, called the project period, will usually be for 2 to 5 years.

(b) For budgetary and funding purposes, the project period is generally divided into 12-month intervals called budget periods. A grantee must submit a separate application to have the support continued for each subsequent budget period after the initial award. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(d) Any funds granted pursuant to this subpart shall be expended solely for the purposes for which the funds were

granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(e) The Secretary may, at the time of award, impose additional conditions, including conditions governing the use of information or consent forms, when, in the Secretary's judgment, they are necessary to advance the approved program, the interest of the public health, or the conservation of grant funds.

§ 51b.107 Is participation in preventive health service programs required by these regulations?

Nothing in these regulations shall be construed to require any State or political subdivision to have a preventive health service program which would require any person who objects to treatment to be treated under the program.

3. Subpart B, § 51b.204 is revised to read as follows:

§ 51b.204 What information is required in the application?

(a) The initial application must cover the project period, and must include a description of the following:

(1) The need for grant support.

(2) The immediate (1 year budget period) and long-range (2-5 year project period) objectives of the project in specific and measurable terms.

(3) Current immunization programs and the additional or intensified activities to be carried out to meet the objectives and priorities.

(4) The following program elements should be included and described:

(i) A plan to assure that children begin and complete their immunizations on schedule, including the use of a standard immunization record card, a provider-based tickler system (public and private) for the recall of children, and a hospital-based immunization education program for new mothers.

(ii) Assessment of immunization status of school enterers, children attending licensed day-care centers, and children under 2 years of age and new enrollees under age 5 served in public clinics.

(iii) A plan for surveillance of vaccine-preventable diseases that includes morbidity and mortality reporting as well as field and laboratory investigations.

(iv) Procedures for prompt review of the data collected from the morbidity surveillance system to allow for immediate response to all occurrence of

suspected diphtheria and polio cases upon notification and response to suspected measles cases within 48 hours.

(v) A system for monitoring vaccine-associated reactions including a mechanism for responding to persons with vaccine-related complaints.

(vi) A plan to systematically immunize susceptible children at school entry through vigorous enforcement of school immunization laws.

(5) The manner in which the applicant intends to evaluate the project.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.205 [Amended]

4. Subpart B, § 51b.205 is amended by removing paragraph (c).

5. Subpart D is revised to read as follows:

Subpart D—Grants for Venereal Disease Control Programs

§ 51b.401. To which programs does this subpart apply?

The regulations in this subpart apply to the award of project grants under Section 318(c) of the Act for venereal disease prevention and control programs, and under Section 318(b) of the Act with respect to public information and education activities which are integral to a balanced, comprehensive venereal disease control program.

§ 51b.402. Definitions.

As used in this subpart:

"Venereal disease" means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this authority and which is of national significance.

"Venereal disease control program" means a program designed to carry out activities or to provide services to systematically detect and prevent venereal disease as distinguished from those activities or services which are designed to diagnose or treat venereal disease patients or suspects.

§ 51b.403. Who is eligible for a grant under this subpart?

An applicant must be a State agency or a political subdivision of a State which has legal responsibility for disease control under the laws of the State.

§ 51b.404. What are the confidentiality requirements?

All information obtained by program personnel in connection with the examination, care, and treatment of an individual in this program shall be held confidential. It shall not be disclosed without the individual's consent except as may be required by the law of a State or political subdivision of a State or as may be necessary to provide services to the individual. Information may be disclosed in summary, statistical, or other form, or for clinical or research purposes, but only if the disclosure does not identify particular individuals.

§ 51b.405. What information is required in the application?

(a) The initial application must include a description of the following:

(1) The nature and extent of the venereal disease problem in the area.

(2) The need for project grant support.

(3) The immediate (1-year budget period) and long-range (2-5 year project period) objectives of the project in specific and measurable terms.

(4) The activities to be carried out to meet the objectives. The following program elements must be included and described:

(i) Venereal disease surveillance.

(ii) Casefinding and case followup.

(iii) Interstate epidemiologic referral and followup.

(iv) Public venereal disease information and education.

(v) Professional (including appropriate allied health personnel) venereal disease education, training, and clinical skills improvement activities, including efforts to assure high quality clinical services in public venereal disease clinics.

(5) At the option of the applicant, special studies or demonstrations to evaluate or test venereal disease prevention and control strategies and activities.

(6) The manner in which the applicant intends to conduct and evaluate the project, including a system for analysis of morbidity data so that control activities can be efficiently evaluated and targeted.

(7) The diagnostic and treatment services that will be provided.

(8) A budget and justification for the grant funds requested. Since public information and education activities are

authorized separately from other control program activities, funds requested for this purpose must be itemized and justified separately in the narrative part of the application.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.406. How will grant applications be evaluated and the grants awarded?

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting the cost of a venereal disease control program. Before awarding a grant to a political subdivision of a State, the Secretary will consult with the State health authority.

(b) Priorities for funding will be based on the following factors:

(1) The relative extent of the venereal disease problem in the area served by the applicant.

(2) The design of the venereal disease prevention and control program.

(3) The general quality of the applicant's plan of operation and objectives in accordance with the requirements in these regulations. Emphasis will be placed on determining the extent to which services are coordinated among health care providers in the area served and integrated into a cohesive plan for delivery of service to groups having the highest incidence of venereal disease.

(4) The capacity of the applicant to make effective use of Federal funds.

(5) The commitment of the applicant to the control of venereal disease as reflected in the commitment of applicant resources to the program.

§ 51b.407. How can grant funds be used?

Grant funds awarded under this subpart may be used only for programs approved under Section 318(c), and with respect to public information and education, those programs approved under Section 318(b) of the Act. Unless specifically approved, grant funds shall not be used for performing diagnostic tests (other than gonorrhea screening tests), maintaining central registries, purchasing data processing equipment, or providing diagnostic and treatment facilities and services. The applicant must provide assurances, however, that these services will be available as

needed as an adjunct to control program activities supported with grant funds. To obtain special approval for grant support of such activities, the grantee shall justify the exception to the satisfaction of the Secretary that funds for this purpose are necessary for the proper conduct of the program and are otherwise unavailable. Support of these services will generally be approved only in the following situations: (a) Special studies or demonstrations, (b) the support of developmental or start-up activity, or (c) the support of an essential service which will result in a savings to a detection or prevention activity supported by the grant. Unless otherwise approved, exceptions based on paragraphs (b) and (c) of this section are only allowed during one funding period. The grantee is expected to support these activities in subsequent funding periods.

6. Subpart F is added to Part 51b as follows:

Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease

§ 51b.601 To which programs does this subpart apply?

The regulations in this subpart apply to the award of venereal disease control project grants for research, demonstrations, public information, and education activities which can be applied to achieve improvements in venereal disease prevention and control under Section 318(b) of the Act.

§ 51b.602 Who is eligible for a grant under this subpart?

An applicant must be a State, political subdivision of any State, or any other public or nonprofit private entity.

§ 51b.603 What are the confidentiality requirements?

All information obtained by program personnel in connection with the examination, care, and treatment of an individual in this program shall be held confidential. It shall not be disclosed without the individual's consent except as may be required by the law of a State, or political subdivision of a State, or as may be necessary to provide services to the individual. Information may be disclosed in summary, statistical, or other form, or for clinical

or research purposes, but only if the disclosure does not identify particular individuals.

§ 51b.604 What information is required in the application?

(a) The initial application must include a description of the following:

(1) The setting and circumstances for which project grant support is being requested, including:

(i) The immediate and long-range objectives of the project in specific and measurable terms.

(ii) The activities which will be undertaken to accomplish the objectives, including the timing of these activities.

(iii) The anticipated application of findings to the national venereal disease control effort.

(iv) Any other information which will support the request for grant assistance.

(2) The relationship between the planned activities and the project objectives. The application must describe in detail how the applicant intends to proceed, particularly if the project is unusually complex and several activities are interdependent or unprecedented.

(3) A comprehensive and realistic plan which the applicant will use to evaluate the project. The plan must include periodic assessment of any possible impact, both positive and negative, that the proposed project might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.605 How will grant applications be evaluated and the grants awarded?

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting the costs of special activities authorized under Section 318(b) of the Act.

(b) Grant applications will be reviewed and evaluated according to the following criteria:

(1) Is there adequate evidence that the proposed project is needed and that the outcome has potential to directly benefit the national venereal disease control effort?

(2) Are the project objectives specific, measurable, realistic, time phased, and related to promoting the purposes of Section 318?

(3) Is the method of operation logical and clearly related to project objectives, and does it describe how the applicant intends to proceed particularly with activities which are complex, interrelated, or unprecedented?

(4) Does the method of operation include an assessment of any possible impact, both positive and negative, that the conduct of the proposed initiative might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken?

(5) Does the proposal include a comprehensive and realistic plan for the evaluation of the project, and specify the measures and instruments of measurement to be used?

(6) Is the budget request reasonable and consistent with the intended use of grant funds?

(7) If the applicant intends only to evaluate an existing disease prevention and control approach, are the objectives substantially different from those which could be met by routine program, evaluation?

§ 51b.606 How can grant funds be used?

(a) Grant funds may be used for the costs associated with planning, organizing, and conducting applied research, demonstrations, and public information and education programs.

(b) Grant funds may also be used to reimburse individuals who agree to be participants in the applied research projects. This reimbursement, however, must be justified as necessary and reasonable. A schedule of reimbursements must be submitted with the application and approved as part of the program plan.

(c) Grant funds may not be used to supplant funds supporting existing venereal disease control services provided by a State or locality.

[FR Doc. 83-2748 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-18-M

Proposed Rules

Federal Register

Vol. 48, No. 22

Tuesday, February 1, 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

Agricultural Marketing Service

7 CFR Part 28

Deletion of Geographical Limitations on Standards Storage; Regulatory Review of Subpart C

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Agricultural Marketing Service has reviewed and is proposing changes to 7 CFR Part 28, Subpart C—Standards, along with the changes thus necessitated in Subpart A, 28.107 (a) to (c). It is proposed that 7 CFR Part 28—Cotton Classing, Testing, and Standards be revised by removing the requirement that sets of cotton standards be stored "in the District of Columbia." This action would permit the Department to realize a cost savings through relocation of the storage space to Memphis, Tennessee.

DATE: Comments must be received on or before April 4, 1983.

ADDRESS: Written comments may be sent to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250 (202/447-2167). The options considered in developing this proposed rule and regulatory review are published in Supplementary Information.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1. The action has been classified as a nonmajor because it does not meet the criteria for a major regulation as established by the Order.

William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant

impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because this proposal primarily changes the storage location of the standards only for cost savings purposes and will not affect the performance of inspection service.

The original physical standards representing the various grades of American Upland cotton and Pima cotton are presently kept in a vault at the Department of Agriculture, Washington, D.C. The regulations (7 CFR Part 28) specify that these physical forms will be kept in "the District of Columbia."

It has been determined that a savings could be realized by storing the original physical standards in either an enclosure built in the present warehouse space of the Cotton Division, in Memphis, Tennessee or in a federally licensed and properly bonded warehouse in that city. The primary considerations for selecting a storage facility would be the maintenance of proper control and security over the standards, and maintenance of a properly controlled atmospheric environment to minimize the changes in color which occur in all cottons over time.

The potential savings in storage and shipping costs from relocating the standards to Memphis could be as much as \$10,000.00 per year. In order to provide the Department the flexibility to take advantage of this potential savings, the geographical limitations presently in the regulations need to be deleted. The proposed changes are in conformance with the provisions and objectives of the U.S. Cotton Standards Act.

The review of the Regulations included (1) a determination of continued need for the standards, (2) a review of changes in marketing and other factors affecting the standards, and (3) a review of changes in technological and economic conditions in the area affected by the standards. The objective of the review was to assure that the standards continue to serve the needs of the markets to the greatest possible extent. Also considered was that: (1) The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) specifies that the "Secretary shall take such action as may be necessary to insure that the universal cotton standards system * * * [be]

preserved * * *", (2) the standards are essential to the process of classing cotton, and (3) the standards are recognized and used worldwide.

The physical standards are regularly reviewed by the Cotton Division for (1) relevance to the needs of the cotton industry and (2) representativeness of the U.S. cotton crop. Modifications are proposed, as considered appropriate, both by the Cotton Division and representatives of the U.S. cotton industry. Representatives from the signatory associations to the Universal Cotton Standards Agreement meet every three years to review the physical standards, to approve the "key" sets, and to discuss any suggested modifications to the standards.

Options Analysis. The only option would be to keep the geographical limitations, thus foregoing the possibility of realizing a savings. This option has been rejected in favor of deleting the provision that the original physical standards must be stored in the District of Columbia. Other options considered would not maintain required security and control.

It is also proposed that § 28.107 be amended to delete the reference to wax seals. While the cotton standards are to be sealed, methods other than wax seals can be used. Therefore, to provide flexibility, it is proposed that the change be made.

List of Subjects in 7 CFR Part 28

Cotton, grades, samples, standards.

Accordingly, 7 CFR Part 28 is proposed to be amended as follows:

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. The authority citation for Part 28, Subparts A and C reads as follows:

Subpart A

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

Subpart C

Official Cotton Linters Standards of the United States for Grade

Authority: Sections 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Upland Cotton

Authority: Sections 28.402 to 28.481 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Pima Cotton

Authority: Sections 28.501 to 28.510 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

2. It is proposed to revise paragraph (a) of § 28.107.

§ 28.107 Original cotton standards and reserve sets.

(a) The containers of the original Universal Standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishments, and shall be wrapped and sealed. After being so marked, wrapped and sealed, they shall be held in secure storage in the custody of the U.S. Department of Agriculture. The Director may authorize the temporary removal of such containers from storage and the transporting of the containers to other locations for purposes of Universal Cotton Standards Conferences and other cotton standards meetings conducted by the Division. Such containers shall remain in the control and custody of the Director until the original standards contained therein are superseded by new or revised standards.

3. It is proposed to amend § 28.107(b) by removing the sentence "The Division shall store the set designated as the Second Reserve Set in the vault of the Division in Washington, D.C., in the control and custody of the Director," and replacing it with "The Division shall keep the set designated as the Second Reserve Set in secure storage."

4. It is proposed to amend § 28.107(c) by removing the sentence "The Director shall arrange for removal of the Second Reserve Set from its storage place in Washington, D.C., and the transport of such set to the site of the conference," and replacing it with "The Director shall arrange for removal of the Second Reserve set from its storage place and for the transport of such set to the site of the conference."

§§ 28.402, 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, 28.442, 28.443, 28.444, 28.501, 28.502, 28.503, 28.504, 28.505, 28.506, 28.507, 28.508, 28.509 [Amended]

5. In all of the sections above it is proposed to remove the words " * * * in the District of Columbia * * * " with no other changes.

Dated: January 27, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc 83-2666 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; REA Specification for Filled Buried Wire, PE-54

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by withdrawing Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54. This action will eliminate problems associated with the frequent misapplication of the product and result in cost savings for both producers and users of wire and cable.

DATE: Public comments must be received by REA no later than April 4, 1983.

ADDRESS: Submit written comments to Joseph M. Flanagan, Director Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by withdrawing REA Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54. This proposed

action has been reviewed in accordance 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 geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

A copy of the specification to be discontinued is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

Currently this product is used in REA systems both as a distribution wire and service drop. Because of attenuation problems with this wire in distribution systems using station carrier, we propose the elimination of this product which should resolve these problems. The withdrawal of this specification will affect manufacturers in a positive way by reducing their inventory costs associated with stocking of this wire. It will affect REA borrowers in a way that our borrowers will be able to take full advantage of cost savings when using station carrier that otherwise would be negated by keeping of this product.

Lastly, it would affect the Federal government by eliminating the administrative costs associated with a document that has no utility in today's telecommunication system.

In view of the above, the Administrator is proposing to withdraw REA Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: January 25, 1983.

Harold V. Hunter,
Administrator.

[FR Doc. 83-2617 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 3, 6, 7, and 32

[Docket No. 83-6]

National Bank Lending Limits

AGENCY: Comptroller of the Currency, Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: The Comptroller of the Currency is extending the comment period for the proposed rulemaking on national bank lending limits by 14 days to encourage maximum public participation in this matter.

DATE: Comments must be received on or before February 18, 1983.

ADDRESS: Please send comments to Docket No. 82-25, Communications Division, Third Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Attn.: C. Christine Jones ((202) 447-1768).

FOR FURTHER INFORMATION CONTACT: Carol M. Beaumier, Manager, International Examinations ((202) 447-1747); Howard J. Finkelstein, Attorney, Legal Advisory Services Division ((202) 447-1880); Claire Owen, National Bank Examiner, Commercial Examinations ((202) 447-1164).

SUPPLEMENTARY INFORMATION: On December 21, 1982, the Office of the Comptroller of the Currency published proposed regulations implementing section 401(a) of Pub. L. 97-320, relating to national bank lending limits. The agency has received a written request for an extension of the comment period in view of the importance and complexity of the issues involved. The agency has considered the request and concluded that an additional 14 days would allow for greater public participation in the rulemaking while at the same time allowing a final regulation to be published prior to the new law's effective date, April 14, 1983. Accordingly, the comment period is being extended to February 18, 1983.

Dated: January 26, 1983.

C. T. Conover,
Comptroller of the Currency.

[FR Doc. 83-2678 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[Economic Reg. Docket 41220, EDR-453]

Oversales; Tariff Filing Requirements

Dated: January 12, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its oversales rule to reflect the end of the Board's domestic tariff authority at the end of 1982, and to simplify the rule's tariff filing requirements for foreign air transportation. The changes, which do not affect the substantive requirements of the rule, are proposed at the Board's initiative.

DATES: Comments by: March 2, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: February 10, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41220, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are not accommodated because their flight has been oversold. The rule sets up a two-part system. The first requires carriers to solicit volunteers who will give up their confirmed reservation in exchange for some agreed-upon compensation. The second requires carriers to pay denied boarding compensation to most passengers who are involuntarily bumped. In addition, the rule requires carriers to state their practices in their tariffs, give passengers noticed of those practices through signs and ticket inserts, and report to the Board on a regular basis the number of passengers denied boarding.

Section 1601 of the Federal Aviation Act, as amended, ended the Board's authority over domestic tariffs on January 1, 1983. Since that time, U.S. carriers have not been permitted to file any tariffs for their domestic operations, although they must still file tariffs for their operations in foreign air transportation.

Part 250 requires carriers to file tariffs providing for the Board-mandated compensation, copies of their boarding priority rules and a copy of the explanatory handout given to bumped passengers. In addition, the rule contains a number of references to tariffs. These tariff provisions do not affect the substantive requirements of Part 250 and carriers must still offer the protections offered by the rule when domestic tariffs sunset. This notice proposes to update the rule by removing most of the references to tariffs. Carriers in foreign air transportation would still be required to file tariffs in an abbreviated form comporting with Part 250 for transportation departing the United States. They could file tariffs concerning oversales practices for inbound foreign flights only if they provided the protections of Part 250 for such flights.

The central change would be in § 250.4. The title would be changed to, *Denied boarding compensation tariffs for foreign air transportation*, to reflect the new limitations on tariff filing. Only outbound foreign flights would be covered by required tariffs under this part. No change would be made in paragraph (c) of the section that permits carriers that comply with the rule on their inbound foreign flights to file tariffs.

Sections 250.3(b) and 250.9(b) require carriers to file their boarding priority rules and a copy of the handout given to bumped passengers. These tariff filing requirements were used primarily as a tool to ensure that carriers were complying with the substantive requirements of the rule. In addition, carriers were able to protect themselves from legal attack on the grounds that filed tariffs met some minimum Board standard. We are proposing to eliminate these filings requirements. The filing of the documents involves significant paperwork for both the industry and the Board. We can ensure compliance through normal enforcement methods with the requirements of § 250.3(b) to establish boarding priority rules and of § 250.9(b) to use the written notice prescribed in that section.

In addition, the Board is proposing to codify an exemption granted in Order 80-5-200 (May 29, 1980) that permits

airlines to substitute free transportation for their Board-mandated denied boarding compensation if three conditions are met. First, the involuntarily bumped passengers must agree to this substitution and can insist on receiving the monetary compensation. Second, the transportation vouchers must be equal to or greater in value than the monetary compensation that would otherwise be due. Finally, the carriers must file tariffs stating that it offers such a substitution.

This notice would codify the first two elements of the exemption and eliminate the tariff filing requirement for domestic air transportation. A new paragraph (b) would be added in § 250.5, *Amount of denied boarding compensation for passengers denied boarding and boarding priorities*, as follows:

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if the passenger agrees and the value of the transportation is equal to or greater than the cash payment otherwise required.

This new paragraph would be consistent with the notice provided in the written handout given to passengers pursuant to § 250.9.

Paragraph (a) of § 250.6 would be rewritten for clarity and a reference to tariffs would be deleted.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of these proposed changes will, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Board rules governing oversales and denied boarding compensation apply only to operations with large aircraft, and such operators are not considered small entities for the purposes of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting and Recordkeeping Requirements.

Accordingly, the Civil Aeronautics Board proposed to amend 14 CFR Part 250, *Oversales*, as follows:

1. The Table of Contents would be amended by revising the heading of § 250.4 to read:

PART 250—OVERSALES

250.4 Denied boarding compensation tariffs for foreign air transportation.

2. The definition of "confirmed reserved space" in § 250.1, *Definitions*, would be revised to read:

§ 250.1 Definitions.

"Confirmed reserved space", means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier, as being reserved for the accommodation of the passenger.

§ 250.3 [Amended]

3. Paragraph (b) of § 250.3, *Boarding priority rules*, would be removed and reserved.

4. Section 250.4 would be retitled and revised to read:

§ 250.4 Denied boarding compensation tariffs for foreign air transportation.

(a) Every carrier operating flights in foreign air transportation departing from the United States shall file tariffs for those flights providing compensation for passengers holding confirmed reserved space who are denied boarding involuntarily from an oversold flight that departs without those passengers. The tariffs shall incorporate the amount of compensation described in § 250.5 and the exceptions to eligibility for compensation described in § 250.6.

(b) The tariffs shall specify that the carrier will tender the appropriate compensation on the day and the place the involuntary denied boarding occurs.

(c) A carrier that does not provide the protections of this part on its inbound foreign flights may not file tariffs concerning its oversales practices for those flights.

5. Section 250.5 would be revised to read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier shall pay compensation to passengers denied boarding involuntarily from an oversold flight at the rate of 200 percent of the sum of the values of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to the passenger's final destination, with a maximum of \$400. However, the compensation shall be one-half the amount described above, with a \$200 maximum, if the carrier arranges for comparable air transportation, or other transportation used by the passenger that, at the time either such arrangement

is made, is planned to arrive at the airport of the passenger's next stopover or if none, at the airport of the passenger's destination, not later than 2 hours after the time the direct or connecting flight on which confirmed space is held is planned to arrive in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation.

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if the passenger agrees and the value of the transportation is equal to or greater than the cash payment otherwise required.

6. The introductory text of § 250.6 and paragraph (a) would be revised as follows:

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

(a) The passenger does not comply fully with the carrier's contract of carriage provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation.

7. The introductory text of paragraph (b) of § 250.9 would be revised to read:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

(b) The statement shall read as follows:

(Secs. 204, 401, 402, 403, 404, 407, 411, 1002 of Pub. L. 85-726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482)

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.

[RF Doc. 83-2620 Filed 1-31-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-168; Colorado-32]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Upper Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 11, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued January 27, 1983.

I. Background

On December 30, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Upper Mesaverde Formation located in Mesa County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Upper Mesaverde Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Upper Mesaverde Formation is located 20 miles northeast of the city of Grand Junction, Colorado, and underlies portions of Township 8 South, Range 98 West, Sections 25 through 36, and Township 9 South, Range 98 West, Sections 1 through 12, 8th P.M. The recommended area contains approximately 15,261 acres, of which 100% is federal land.

The Upper Mesaverde Formation is defined as the formation that occurs between the top of the Cozzette-Corcoran members and the base of the Wasatch Formation, including the Rollins member. The top of the Upper Mesaverde Formation is found at a depth of zero to 1,000 feet in the recommended area and the average depth to the top of the formation is 500 feet. The average thickness of the Upper Mesaverde Formation is 2,200 feet and the formation is of Cretaceous age.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-38 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53453, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Upper Mesaverde Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting

written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-168 (Colorado-32), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.403 is amended by adding paragraph (d)(159) to read as follows:

§ 271.703 Tight formations.

(d) *Designated tight formations.*

(159) *Upper Mesaverde Formation in Colorado.* RM79-76-168 (Colorado-32).

(i) *Delineation of formation.* The Upper Mesaverde Formation is located in Mesa County, Colorado, in Township 8 South, Range 98 West, Section 25, N½, SE¼, N½ SW¼, SE¼ SW¼; Section 26, N½, SW¼, NW¼ SE¼; Sections 27 through 34; Section 35, W¼, SE¼, W¼

NE¼ SE¼ NE¼; Section 36; Township 9 South, Range 98 West, Sections 1 through 12, 6th P.M.

(ii) *Depth.* The average depth to the top of the Upper Mesaverde Formation is 500 feet. The Upper Mesaverde Formation is defined as that formation which occurs between the top of the Cozzette-Corcoran members and the base of the Wasatch Formation, including the Rollins member. The Upper Mesaverde Formation averages 2,200 feet in thickness.

[FR Doc. 83-2713 Filed 1-31-83; 8:45 am]

BILLING CODE 6710-01-M

18 CFR Part 271

[Docket No. RM79-76-167; Colorado-5 Addition]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that an additional area of the Lower Mesaverde Formation consisting of the Rollins, Cozzette, and Corcoran Sandstone members, be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 11, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued January 27, 1983.

I. Background

On December 21, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members located in Plateau Creek Field area of Mesa County, Colorado, be designated as a tight formation. The Commission previously adopted a recommendation that portions of the Lower Mesaverde Formation in the Plateau Creek Field area in Mesa County, Colorado, be designated as a tight formation (Order No. 148, issued May 28, 1981, in Docket No. RM79-76 (Colorado-5)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that an additional area of the Lower Mesaverde Formation consisting of the Rollins, Cozzette and Corcoran Sandstone members be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended acreage is located in Mesa County, Colorado, in Township 10 South, Range 95 West, NW¼, and SE¼ of Section 17 and Township 10 South, Range 96, West, NE¼, and S¼ of Section 33. This acreage is part of two sections excluded from tight formation designation in Order No. 148, under § 271.703(c)(2)(i)(D), based on the Commission's finding that these sections had been substantially developed by infill drilling prior to the date on which Colorado made its tight formation recommendation to the Commission. The Commission stated in Order No. 148 that future consideration of the excluded areas was not precluded by its action in that order if sufficient information and economic data became available which indicated the areas would not be further developed without the tight formation incentive price. The recommended area contains 800 acres of which about 50 percent is Federal or Indian acreage. The average depth to the top of the Lower Mesaverde Formation is 3,850 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information

and testimony presented at a public hearing in Cause No. NG-7 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B);

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day; and

(4) Economic data indicates that the recommended area cannot be further developed without the incentive price provided for in § 271.703(a).

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 53436, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that an additional area of the Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-167 (Colorado-5 Addition), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 15 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE.,

Washington, D.C., during business hours.

Any person wishing testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the secretary of the Commission no later than February 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formation.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d) (25) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations.

(25) Lower Mesaverde Formation in Colorado. RM790-76 (Colorado-5).

(i) Delineation of formation. The Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members, is located in the Plateau Creek Field area 30 miles east-northeast of Grand Junction, Colorado, in Mesa County, Colorado. The designated area includes Township 9 South, Range 95 West, Sections 19 through 23, 26 through 36; Township 9 South, Range 96 West, Sections 25 through 36; Township 9 South, Range 97 West, Sections 25 and 36; Township 10 South, Range 94 West, Sections 6, 7, 18, 19, 30 and 31; Township 10 South, Range 95 West, Sections 1 through 16, NW¼ and SE¼ of Sections 17, 20 through 29, 31 through 36; Township 10 South, Range 96 West, Sections 1 through 11, 14 through 22, 29 through 32, S¼ and NE¼ of Section 33, Sections 34 through 36; Township 10 South, Range 97 West, Sections 1, 12, 13, 24, 25 and 36; All from the 6th P.M.

(ii) Depth. the average depth to the top of the Lower Mesaverde Formation is 3,850 feet.

[FR Doc. 82-2712 Filed 1-31-83; 8:45 am]

BILLING CODE 5717-01-M

18 CFR Parts 271 and 274

[Docket No. RM82-34-000]

High-Cost Gas Produced From Tight Formations; Recompletion Tight Formation Gas

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to modify the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. Specifically, § 271.703(b)(3) and § 274.205(e)(2) would be amended to provide that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, would qualify as "recompletion tight formation gas" if the recompletion is completed after the effective date of this rule and produces natural gas which could not have been produced through any completion location in existence before the date this proposed rule becomes effective.

DATES: Comments must be submitted on or before March 10, 1983. Requests for a public hearing must be made on or before February 14, 1983.

ADDRESSES: All filings should refer to Docket No. RM82-34-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Fred A. Wolgel, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to modify the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. Specifically, § 271.703(b)(3) and § 274.205(e)(2) would be amended to provide that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, would qualify as "recompletion tight formation gas" if the recompletion produces natural gas which could not have been produced through any completion location in existence before the date this proposed rule becomes effective.

II. Background

In Order No. 99, the Commission promulgated final regulations implementing the tight formation incentive program under the authority granted the Commission in sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Suppl. IV 1980).¹ Section 107(b) authorizes the Commission, by rule or order, to "prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost gas." Section 107(c)(5) defines high-cost natural gas as gas which is determined in accordance with NGPA section 503 (concerning jurisdictional agency determinations) "to be produced under such conditions as the Commission determines to present extraordinary risks or costs."

In Order No. 99, the Commission determined that natural gas produced from tight formations is produced under conditions which present extraordinary risks and costs and that an incentive price of up to 200 percent of the section 103 maximum lawful price is necessary to provide reasonable incentives to produce such gas. Order No. 99 established the procedures whereby tight formations would be designated and the types of natural gas produced from tight formations which would be eligible for the special incentive price.

The tight formation regulations fall into two parts. The first part, found in § 271.703, contains relevant definitions and establishes the procedures whereby jurisdictional agencies recommend to the Commission areas for tight formation designation. The second part, found in Parts 274 and 275 of the Commission's regulations, sets forth the information which must be submitted in an application to the jurisdictional agency for a determination that natural gas produced from a specified well qualifies as tight formation gas, and the procedures for reviewing those determinations.

Order No. 99 established two types of natural gas produced from tight formations as eligible to receive the special incentive price. The two types of gas are "new tight formation gas," defined in § 271.703(b)(2) of the Commission's regulations, and

¹ 45 FR 56034 (August 23, 1980) [Docket No. RM79-76] FERC Stat. and Regs. Regulations Preambles § 30.183.

"recompletion tight formation gas," defined in § 271.703(b)(3).

The geological characteristics which a formation are found have in order to be designated as a tight formation are found in § 271.703(c)(2). Of particular relevance to the amendment proposed herein is the definition of "formation" for the purposes of the tight formation program. Section 271.703(b)(4) defines "formation" as "any geological formation, or portion thereof, described by geological as well as geographical parameters." (Emphasis added.) Thus, when a jurisdictional agency currently recommends an area for tight formation designation, it need not be an entire geological formation. The agency can limit the formation either vertically or horizontally. Accordingly, if a geological formation is 100 feet thick and covers 10 square miles, the jurisdictional agency can recommend the entire formation, or just a portion of it. For example, the jurisdictional agency can recommend a zone which is only 50 feet thick and 5 square miles in areal extent. The only requirement is that the portion of the formation being recommended be described by geological and geographical parameters. In contrast to this approach, but not inconsistently with the regulations, some jurisdictional agencies have grouped two or more contiguous geological formations in one recommendation for designation as a single tight formation.²

Once a formation has been designated by the Commission as a tight formation, an application for a determination that gas produced from a particular well qualifies as tight formation gas may be filed with the jurisdictional agency. The provisions governing the application process are found in § 274.205(e), and two types of applications are authorized. To qualify as "new tight formation gas" under § 274.205(e)(1), the gas must qualify as gas produced from a new, onshore production well under NGPA section 103, or as new natural gas under section 102. Additionally, the surface drilling of the well must have commenced on or after July 16, 1979.³

If the surface drilling of a well commenced prior to July 16, 1979, gas produced from such well may still qualify for the special tight formation incentive price as "recompletion tight

formation gas." In order to qualify as such, the applicant must establish that the gas is being produced from a designated tight formation and that the well was not "completed for production in the designated tight formation prior to July 16, 1979." See

§ 274.205(e)(2)(v)(B) (Emphasis added).⁴

On June 4, 1982, Anderson Petroleum, Inc. (Anderson) filed a petition for clarification of § 271.703 as it relates to the definition of recompletion tight formation gas.⁵ On June 22, 1982, the Commission issued a Notice of Petition and invited comments on Anderson's petition (47 FR 29852, July 9, 1982). Several comments were received in response to the Notice.⁶

III. Discussion

A. Recompletions in Zones Other than the Original Zone. As currently written, § 271.703(b)(3) of the Commission's regulations provides that if a well was completed for production in a designated tight formation prior to July 16, 1979, then any gas produced through any recompletion in the well into that same designated tight formation would be ineligible to receive the tight formation incentive price.

The Commission agrees with the point made in the Anderson petition and supported in the comments filed by Amoco, Sun and El Paso, that the rule as

² The term "completed for production," while not defined in the regulations, has been interpreted by the Commission in orders issued on review of jurisdictional agency determinations made under section 107(c)(5). In the "Final Order Reversing Well Category Determinations," issued December 31, 1981 in Docket No. GP81-42-000, 17 FERC ¶ 61,303, the Commission found that a well is "completed for production" if all downhole work on the well has been done (e.g. perforation and fracturing) and all downhole facilities are in place. Thus, if a well, the surface drilling of which began before July 16, 1979, did not have all downhole work completed and downhole facilities in place on that date, gas produced from the tight formation may qualify as recompletion tight formation gas.

³ Anderson's petition consists of two requests. The first request is to clarify § 271.703(b)(2) to allow production from recompletions in zones other than the original zone in which the well was completed for production before July 16, 1979 to qualify for the tight formation incentive price.

The other request is to interpret the definition of "recompletion tight formation gas" in § 271.703(b)(3) to include additional volumes of gas produced from recompletion or workovers, including gas produced as a result of enhanced production work, involving perforation, fracturing, and other necessary downhole recompletion work, undertaken after the filing of Anderson's petition, from wells completed for production in a designated tight formation prior to July 16, 1979.

⁴ Comments were filed by Amoco Production Company (Amoco), Sun Exploration and Production Company (Sun), El Paso Natural Gas Company (El Paso), Columbia Gas Transmission Company (Columbia) and Southern California Gas Company and its affiliate Pacific Lighting Gas Supply Company (SoCal). Anderson also filed reply comments to the comments filed in response to the Notice of Petition.

presently written may lead to inequities since some jurisdictional agencies recommend for designation several producing zones as a single tight formation. Other jurisdictional agencies recommend that several producing zones in a geological interval each be designated as a separate tight formation. In the first case, gas produced from a recompletion in a well which was completed for production in that formation prior to July 16, 1979 can never qualify for the tight formation incentive price. In the second case, recompletion gas may qualify for the tight formation incentive price, where produced from a well which was completed for production prior to July 16, 1979, as long as the recompletion is located in a producing zone that was designated as a separate tight formation from the location in which the well was completed prior to July 16, 1979. The only distinction between the two cases is the manner in which the jurisdictional agency chose to make its recommendations to the Commission.⁷

The Commission believes that if a well which was completed for production in a designated tight formation, prior to July 16, 1979 is recompleted in a new location, production from the new completion location should qualify for the tight formation incentive price, as long as that gas could not have been produced through the original completion location. Allowing such production to qualify for the incentive price would rectify an unintended inequity, where eligibility for the tight formation price may turn not on the drilling history and characteristics of the well, but simply on the manner in which the jurisdictional agency chose to make its recommendation to the Commission. Without such incentives, producers might be induced to drill unnecessary new wells to produce this gas as new tight formation gas, defined in § 271.703(b)(2).

The Commission, therefore, proposes that natural gas produced through recompletion locations in wells which were completed for production in a designated tight formation before July 16, 1979 can qualify for the tight formation incentive price, provided that the gas produced therefrom could not have been produced from the original completion location. Specifically, the Commission proposes to amend the definition of recompletion tight formation gas, found in § 271.703(b)(3),

⁷ The Commission generally has adopted the recommendations in the form in which the jurisdictional agencies have submitted them.

² See, e.g., Order No. 226, Docket No. RM79-76 (Ohio-2), issued May 7, 1982; Order No. 117, Docket No. RM79-76 (Texas-2), issued December 17, 1980; Order No. 148, Docket No. RM79-76 (Colorado-5), issued May 28, 1981.

³ The July 16, 1979 date was selected in recognition of the President's policy initiative on tight formation. See Interim Rule in Docket No. RM79-76, issued February 20, 1980, *mimeo.* at 30, 45 FR 13414 (February 28, 1980), FERC Stat. and Regs. Regulations Preambles ¶ 30,130 at page 30,902.

to provide that gas produced in a designated tight formation from a completion location completed on or after the effective date of this rule would qualify for the incentive price if such gas could not have been produced through any completion location in existence in the wellbore prior to the effective date.

Additionally, the Commission proposes to amend § 274.205(e)(2). That section sets forth the filing requirements for well category determinations under section 107(c)(5), including recompletion tight formation gas determinations. Specifically, § 274.205(e)(2)(v)(B) would be amended so that the oath statement required by that subsection would be consistent with the proposed change in the definition of recompletion tight formation gas.

A new § 274.205(e)(2)(vi) would be added to require the submission of a bottom-hole pressure survey for the subject completion and for all prior completions in the wellbore in the designated tight formation. These bottom-hole pressure surveys will corroborate whether the zone in which the well has been recompleted is indeed separate, i.e. the gas could not have been produced through any completion location in existence in the wellbore prior to the date the rule becomes effective.

If this proposed change is adopted, the Commission proposes to make this amendment effective for recompletions made after the date the final rule becomes effective, typically thirty days after publication in the *Federal Register*. A presumption can be made that recompletion activity not eligible for the incentive price prior to this date was not made in reliance on the tight formation incentive price. Nor does the Commission believe that it is necessary in this instance to provide an incentive to increase such production prior to the effective date of a final rule. However, the Commission invites comment on whether the rule should extend to recompletions which were made at an earlier date, and if so, what cut-off date would be appropriate.

Additionally, operators of wells seeking to qualify gas as recompletion tight formation gas under the proposed rule would have to file a separate application for a well category determination under section 107(c)(5) for each completion location in the designated tight formation in the wellbore. This will enable a determination to be made that each completion location is in a zone which is not in communication with the zone or zones which were completed prior to the effective date of the rule.

B. Volume of Gas Produced as a Result of Enhanced Production Work. Anderson also urges that the Commission extend the recompletion tight formation qualification to natural gas produced from a well completed for production in a designated tight formation prior to July 16, 1979, where additional volumes of gas are produced from that formation as a result of recompletion or workovers, including the application of enhanced recovery techniques. Anderson suggests that the Commission could limit the availability of the tight formation incentive price under this proposal to gas produced from a well which produced an average of 60 Mcf per production day or less prior to the enhanced recovery work, for a period of 120 days which falls entirely within 150 days prior to the date on which the application for qualification as recompletion tight formation gas is filed.⁸ To support this proposal, Anderson cites the Commission's policy as expressed in Order No. 99, to encourage producers to bring tight formation gas into production as soon as possible.⁹

The Commission at this time has tentatively determined not to issue a proposed rule regarding Anderson's proposal to qualify additional volumes of gas as tight formation gas that are produced as a result of recompletions or workovers, including the application of enhanced recovery operations. First, to the extent that Anderson's proposal involves a recompletion into a new producing zone, it would be covered by the rule proposed above. Second, with respect to a recompletion or workover in the same producing zone, the effect of Anderson's proposal would be to grant the tight formation incentive price to gas produced from wells which qualify as stripper wells under section 108 of the NGPA, and thus are eligible for the incentive price set under that section. Moreover, under section 108, if a recognized enhanced recovery technique is applied to a stripper well, production can exceed the 60 Mcf per day limit without the gas being disqualified from the section 108 price. No reason is proffered by Anderson as to why the section 108 incentive price is inadequate to permit the production of this gas. The Commission, therefore, has no basis at this time upon which to propose a higher incentive price for such gas. Third, if a well does not qualify for a stripper well designation, to the extent the work

⁸ This tracks the Resolution adopted by the Interstate Oil Compact Commission (IOCC) on Incentives for Tight Sands Gas, dated December 8, 1981, and submitted by Anderson with its petition.

⁹ Anderson's petition at 7, citing Order No. 99, mimeo. at 12.

involves the application of a recognized enhanced recovery technique, it may qualify for a special incentive price under the Commission's enhanced production rule.¹⁰

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)¹¹ requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities."¹² The Commission is not required to make an initial regulatory flexibility analysis if it certifies that a proposed rule will not, if promulgated, have a "significant economic impact on a substantial number of small entities."¹³

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the appropriate RFA definition.¹⁴ This proposed rule might affect some of these entities by permitting them to receive a higher price for certain volumes of production. However, the total volumes of natural gas production that would be affected by this proposed rule constitute a statistically insignificant percentage of the nation's total natural gas production and supplies. Thus, while this proposed rule may have beneficial impact on some small entities, the Commission believes that the impact will not be "significant." Accordingly, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Comment Procedures

The Commission invites interested persons to submit written comments, data, views and other information concerning the matters set out in this Notice. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. e.s.t. March 10, 1983, will be considered by the Commission. Comments should reference Docket No.

¹⁰ Order No. 107, 45 FR 77421 (November 24, 1980), FERC Stat. and Reg. Regulation Preambles ¶ 30.210 (Docket No. RM80-50).

¹¹ 5 U.S.C. 601 through 612 (Supp. IV 1980).

¹² *Id.* at section 603(a).

¹³ *Id.* at section 605(b).

¹⁴ *Id.* at section 601(3) citing to section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

RM82-34-000 on the outside of the envelope and on all documents submitted to the Commission.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded in accordance with section 502(b) of the NGPA. Any person seeking to appear to give oral comments must file a request to do so with the Secretary by February 14, 1983. If a public hearing is held, the time and place will be published in the *Federal Register*.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

List of Subjects in 18 CFR Parts 271 and 274

Natural gas, Incentive price, Tight formations, High-cost gas.

In consideration of the foregoing, the Commission proposes to amend Part 271 and Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

Section 271.703(b)(3) is revised to read as follows:

§ 271.703 Tight formations.

(b) Definitions.

(3) "Recompletion tight formation gas" is natural gas which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979.

(i) if such well was not completed for production from such designated formation prior to July 16, 1979, or

(ii) if such well was completed for production from such designated formation prior to July 16, 1979, such gas is produced from a completion location completed after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the wellbore on or before [the effective date of the final rule].

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

Section 274.205(e)(2)(v) is revised and a new paragraph (e)(2)(vi) is added to read as follows:

§ 274.205 High-cost natural gas.

(e) Natural gas produced from designated tight formations.

(2) Recompletion tight formation gas.

(v) A statement by the applicant, under oath, that:

(A) The gas is being produced from a designated tight formation; and

(B) The well was not completed for production in the designated tight formation prior to July 16, 1979; or, if the well was completed for production in the designated tight formation prior to July 16, 1979, then the gas subject to the application is being produced from a completion location which was completed on or after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the wellbore prior to [the effective date of the final rule]; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

(vi) If the well was completed for production in the designated tight formation prior to July 16, 1979, bottom hole pressure surveys for the completion locations which are the subject of the application and for all completion locations in the wellbore which were completed for production in the designated tight formation.

(FR Doc. 83-2632 Filed 1-31-83; 8:45 am)

BILLING CODE 5717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

Stearic Acid and Calcium Stearate; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that stearic acid and calcium stearate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under

the comprehensive safety review conducted by the agency.

DATE: Comments by April 4, 1983.

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

FOR FURTHER INFORMATION CONTACT: John H. Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the *Federal Register* of July 28, 1973 (38 FR 20040)) initiating this review, under which the safety of stearic acid and calcium stearate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Stearic acid ($C_{17}H_{35}COOH$) is the highest molecular weight fatty acid that occurs abundantly in animal fats and oils. It occurs naturally as a glyceride in tallow and is the principal fatty acid residue in most commercially hydrogenated fats. Commercial stearic acid is a mixture of palmitic acid and stearic acid from hydrolyzed tallow or is a more homogeneous mixture either from fractional distillation of hydrolyzed tallow or from hydrolyzed, completely hydrogenated vegetable oil.

Calcium stearate ($Ca(C_{17}H_{35}COO)_2$) is the calcium salt of stearic acid. It is prepared by mixing an aqueous solution of calcium chloride with an aqueous solution of sodium stearate and collecting the precipitated calcium stearate.

Stearic acid was listed as GRAS as a substance migrating to food from cotton and cotton fabrics used for dry food packaging in a regulation published in the *Federal Register* of June 10, 1961 (26 FR 5224), and is currently listed as GRAS for this use in § 182.70 (21 CFR 182.70). It is considered GRAS by the Flavor and Extract Manufacturers Association (FEMA) for use in food as a flavoring agent or adjuvant. Stearic acid is listed in 21 CFR 172.815 as a component of chewing gum base, in 21 CFR 172.860 as a lubricant, binder, and defoaming agent in food and as a component of other food-grade additives, in 21 CFR 175.105 for use in adhesives, and in 21 CFR 175.300 as a surface lubricant in resinous and polymeric coatings.

In opinion letters, FDA has stated that calcium stearate made from edible-grade stearic acid that is free from chick edema factor is GRAS for use as a component of special dietary foods and of paper and paperboard food-packaging materials and as a stabilizer that is used with polyvinyl chloride in food-packaging materials. Calcium stearate is prior-sanctioned under 21 CFR 181.29 as a stabilizer in food-packaging materials and also permitted by FDA as a tablet lubricant. Calcium stearate is listed in Federal standards of identity as an optional anticaking agent in vanilla powder (see 21 CFR 169.179). It is regulated as a food additive in 21 CFR 172.863 as a binder, emulsifier, and anticaking agent in food and is listed in 21 CFR 173.340 as a defoaming agent used in processing beet sugar and yeast, in 21 CFR 175.300 as both a miscellaneous compound and a drier in the manufacture of resinous and polymeric coatings, in 21 CFR 177.2410 as a lubricant used in phenolic resins in molded articles, in 21 CFR 177.2600 as a plasticizer in rubber products intended for repeated use, in 21 CFR 178.2010 as an antioxidant and stabilizer for polymers, and in 21 CFR 179.45 as an adjuvant in polyethylene films used during the irradiation of prepackaged food.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which stearic acid and calcium stearate were used and the level of usage. The 1971 survey and a later 1977 NAS/NRC survey of food manufacturers on the use of food additives reported that stearic acid is used in food primarily as a lubricant or release agent but is also used as a formulation aid and as a flavoring ingredient or adjunct. The surveys also found that calcium stearate is used in food primarily as an anticaking agent, secondarily as a lubricant or release agent, and also as a formulation aid, emulsifier, and stabilizer and thickener. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these substances. FDA estimates from the 1971 NAS/NRC survey that the total amount of stearic acid used in food by the U.S. food industry in 1970 was 58,000 pounds, and that the amount of calcium stearate used in food was 820,000 pounds.

Calcium stearate and stearic acid have been the subject of a search of the scientific literature from 1920 to the

present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. Particularly pertinent reports from the scientific literature have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on stearic acid and calcium stearate.¹ In the Select Committee's opinion:

Tallow and stearic acid, one of its chemical components, are consumed as part of normal human diets primarily in meats and in smaller quantities as ingredients of shortening and oleomargarine. Calcium stearate appears to be a normal product of digestion of diets containing calcium and steric acid. * * *

Feeding tests with animals show * * * a relatively low digestibility of * * * stearic acid, and calcium stearate. None of the feeding tests involving amounts of these substances comparable to those estimated to be consumed as food additives showed any toxic effects. Furthermore, the toxicity of stearic acid at very high concentrations is markedly reduced by the presence in the diet of glycerides of substantially lower melting point, such as those containing unsaturated fatty acids. Carcinogenicity tests of stearic acid have shown negative results.

This report is directed toward the GRAS status of * * * stearic acid as given in the Code of Federal Regulations § 121.101(i) as substances migrating to food from cotton and cotton fabrics used in dry food packaging and calcium stearate as a GRAS substance (unpublished). Even at the levels estimated as being consumed by man from all added

¹ "Evaluation of the Health Aspects of Tallow, Hydrogenated Tallow, Stearic Acid, and Calcium Stearate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, pp. 6-10, 1975. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA had decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with good manufacturing practice.

sources of these substances there is no evidence to demonstrate a hazard to the public.²

The Select Committee concludes that, as a substance that may migrate to foods from cotton or cotton fabrics, no evidence in the available information on stearic acid demonstrates, or presents reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Further, the Select Committee states that no evidence in the available information on calcium stearate demonstrates, or presents reasonable grounds to suspect, a hazard to the public when it is used as a direct food additive at levels that are now current or that might reasonably be expected in the future.³

FDA has undertaken its own evaluation of all available information on these ingredients (including a mutagenic evaluation of calcium stearate that was not available when the Select Committee formed its conclusion) and concurs with the conclusions of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes that stearic acid and calcium stearate be affirmed as GRAS for use in food.

FDA did not ask the Select Committee to evaluate direct food uses of stearic acid and, consequently, the Select Committee's safety review of stearic acid addressed only certain indirect food uses of this substance. Direct food uses of stearic acid as a lubricant, binder, and defoaming agent are covered by a food additive regulation (21 CFR 172.860). However, the NAS/NRC survey of food manufacturers establishes that this ingredient is currently being used as a flavoring agent in a variety of foods. The use of stearic acid as a flavoring agent is considered GRAS by FEMA but is not covered by the food additive regulation that governs the direct food uses of stearic acid (21 CFR 172.860). In its report, the Select Committee noted that stearic acid is regularly consumed as a glyceride component in meats, table spreads, and other foods. Furthermore, the Select Committee stated that none of the feeding studies that involved amounts of stearic acid comparable to those estimated to be consumed as food ingredients showed any toxic effects, and that the toxicity of stearic acid at very high concentrations is markedly reduced by the presence in the diet of

² *Ibid.*, p. 10.

³ *Ibid.*, p. 11.

glycerides of substantially lower melting point, such as those containing unsaturated fatty acids. From data collected on the flavor use of stearic acid during the 1971 NAS/NCR survey, and data collected on the food additive use of stearic acid during the 1977 NAS/NCR survey, the agency estimates that the flavor use of stearic acid represents less than 4 percent of the total amount of stearic acid added to food. Based upon its evaluation of the available data, the agency concludes that an adequate scientific basis exists for affirming as GRAS the use of stearic acid as a flavoring ingredient in food under conditions of current good manufacturing practice.

The major direct food uses of calcium stearate as a binder, emulsifier, and anticaking agent are covered by a food additive regulation (21 CFR 172.863). However, there are several additional direct food uses of this ingredient (as a flavor adjuvant in hard candy; as a lubricant in baked goods, chewing gum, and soft candy; and as a stabilizer and thickener in baked goods) that were reported during the NAS/NRC survey and that were reviewed by the Select Committee but that are not covered by the food additive regulations. The Select Committee, in its report, evaluated the use of calcium stearate as a general purpose food additive and concluded that use of calcium stearate in food at current or reasonably expected future levels is safe. Based upon its own evaluation of the available data, the agency concurs with the Select Committee's conclusion. Therefore, the agency concludes that the Select Committee's evaluation forms a sound scientific basis to affirm as GRAS the additional uses of calcium stearate that were reported during the NAS/NRC survey but that are not authorized under § 172.863.

However, the agency believes that stearic acid and calcium stearate should be of the same purity as required for these ingredients under §§ 172.860 and 172.863, respectively. Therefore, the agency is proposing under §§ 184.1090(b) and 184.1229(b) that stearic acid and calcium stearate meet the specifications for the ingredients in the Food Chemicals Codex, 3d Ed., as well as the specifications for fatty acids under § 172.860(b)(2).

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR

184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of stearic acid. The indirect uses of stearic acid are authorized under §§ 184.1(a) and 184.1090.

In the case of stearic acid, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the Federal Register of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Additionally, FDA is not proposing to include in the GRAS affirmation regulations for stearic acid and calcium stearate the levels of use and the food categories reported in the NAS/NRC 1971 food survey for these ingredients. The agency has concluded that a large margin of safety exists for the uses of these substances and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. This conclusion is based on the fact that the Select Committee found that calcium stearate is a normal product of digestion of diets containing calcium and stearic acid; that stearic acid has a low order of toxicity in experimental animals; that the amount of stearic acid and calcium stearate consumed as a result of their direct addition to food is small compared to the consumption of stearic acid that is a natural constituent of meat, shortening, and oleomargarine; and that stearic acid and calcium stearate are added for only a limited number of technical effects to food products.

Therefore, the agency is proposing to affirm the GRAS status of stearic acid and calcium stearate when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects that FDA evaluated.

In the Federal Register of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Some GRAS ingredients related to those that are the subject of this proposal will be addressed elsewhere. For example, the GRAS status of specific glycerides will be addressed in the proposal on glycerides. The GRAS status of other fatty acid salts will be addressed in proposals on certain cations such as aluminum, magnesium, and zinc and in a proposal on indirect food use of certain fatty acids and salts of fatty acids. The GRAS status of tallow and hydrogenated tallow, substances reviewed by the Select Committee in its report on stearic acid and calcium stearate, will be addressed in a proposal concerning certain edible fats and oils.

Copies of the scientific literature review on tallow and stearic acid, the mutagenic report for calcium stearate, and the report of the Select Committee on tallow, hydrogenated tallow, stearic acid, and calcium stearate are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price ¹
Tallow and stearic acid (scientific literature review).	PB-223-859/AS	A05	\$10.50
Calcium stearate (mutagenic evaluation).	PB-279-260/AS	A03	7.50

Title	Order No.	Price code	Price ¹
Tallow, hydrogenated tallow, stearic acid, and calcium stearate (Select Committee report).	PB-262-661/AS	A02	6.00

¹ Price subject to change.

This proposed action does not affect the current use of stearic acid or calcium stearate in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1090 and 184.1229 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(a), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(a), 348,

371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. Part 182 is amended in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Stearic acid."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1090, to read as follows:

§ 184.1090 Stearic acid.

(a) Stearic Acid ($C_{18}H_{36}O_2$, CAS Reg. No. 5-11-4) is a white to yellowish-white solid. It occurs naturally as a glyceride in tallow and other animal or vegetable fats and oils and is a principal constituent of most commercially hydrogenated fats. It is produced commercially from hydrolyzed tallow or from hydrolyzed, completely hydrogenated vegetable oil which are derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 313, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

b. By adding new § 184.1229, to read as follows:

§ 184.1229 Calcium stearate.

(a) Calcium stearate ($Ca(C_{17}H_{35}COO)_2$, CAS Reg. No. 1529-23-0) is the calcium salt of stearic acid derived from edible sources. It is prepared as a white

precipitate by mixing calcium chloride and sodium stearate in aqueous solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 84, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 4, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received

comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 14, 1983.

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

[FR Doc. 83-2494 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

[Docket Nos. 77N-0230 and 77N-0316]

New Animal Drugs for Use in Animal Feeds; Penicillin- and Tetracycline (Chlortetracycline and Oxytetracycline)-Containing Premixes

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

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulation governing subtherapeutic use of antibiotic, nitrofur, and sulfonamide drugs in animal feeds to permit approval of new animal drug applications (NADA's) for subtherapeutic use of penicillin- and tetracycline (chlortetracycline and oxytetracycline)-containing premixes. This action is consistent with Congressional committee report language stating that FDA should hold in abeyance any implementation of its proposals to restrict the subtherapeutic use of penicillin, chlortetracycline, and oxytetracycline for animal production purposes pending the final results from studies designed to collect new epidemiological information. The studies will not be completed before 1984.

DATE: Comments by April 4, 1983.

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

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV-232), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: In 1973, FDA adopted § 558.15 *Antibiotic, nitrofur, and sulfonamide drugs in the feed of animals* (21 CFR 558.15), which was originally published as 21 CFR 135.109 (38 FR 9811; April 20, 1973). The regulation was adopted as a result of scientific evidence indicating that long-term, low-level use of antibiotic, nitrofur, and sulfonamide drugs in animal feed results in an increased occurrence of multiple drugs-resistant bacteria associated with these animals. The evidence indicated that the drug

resistance capability can be transferred to organisms that infect humans and could compromise human therapy with antibiotics and other antimicrobials.

The regulation required sponsors of new animal drug applications (NADA's) to submit, among other things, data on development of transferrable resistance from use of such drugs. After evaluating the data, the Director of the Bureau of Veterinary Medicine (the Director) issued notices of opportunity for hearing proposing to withdraw approval of NADA's for all penicillin-containing premixes intended for use in animal feeds (42 FR 43772; August 30, 1977) and for certain subtherapeutic uses of tetracycline (chlortetracycline and oxytetracycline) in animal feeds (42 FR 56264; October 21, 1970). The Commissioner of Food and Drugs (the Commissioner) subsequently published a statement that hearings would be held (43 FR 53827; November 17, 1978). However, the Commissioner has not issued a formal notice of hearing under 21 CFR Part 12.

Because there was disagreement among knowledgeable scientists as to whether the continued subtherapeutic use of these antibiotics would result in any significant human health risk, Congress (House of Representatives—Subcommittee on Agriculture and Related Agencies—Appropriation Bill, 1979, Report No. 95-1290) directed FDA to contract with the National Academy of Sciences (NAS) to study issues related to the use of antibiotics in animal feeds. Congress also stated that FDA should hold in abeyance any implementation of its proposed withdrawal actions pending final results of this study.

In March 1980, NAS completed its study and submitted its report entitled "The Effects on Human Health and Subtherapeutic Use of Antimicrobials in Animal Feeds." The report stated that "the postulations concerning the hazards to human health that might result from the addition of subtherapeutic antimicrobials to feeds have been neither proven nor disproven. The lack of data linking human illness with subtherapeutic levels of antimicrobials must not be equated with proof that the proposed hazards do not exist. The research necessary to establish and measure a definite risk has not been conducted and, indeed, may not be possible." Although a single comprehensive study which would settle the issue was considered technically impractical, the NAS committee suggested several studies which would provide useful information.

In view of the NAS report, Congress (House of Representatives—

Subcommittee on Agriculture and Related Agencies—Appropriation Bill, 1981, Report No. 96-1095) instructed FDA to conduct additional research to collect new epidemiological information as suggested in the NAS report. These studies will not be completed before 1984. Congress has continued to state that FDA should hold in abeyance any implementation of its proposal to restrict subtherapeutic uses of penicillin, chlortetracycline, and oxytetracycline in animal feeds (see Agriculture, Rural Development and Related Agencies—Appropriation Bill, 1982, Senate Committee on Appropriations, Sen. Report 97-248, 97th Cong., 1st Sess., p. 79 [October 23, 1981]).

The regulation in § 558.15(a) provides that NADA's for subtherapeutic use of antimicrobials in animal feed would not be approved after specified dates in 1973 unless specific data were submitted to resolve questions concerning safety and effectiveness. A number of drug entities have met the scientific requirements of § 558.15 based on data submitted by their sponsors. Accordingly, the Bureau of Veterinary Medicine (BVM) has resumed approving new applications for those drugs. However, since 1973 potential marketers of penicillin, chlortetracycline, and oxytetracycline for subtherapeutic use in animal feed have not received approval for use of products containing such drugs or combinations containing those drugs because they have not met the requirements of § 558.15. Sponsors who submitted applications before the 1973 deadline, including some whose NADA's were approved only on an interim basis, have been able to market their products. Supplemental applications that would provide for new subtherapeutic feed uses of penicillin, chlortetracycline, and oxytetracycline have not been approved since 1973.

In July 1981, sponsors of NADA's that are subject of the notices of opportunity for hearing petitioned FDA to withdraw the notices and several related notices, and to permit approval of new uses, including combinations of the drugs. In a notice appearing elsewhere in this issue of the Federal Register, FDA is announcing that it is denying those parts of the petitions that seek withdrawal of the notices.

However, in view the amount of time that has elapsed since adoption of § 558.15 in 1973 and issuance of the notices of opportunity for hearing in 1977, and the time needed to complete the new studies directed by Congress, the Commissioner has concluded that new approvals for penicillin, chlortetracycline, and oxytetracycline

should be permitted under specified conditions. The Commissioner finds that it is inequitable to continue to refuse to approve new applications and supplements. Furthermore, the Commissioner concludes that it is unlikely that such additional approvals will significantly increase the risk of human exposure to bacterial organisms resistant to penicillin and the tetracyclines.

Therefore, the Commissioner proposes to add new paragraph (h) to § 558.15. The paragraph would authorize the Director to resume the approval of new applications and supplements for single and combination drug ingredient products containing penicillin, chlortetracycline, and oxytetracycline until such time as the Commissioner issues a formal notice of hearing on the proposals to withdraw approval.

The Commissioner notes that, although he proposes to permit new approvals, the proposed changes in § 558.15 would place certain limits on those approvals. Applications would be required to contain all of the safety and effectiveness data ordinarily required for approval under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) except the human and animal safety data required by § 558.15(b). The Commissioner has concluded that repetition of § 558.15 safety studies would result in a needless waste of scarce resources. However, such applications will be subject to any future notice of hearing that might be issued concerning issues addressed in § 558.15 with respect to approvals of penicillin, chlortetracycline, and oxytetracycline.

In addition, labeling submitted with original and supplemental applications must conform, where applicable, with the agency's conclusions in the National Academy of Sciences/National Research Council Drug Efficacy Study Implementation review (NAS/NRC-DESI). New applications for such products are not required to contain effectiveness data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(a)(4) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(a)(4)) of the animal drug regulations but may require bioequivalency or similar data as suggested in the BVM guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. Such sponsors will be required to submit tissue-residue data, when appropriate. Pioneer drug sponsors (those drugs were the subject of the DESI review) who have not submitted supplements containing revised labeling which conforms to the NAS/NRC-DESI and agency

conclusions must do so before BVM will approve any supplements to such applications. The same requirement will apply, where applicable, to new applications for combination use of these drugs.

The proposed amendment to § 555.15 applies only to products containing penicillin, chlortetracycline, and oxytetracycline and combinations with other drugs. NADA's for other drug entities that have not met the human and animal safety requirements of § 558.15 will not be approved until the requirements are met.

The Commissioner believes that, if notices of hearing are issued with respect to penicillin, chlortetracycline, and oxytetracycline, the approvals of new applications and supplements (except those supplements that restrict use of the drugs) should cease. Therefore, the proposed regulation contains a provision that, at the discretion of the Commissioner, the Bureau of Veterinary Medicine will, upon the issuance of formal notices of hearing based on requirements established by § 558.15, be permitted to discontinue filing and approval of such applications without opportunity for comment beyond that provided in this notice of proposed rulemaking.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the subject drugs, premixes, and feeds by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and determined that it will not result in a major rule as defined by the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that § 558.15 be amended by adding new paragraph (h) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.15 Antibiotic, nitrofurans, and sulfonamide drugs in the feed of animals.

(h) Notwithstanding the foregoing provisions of this section, and pending resolution of the ongoing epidemiological study, persons interested in obtaining approval for the marketing of drugs containing penicillin, chlortetracycline, and oxytetracycline, labeled for subtherapeutic use in animal feeds, may submit applications for single ingredient or combination drug ingredient products. Applications must contain all the safety and effectiveness data required by section 512 of the act except the human and animal safety data required by paragraph (b) of this section. Where applicable, labeling must conform to the FDA conclusions with respect to the recommendations of the NAS/NRC-DESI review. Such applications are not required to contain effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency or similar data as well as tissue residue data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. Sponsors of approved drugs containing penicillin, chlortetracycline, and oxytetracycline, labeled for subtherapeutic use in animal feeds, may submit supplemental applications. If such drugs were NAS/NRC-DESI reviewed, the supplemental application must contain labeling conforming to FDA conclusions before it will be approved. Where applicable, labeling conforming to the agency conclusions as in the NAS/NRC-DESI review must be submitted with applications for combinations of drugs containing penicillin, chlortetracycline, and oxytetracycline for subtherapeutic use in animal feed. If a notice of hearing is issued concerning withdrawal of approval of penicillin, chlortetracycline, and oxytetracycline drugs based on requirements established by § 558.15, the agency will, at its discretion, not accept applications for filing or process pending applications that were filed.

Interested persons may on or before April 4, 1983 submit to the Docket Management Branch (address above)

written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 11, 1983.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 2940 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

42 CFR Part 57

Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations implementing the Advanced Nurse Training Grants Programs by deleting the designation of six nursing specialties as the only specialty areas requiring advanced training and by removing funding preferences for certain specialties. When the regulations for the Advanced Nurse Training Programs were published in 1978, categories identified as eligible for support reflected the interests of the Department and were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Written comments may be addressed to the Director, Bureau of Health Professions, Health Resources and Services Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Miss Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, Bureau of Health Professions, Room 3-50, Health Resources and Services Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, (301)-436-6623.

SUPPLEMENTARY INFORMATION: Section 821 of the PHS Act authorizes the award of grants to public and nonprofit private collegiate schools of nursing to meet the cost of projects to: (1) Plan, develop and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training. Regulations implementing Section 821 set forth in 42 CFR Part 57 Subpart Z provide that the following six professional nursing specialties require advanced nurse training: (1) Geriatric nursing, (2) community health nursing (3) maternal-child nursing, (4) acute care nursing, (5) medical-surgical nursing, (6) adult nursing.

When the regulations for the Advanced Nurse Training Program were published in 1978, categories identified as eligible for support reflected the interests of the Department and were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs. Consequently, this proposed amendment deletes the designation of six nursing specialties from the definition of "advanced nurse training program" and removes the funding preferences for certain specialties. However, the Secretary would be authorized to announce special funding preferences should specific needs warrant such action. Preferences would be announced by publishing a notice in the *Federal Register*.

Executive Order 12291, Federal Regulation and Regulatory Flexibility Act

The Department has determined that this is not a major rule for the purpose of Executive Order 12291, Federal Regulation because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amount of Federal grant funds allocated under Section 821 of the Public Health Service Act will not be changed as a result of this proposed amendment to the final regulation. Since this proposed amendment merely removes eligibility restrictions from the existing rules, and will not adversely affect projects currently receiving support, the Secretary has determined that these regulations do not meet any criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. Further, the regulations will not have a significant economic impact on a substantial number of small entities and a Regulatory Flexibility Act of 1980 (Pub. L. 96-354) is not required.

Paperwork Reduction Act: The recordkeeping and reporting requirements in §§ 57.2504 and 57.2513 and the application forms and instructions for this grant program were submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. OMB approval numbers are 0935-0066 for the continuation application form and 0935-0065 for the competing application form.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Grant programs—nursing, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Nursing advanced training, Scholarships and fellowships, Student aid.

Accordingly, 42 CFR Part 57 Subpart Z is proposed to be amended as set forth below.

Dated: December 30, 1982.
 Edward N. Brandt, Jr.,
Assistant Secretary for Health.
 Approved: January 19, 1983.
 Richard S. Schweiker,
Secretary.

PART 57 [AMENDED]

42 CFR Part 57 Subpart Z is proposed to be amended as follows:

Subpart Z—Grants for Advanced Nurse Training Programs

1. The authority citation for Subpart Z is revised to read as follows: Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by Pub. L. 97-35, 95 Stat. 930 (42 U.S.C. 296f).

2. Section 57.2502 is amended by revising the definition for "Advanced nurse training program" to read as follows:

§ 57.2502 Definitions.

"Advanced nurse training program" means a program of study in a collegiate school of nursing leading to a graduate degree in nursing which trains professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other

professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

§ 57.2503 [Amended]

3. In § 57.2503 paragraph (b), footnote 1 is removed.

§ 57.2504 [Amended]

4. In § 57.2504 paragraph (a), footnote 2 is redesignated as footnote 1 and is revised to read as follows:

¹ Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Maryland 20782.

5. In § 57.2506, paragraph (b) is revised to read as follows:

§ 57.2506 Evaluation and grant awards.

(b) *Funding preference.* The Secretary will announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the Federal Register.

[FR. DOC 83-2690 Filed 1-31-83; 8:45 am]
 BILLING CODE 4160-18-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Ex Parte 241 (Sub-1)]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to proposed removal of rule.

SUMMARY: In the Federal Register notice of December 30, 1982, (47 FR 48325), the Commission reopened this railroad freight car proceeding to assess the need to retain 49 CFR 1033.15, a car service rule. The date comments were due in this proceeding was set 30 days after Federal Register publication or January 31, 1983. At the request of the Association of American Railroads, the due date has been postponed 30 days to March 2, 1983.

DATES: Comments are due March 2, 1983.

ADDRESSES: An original and 15 copies of all comments should be sent to: Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: January 25, 1983.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2647 Filed 1-31-83; 8:45 am]
 BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 48, No. 22

Tuesday, February 1, 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.

ACTION

National Voluntary Service Advisory Council; Meeting

AGENCY: ACTION.

ACTION: National Voluntary Service Advisory Council; Meeting.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the National Voluntary Service Advisory Council (Council) will be held on February 17, 1983 from 8:30 A.M.-5:30 P.M. at ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. For further details concerning the room location, contact Catherine Barr, Special Assistant to the Assistant Director of ACTION for Policy and Planning, at (202) 254-8523.

The purpose of this meeting is to enable the Council members to review the nominees submitted for a Volunteer Action Award and to compile a final list of recommended individuals for such an award for the Director of ACTION to submit to the President. In accordance with the determination of the Director of ACTION, the meeting will be closed to the public pursuant to subsection (c)(9)(B) of Section 552b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, NW., Washington, D.C. 20525 during the regular working hours of 8:30 A.M. to 5:15 P.M.

Signed this 26th day of January 1983 in Washington, D.C.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 83-2685 Filed 1-31-83; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Agricultural Marketing Service

Wool and Mohair Advertising and Promotion

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Agricultural Marketing Service (AMS), USDA.

ACTION: Notice of results of referendum.

SUMMARY: The purpose of this notice is to announce that the requisite number of sheep and wool producers voting in a referendum have approved a new agreement between the U.S. Department of Agriculture (USDA) and the American Sheep Producers Council, Inc. (ASPC). The referendum was conducted by the Secretary of Agriculture in accordance with provisions of Section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787) the "Wool Act." The agreement authorizes USDA to make deductions for the incentive payments made to producers under the Act on shorn wool and unshorn lambs marketed during the years 1982 through 1985. Amounts so deducted are to be used by ASPC for advertising and sales promotion programs and programs for the dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Livestock, Meat, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447-2650.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "nonmajor." It has been determined that this notice will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of U.S.-based enterprises to

compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since ASCS and AMS are not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This title and number of the Federal assistance program to which this notice applies are Title—National Wool Act Payments and Number—10.059 as found in the Catalog of Federal Domestic Assistance.

Section 708 of the Wool Act authorizes the Secretary of Agriculture to enter into agreements with or to approve marketing agreements entered into between marketing cooperatives, trade associations, or other organizations for the purpose of developing advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for wool, mohair, sheep, or goats or their products.

In accordance with Section 708, the Secretary has entered into such an agreement with the ASPC for the 1982 through 1985 marketing years. The agreement becomes effective following approval by the sheep and wool producers in a referendum and upon signing by the appropriate officials of ASPC and USDA. A referendum was held during the period of August 16 through August 27, 1982. Section 708 provides that approval of the Agreement by a minimum of two-thirds of the voting producers or by producers who have produced two-thirds of the volume of wool represented in the referendum is required for approval. In the referendum 23,800 producers, constituting 72.6 percent of the voting producers, voted in favor of the agreement and 9,987 producers or 27.4 percent voted against it. The producers voting in favor owned 4,972,087 sheep or 76.0 percent of the sheep or lambs owned by all the voting producers. Producers owning 1,570,195 sheep or 24.0 percent opposed the agreement. Anyone who owned sheep or lambs 6 months of age or older in the United States, continuously, for a period of at least 30 days during the calendar year 1981 was eligible to vote.

The new agreement provides that funds would be made available to the ASPC through pro rata deductions from any price-support payments made to producers for the 1982 through the 1985 marketing years. The agreement authorizes the use of funds to pay expenses for the conduct of advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

Under the new agreement, deductions will be made from price support payments on 1982 through 1985 marketings at a rate not to exceed 4 cents per pound of shorn wool marketed and at a comparable rate as determined by the Administrator, AMS, on unshorn lambs and yearlings (pulled wool) marketed. Deductions of 4 cents per pound will be made from payments on 1982 marketings of shorn wool.

Notice

In accordance with delegations of authority by the Secretary of Agriculture (38 FR 22955, August 28, 1973, 39 FR 23076, June 26, 1974), it has been determined that the agreement providing for pro rata deductions to be made from price-support payments which are made to producers of shorn wool, unshorn lambs, and pulled wool for the 1982 through 1985 marketing years has the approval of the number of producers required by Section 708 of the National Wool Act of 1954, as amended. More than two-thirds of the total number of producers voting and producers of more than two-thirds of the total volume of production represented in the referendum indicated their approval of such agreement.

The agreement was signed and became effective on January 26, 1983.

Done at Washington, D.C. January 26, 1983.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

William T. Manley,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 83-2089 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

Official Weighing Designation of Jinks Grain Weighing Service (IL) and Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation of the Jinks Grain Weighing Service as an official agency responsible for providing weighing services, under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act)

EFFECTIVE DATE: March 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1982, issue of the *Federal Register* (47 FR 38562) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation as the agency to provide official weighing services within a specified assigned area. Applications were to be postmarked by October 1, 1982.

FGIS announced the names of three applicants, who proposed to establish new agencies, for designation for this agency and requested comments on same in the November 1, 1982, issue of the *Federal Register* (47 FR 49433). Comments were to be postmarked by December 16, 1982. One favorable comment was received regarding the designation of an applicant for this area. The commentator recommended Mr. Robert H. Jinks; no comments were received concerning the other two applicants, Mr. Al Johnson and Mr. Larry King. During the time comments were being received, Mr. King withdrew his application from consideration.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Jinks Grain Weighing Service is better able to provide official weighing services and has been selected for this geographic area. The assigned area is the entire geographic area, as described in the September 1 issue of the *Federal Register*.

Effective March 1, 1983, and terminating February 28, 1986, the responsibility for providing official weighing services in the geographic area, as specified above, will be

assigned to the Jinks Grain Weighing Service. Official inspection services have been and will continue to be provided in the above-described area by the Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois.

Interested persons may contact the agency at the following address to obtain information about receiving weighing service: Jinks Grain Weighing Service, R.R. 1, Box 81, Homer, IL 61849, (217) 733-2714

(Sec. 8, Sec. 9, Pub. L. 94-582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-2197 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Renewals of Designation of Frankfort Grain Inspection, Inc. (IN), and Paris Illinois Grain Inspection (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Frankfort Grain Inspection, Inc. (Frankfort), and Paris Illinois Grain Inspection (Paris), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: March 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1982, issue of the *Federal Register* (47 FR 38564) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Frankfort's and Paris' designations would terminate on February 28, 1983, and requesting applications for designation as the agency to provide official services within each specified

assigned area. Applications were to be postmarked by October 1, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the November 1, 1982, issue of the *Federal Register* (47 FR 49431). Comments were to be postmarked by December 16, 1982. No comments were received regarding the renewals of designation of Frankfort and Paris (the only applicants for each respective designation) as official agencies.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Frankfort and Paris are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area, as described in the September 1 issue of the *Federal Register*.

Effective March 1, 1983, and terminating February 28, 1986, the responsibility for providing official inspection services in each geographic area, as specified above, will be assigned to Frankfort and Paris, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspection to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Frankfort Grain Inspection, Inc., R.R. #2,
Frankfort, IN 46041

Paris Illinois Grain Inspection, 1020
North Central Avenue, Paris, IL 61944

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-2194 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Cedar Rapids Grain Service, Inc. (IA), Champaign-Danville Grain Inspection Departments, Inc. (IL), and Springfield Grain Inspection Department (IL)

AGENCY: Federal Grain Inspection Service USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties the applicants for designation as the official agency in the areas currently assigned to Cedar Rapids Grain Service, Inc., Champaign-Danville Grain Inspection Departments, Inc., and Springfield Grain Inspection Department. The designations terminate May 31, 1983.

DATE: Comments to be postmarked on or before March 18, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 1, 1982, issue of the *Federal Register* (47 FR 54128) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by January 3, 1983.

Cedar Rapids Grain Service, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency. Champaign-Danville Grain Inspection Departments, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency. Springfield Grain Inspection Department, the only applicant, requested designation of all of the geographic area currently assigned to

that agency. Cedar Rapids, Champaign-Danville, and Springfield each applied for a renewal of designation for a 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than March 18, 1983.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the *Federal Register*, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-584, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-2195 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Request for Applicants for Designation To Perform Official Services in the Geographic Areas Currently Assigned to Eastern Iowa Grain Inspection and Weighing Service, Inc. (IA), and Keokuk Grain Inspection Service, Inc. (IA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), designations of official agencies shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures provided in the Act. This notice announces that the designations of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, who are interested in being designated as official agencies to conduct official services in the geographic area currently assigned to each of the specified agencies. The official agencies are Eastern Iowa Grain Inspection and Weighing Service, Inc., and Keokuk Grain Inspection Service, Inc.

DATE: Applications to be postmarked on or before March 3, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection

Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 et seq., at 79(f)(1)), specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned geographic area.

Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa), R.R. #1, Box 588, Blue Grass, Iowa 52726, was designated as an official agency under the Act for the performance of official inspection functions on September 30, 1978. Keokuk Grain Inspection Service, Inc. (Keokuk), RR 2, Prices Creek, Keokuk, Iowa 52632, was designated as an official agency under the Act for the performance of official inspection functions on September 25, 1978.

The agencies' designations will terminate on July 31, 1983. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the *Federal Register* (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Eastern Iowa in Iowa and Illinois, pursuant to Section 7(f)(2) of the Act, and which is the geographic area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by Interstate 80 from the western Iowa County line east to State Route 38; State Route 38 north to State Route 130; State Route 130 east to Scott County; the western and

northern Scott County lines east to the Mississippi River (all in Iowa);

Bounded: on the East from the Mississippi River, the eastern Rock Island County line; the northern Henry and Bureau County lines east to State Route 88; State Route 88 south; the southern Bureau County line; the eastern and southern Henry County lines; the eastern Knox County line (all in Illinois);

Bounded: on the South by the southern Knox County line; the eastern and southern Warren County lines, the southern Henderson County line west to the Mississippi River (all in Illinois); the southern Des Moines, Henry, Jefferson, and Wapello County lines (all in Iowa); and

Bounded: on the West by the western and northern Wapello County lines; the western and northern Keokuk County lines; the western Iowa County line north to Interstate 80 (all in Iowa).

The area also includes the following Counties: Delaware and Dubuque Counties, Iowa; and JoDaviess County, Illinois.

Exceptions to the described geographic area are the following locations situated inside Eastern Iowa's area which have been and will continue to be serviced by the following official agencies:

1. McGregor Grain Inspection and Weighing Corporation, Inc., will service Paris and Sons Grain Elevator, Masonville, Delaware County, Iowa; and

2. Keokuk Grain Inspection Service, Inc., will service Central Soya, Inc., Dallas City, and Lomax Grain Elevator, Lomax, Henderson County, Illinois.

In addition, Eastern Iowa has provided service on an interim basis in a specified geographic area in Illinois. This geographic area, which is also available for assignment to the applicant selected for designation, is as follows:

Bounded: on the North by the northern Stephenson, Winnebago, Boone, McHenry, and Lake County lines east to Interstate 94;

Bounded: on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to the southern Dupage County line;

Bounded: on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded: on the west by the western Lee, Ogle, and Stephenson County lines.

The following location, in Illinois, outside of the foregoing contiguous geographic area, also has been provided interim service by Eastern Iowa and is part of the geographic area that may be assigned to the applicant selected for

designation: Leland Farmers Company, Leland, LaSalle County.

The geographic area presently assigned to Keokuk in Iowa and Illinois, pursuant to Section 7(f)(2) of the Act, and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties: Davis, Lee, and Van Buren Counties, Iowa; and Hancock and McDonough Counties, Illinois.

The following locations, in Illinois, outside of the foregoing contiguous geographic area, are presently assigned to Keokuk and are part of the geographic area, that may be assigned to the applicant selected for designation:

1. Central Soya, Inc., Dallas City, and Lomax Grain Elevator, Lomax, Henderson County; and

2. Ursa Farmers Co-op, Meyer, and Ursa Farmers Co-op, Ursa, Adams County.

Interested parties, including Eastern Iowa and Keokuk, are hereby given opportunity to apply for designation as the official agency to perform the official services in each geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in each specified geographic area are for the period beginning August 1, 1983, and terminating July 31, 1988. Parties wishing to apply for this designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than March 3, 1983, to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official services in the geographic area, consideration will be given to applications submitted and other available information.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 [7 U.S.C. 79])

Dated: January 14 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-2196 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Cowlitz, Lewis, and Skamania Counties, Washington; Intent To Prepare an Environmental Impact Statement

The U.S. Department of Agriculture, Forest Service, will prepare an

environmental impact statement which will present a detailed and comprehensive management plan for lands within and immediately adjacent to the Mount St. Helens National Volcanic Monument.

In October 1981, the Mount St. Helens Land Management Plan was approved which allocated 174,100 acres of land surrounding Mount St. Helens to protect the significant geologic, ecologic, and cultural features in the impact area for public education, interpretation, recreation, and research as well as the coordinated multiple use management of adjacent lands. Subsequent to this plan, the President signed an Act in August 1982, establishing an area of approximately one hundred and ten thousand acres designated as the Mount St. Helens National Volcanic Monument. This Act required the development of a "detailed and comprehensive management plan for the Monument," including, but not limited to:

- (1) Measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;
- (2) Indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the area, including anticipated timetables and costs;
- (3) Identification of, and implementation plans for, visitor carrying capacities of the area; and
- (4) Indications of any potential modifications of the external boundaries of the area, and the reasons therefore.

This Comprehensive Management Plan will present a range of alternative development options pursuant to these legislative guidelines as well as those established in the Land Management Plan.

Several scoping sessions will be held in February 1983 to gain information on the issues to be analyzed. Federal, State, and local agencies, individuals, and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process.

Jeff Sirmon, Regional Forester of the Pacific Northwest Region in Portland, Oregon, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to Ed Osmond, Recreation Staff, Gifford Pinchot National Forest (telephone 206-696-7524).

The analysis is expected to take about 12 months. The draft environmental impact statement should be available for public review by November 1983.

Written comments and suggestions regarding this analysis should be sent to

Robert Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

Dated: January 24, 1983.

James F. Torrence,
Deputy Regional Forester for Resources.

[FR Doc. 83-2089 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Mars Hill-Grove Street Critical Area Treatment RC&D Measure, Maine; 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 Mars Hill-Grove Street Critical Area Treatment RC&D Measure, Aroostook County, Maine.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine. 04473, telephone 207-866-2132.

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, Mr. Billy R. Abercrombie, 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 control of critically eroding cropland. The planned works of improvement include a graded diversion, storage diversion, rock-lined waterway, water control structure and seeding the area disturbed by construction.

The Notice of a 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 Mr. Billy R. Abercrombie.

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-85 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 19, 1983.

Billy R. Abercrombie,
State Conservationist.

[FR Doc. 83-2083 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; High-Capacity Pagers From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; high-capacity pagers from Japan.

SUMMARY: We have preliminarily determined that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

We also have preliminarily determined that imports of high-capacity pagers featuring a display from Nippon Electric Company, Ltd. should be subject to a zero deposit rate because we found a 0.47 percent weighted-average margin. This margin is *de minimis*.

If this investigation proceeds normally, we will make a final determination by April 11, 1982.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department

Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3464.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than "fair value," as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We also have preliminarily determined that imports of high-capacity pagers featuring a display from Nippon Electric Company, Ltd. should be subject to a zero deposit rate because we found a 0.47 percent weighted-average margin. This is *de minimis*.

We have found that the foreign market value of tone-only pagers exceeded the United States price on 99 percent of sales. These margins ranged for 0.2 percent to 99.8 percent. The overall weighted-average margin on all sales compared is 46.31 percent. We also have found that the foreign market value of display pagers from NEC exceeded the United States price. The overall weighted-average margin, however, on all sales compared was 0.47 percent. This margin is *de minimis*. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by April 11, 1983.

Case History

On August 19, 1982, we received a petition from Motorola, Inc., filed on behalf of the U.S. industry producing high-capacity pagers. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petition alleged that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on September 8, 1982 (47 FR 40679). The ITC subsequently found, on October 4, 1982, that there is a reasonable indication that imports of high-capacity pagers are materially

injuring, or are threatening to materially injure, a United States industry.

The petition alleged that Nippon Electric Co., Ltd. (NEC) and Matsushita Communication Industrial Co., Ltd. (MCI) produce high-capacity pagers for export to the United States.

Questionnaires were presented to the respondents on September 23, 1982. Responses were received on November 17, and December 22, 1982.

Scope of Investigation

For purposes of this investigation, the term "high-capacity pagers" covers paging signal receivers 3,000 or more of which can be operated in a paging system on a single radio frequency channel. This investigation is intended to cover all high-capacity pagers regardless of tariff classifications. The merchandise is currently classified under item numbers 685.24 (solid-state (tubeless) radio receivers), 685.2475 (radio receivers above 30 MHz, but not over 400 MHz), 685.2480 (receivers above 400 MHz, but not over 1,000 MHz), and 685.7035 (other sound signalling apparatus) of the *Tariff Schedules of the United States (TSUS)*.

Since NEC and MCI manufacture virtually all of the high-capacity pagers exported from Japan to the United States, we limited our investigation to them.

This investigation covers the period from March 1, 1982 to August 31, 1982 for purchase price sales and for exporter's sales price transactions. However, since MCI did not have any sales to the U.S. during the above period, we used August 1, 1981 through January 31, 1982 for that company only.

Fair Value Comparison

To determine whether sales of the subject merchandise by MCI in the United States were made at less than fair value, we compared the purchase price with the foreign market value. For NEC, however, we compared exporter's sales price with the foreign market value. Where adjusted foreign market prices exceeded adjusted United States prices, we have preliminarily determined that there are sales at less than fair value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by MCI because the merchandise was sold to unrelated purchasers prior to its importation into the United States. For NEC the United States price was represented by the exporter's sales price.

We calculated purchase price for MCI based on a CIF, packed price to unrelated purchasers in the U.S. with deductions from that price for the following items: inland and ocean freight costs, shipping charges and insurance costs.

We calculated exporter's sales price for U.S. sales by NEC by deducting from the gross price to unrelated purchasers amounts for the following items, where appropriate: Foreign brokerage, U.S. brokerage, ocean freight, marine insurance, U.S. duty, foreign inland freight, U.S. inland freight, U.S. insurance, foreign insurance, commissions to unrelated sellers, other indirect selling expenses, warranty expenses, credit expenses, technical services, assumed advertising expenses and discounts. We did not use NEC's figure for credit expense because we deemed the interest rate used to be too low. Instead, we calculated the credit expense predicated on the U.S. prime rate in effect during the period of investigation.

Foreign Market Value

We have preliminarily determined that the tone-only pagers sold by MCI and NEC in Japan are such or similar to the tone-only pagers sold in the United States. Therefore, we have chosen sales of tone-only pagers by MCI and NEC to unrelated purchasers in Japan as our basis for foreign market value for purposes of making comparison with tone-only pagers sold in the U.S. In addition, we have preliminarily determined that the tone-only pagers sold by NEC in Japan are not such or similar to the display pagers sold in the United States. Therefore, we have chosen sales of display pagers by NEC to unrelated third-country purchasers in Hong Kong as our basis for foreign market value for purposes of making comparisons with display pagers sold in the United States.

We calculated the foreign market value for MCI and NEC by deducting from the gross, packed CIF or C&F prices the following items, where appropriate: freight and insurance. For MCI, we made adjustments, where appropriate for differences in the merchandise, packing costs, warranty expenses, credit expense and technical services expenses. We made additional deductions to NEC's foreign market value for credit expense, technical services and warranty expense. We made adjustments to NEC's foreign market value for differences in the merchandise and packing.

In addition, indirect selling expenses of NEC were deducted to offset U.S.

indirect selling expenses. In instances where NEC's U.S. sales involved commissions to unrelated sellers, deductions were made for indirect selling expenses in the home market to offset U.S. commissions. Adjustments for differences in merchandise for both companies were based on differences in cost of material, direct labor and directly related factory overhead.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. For NEC, we preliminarily determined that we could not use the figures offered by it concerning warranty charges in the home market and technical services in Hong Kong. The reason for this decision was that NEC pays a wholly-owned subsidiary, Nippon Electric Mobile Radio Service Company, for these services. NEC pays this subsidiary approximately four percent of the value of each pager for warranty services. NEC's response stated that the failure rate for domestic pagers is 0.2 percent. Consequently, the deduction for four percent does not appear to be reasonable. Therefore, we calculated an amount for the warranty expense predicated on 0.2 of the value of the pager and used it as best evidence. We did not allow any adjustment for technical services provided by NEC's subsidiary, since we did not have enough information to construct an appropriate value. We will investigate this item during verification and make an adjustment for the final determination if appropriate. Since the Act requires the addition of U.S. packing costs to unpacked home market prices, we have done this for our preliminary determination. We used this same methodology for MCI's packing charge. Some of the pagers sold by NEC in the U.S. included a battery charger. As this feature is not included with pagers sold in the home market, we added the cost of this feature to certain home market sales for purposes of comparison.

MCI requested that we lower the home market price by the value of certain other selling and servicing expenses. We do not consider these items to be a circumstance of sale bearing a direct relationship to the sales of pagers in the home market. Therefore, we disallowed these claims for deductions. MCI also requested an adjustment for advertising. Since MCI did not state that its advertising is attributable to a later sale of the merchandise, we did not make an adjustment. We will investigate this item during verification and make an adjustment, if appropriate, for the final determination. In addition, MCI

requested that we include other factory overhead expenses in the adjustment for differences in the merchandise. We have not included them as they are not directly related to the manufacture of the merchandise.

We calculated third-country prices for NEC's display pager by using the export price of this model to Hong Kong. We calculated the foreign market value by deducting from the gross, packed CIF price amounts for the following items, where appropriate: Inland and air freight expense, insurance expense, commission, indirect selling expense, credit expense, assumed advertising expense and warranty expense. We made adjustments to NEC's foreign market value, where appropriate, for differences in the merchandise and packing costs.

Thus far, one of the major issues in this investigation has been whether the pagers sold in Japan are such or similar to those sold in the United States. Counsel for MCI argues that the pagers sold in Japan are not such or similar to those sold in the United States because the quality and cost of the tone-only pagers sold in Japan are much higher than that of the U.S. tone-only pagers. Counsel for MCI also argues that if we did find the merchandise in Japan to be such or similar that we should make allowances for the differences in profit in the two markets. In order to resolve this issue, we must look to section 771(16) (A), (B), and (C) of the Act (19 U.S.C. 1677 (A), (B), (C)) to see if the merchandise in question falls into any of these three categories. We have preliminarily determined that, at a minimum, the tone-only pagers sold in Japan fall within the scope of 1677(16)(C). The tone-only pagers sold in Japan are produced in the same country and by the same company and are of the same general class or kind of merchandise as the tone-only pagers sold in the United States. The tone-only pagers sold in both markets are used for the same purpose; i.e., both alert the user to the existence of a message. Finally, tone-only pagers sold in both markets may reasonably be compared because each contains either identical or nearly identical types of components which function in the same manner. The Act and the Department of Commerce Regulations provide, under certain circumstances, for adjustments to sales of similar merchandise to compensate for such things as differences in the merchandise. Where appropriate, we have made such adjustments. The regulations state that we will be guided primarily by the differences in the cost of production when making adjustments

for differences in the physical characteristics of the merchandise. It is the policy of the Department to consider only these differences. Thus, we have not considered differences in profit in our adjustments.

The other category of high-capacity pagers sold in the U.S. is display pagers which produce an actual message on an alpha-numeric display. We have preliminarily determined that tone-only pagers sold in Japan are not such or similar to display pagers sold in the United States. The function of the display pagers is different from the tone-only pager in that it not only alerts the user to the existence of a message, but actually delivers the message on a display screen. With a tone-only pager, the user must make one or more telephone calls to determine the exact nature of the message. This increase in capability consequently increases the value of a display pager. In addition, the technology needed to produce the display pager is more complex than that needed to produce the tone-only model. While both use similar receivers to respond to a transmitted code, the display pagers employ random-access memory to retain the received information, a message processor to convert a coded signal to alpha-numeric characters, and a display system. The additional circuitry needed in the display pagers tends to be more of the type used in computers rather than that used in radio receivers.

Thus, the tone-only pagers sold in Japan do not meet the criteria of the Act for such or similar merchandise with respect to comparisons involving display pagers. Therefore, we used sales of display pagers in a third country, Hong Kong, as our basis for foreign market value.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 773(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of high capacity pagers from Japan, with the exception of imports of display pagers produced by NEC, subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated average amount by which the

foreign market value of the merchandise subject to this investigation, with the exception of display pagers produced by NEC which will have a zero deposit rate, exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin (percent)
MOI	88.07
NEC—tone-only pagers	11.72
—display pagers ¹	0.47
Other manufacturers/sellers/exporters	88.07

¹The margin for NEC's display pagers is de minimis.

Where a company specifically listed above has not exported one of the products under investigation during the period for which we are measuring sales at less than fair value, the cash deposit or bond amount for that product shall be based on the highest rate for the investigated products that were exported by that company.

ITC Notification

In accordance with Section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with section 353.47 of the Commerce Department Regulations, if requested, we will hold public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on March 4, 1983, at the U.S. Department of Commerce, Room 6802, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant

Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by March 1, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of publication of this notice, at the above address in at least 10 copies.

Dated: January 26, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2728 Filed 1-31-83; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Cotton Sheeting and Sateen from Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination and countervailing duty order; cotton sheeting and sateen from Peru.

SUMMARY: We have determined that certain benefits which constitute bounties and grants within the meaning of the countervailing duty laws are being provided to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is indicated under the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377-5414 or 3530.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that the government of Peru provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters

in Peru of cotton sheeting and sateen, as described in the "Scope of Investigation" section of this notice. The following programs are found to confer bounties or grants:

- Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law)

The estimated net bounty or grant is 29.973 percent of the f.o.b. value of the export of cotton sheeting and/or sateen.

Case History

On June 15, 1982, we received a petition from the American Textile Manufacturing Institute on behalf of the cotton sheeting and sateen industry in the United States. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of cotton sheeting and sateen in Peru.

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the products under investigation are dutiable, section 303 of the Act applies to this investigation. Therefore the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 6, 1982, we initiated a countervailing duty investigation (47 FR 30274).

On July 14, 1982, we presented a questionnaire concerning the allegations to the government of Peru at its embassy in Washington, D.C. Subsequently, on July 18, 1982, we determined that the investigation was "extraordinarily complicated" within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (47 FR 37267). On September 17, 1982, we received the responses to the questionnaire. A supplemental questionnaire was presented to the government of Peru in Washington, D.C. on October 12, 1982. On October 26, 1982, we received the responses to the supplemental questionnaire.

On November 12, 1982, we issued our preliminary determination in this investigation (47 FR 52211). This stated that the government of Peru was

providing its manufacturers, producers, or exporters of cotton sheeting and sateen with certain benefits which constitute bounties or grants. The programs preliminarily determined to bestow countervailable benefits were:

- The Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 13, 14, 15, 16 and 32 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law)

Scope of Investigation

The products covered by this investigation are: (1) Plain-woven cotton fabric sheeting, not fancy or figured and not napped, made of singles yarn, with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classified under *Tariff Schedules of the United States* (TSUS) numbers 320.—36, 320.—38, 320.—40, and 320.—44; and (2) 100% carded cotton sateen fabrics woven with a sateen weave and not napped, imported in Textile and Apparel Category 317, and currently classified in TSUS under numbers 320.—54 and 321.—54.

There are twenty-seven producers and/or exporters in Peru of cotton sheeting and/or sateen. Of these twenty-seven, twenty-five manufacture sheeting and five of those also manufacture sateen. Two of the twenty-seven are exporters only. Eleven of these exporters account for 85 percent of total exports. We conducted verification on 13 companies.

The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In our final determination, the estimated net bounties or grants are based exclusively on information which was verified.

We determined that the benefits provided under the programs concerned were bestowed upon Peruvian companies' total exports to all foreign markets. Therefore, any benefits that were found were allocated over recipient companies' total exports of all products to all markets, not just over their exports of products under investigation to the United States.

Under the various articles of the Export Law determined to provide bounties or grants, a variety of benefits were determined to exist, including tax credits, tax deductions and tax deferrals or exemptions. In each case we allocated the articles' combined tax savings over total exports.

In determining benefits applicable to income tax under the Export Law, we applied 1980 tax savings over 1981 exports, since 1981 was the year in which any benefits claimed on the 1980 tax return were realized.

Based on our analysis of the petition, responses to our questionnaires, our verification and oral and written comments by interested parties, we determine the following:

1. Programs Determined To Confer a Bounty or Grant

We have determined that bounties or grants are being provided under the programs listed below to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen.

A. The Certificate of Tax Rebate (CERTEX). The CERTEX is a tax certificate issued to exporters by the government of Peru in an amount equal to a percentage of the f.o.b. value of export shipments. The CERTEX can be used for paying taxes collected by the Central Government. Applications for CERTEX are made to the Division of Foreign Trade or to Regional Councils and must be submitted within four months from the date of export. To be eligible for CERTEX, and exporter must be registered in the Special Chapter of Exporting Enterprises and must submit certain required documentation.

The face value of the CERTEX is equal to a percentage of the f.o.b. value of the export shipment after deductions for consular expenses and commissions paid abroad. There are no consular expenses and commissions paid abroad. There are no consular expenses applicable to exports of cotton sheeting and/or sateen to the United States. For our preliminary determination we used an average rate of commission of 4.5 percent of the f.o.b. value of the export, for exporters of both sheeting and/or sateen. Based on information obtained during the verification, we found that the weighted-average commission paid by on exports of cotton sheeting and sateen was 1.97 percent.

The percentage of rebate is set according to whether the produce is classified as being a high, medium, or low value added and whether the producer is located inside or outside the areas of the Department of Lima or the Province of Callao. Products of low value added manufactured inside the Department of Lima or the Province of Callao receive 15 percent of the f.o.b. value after deductions of the export expenses. The percentages for medium and high value added products are 20 percent and 22 percent, respectively. Products manufactured outside the areas of the Department of Lima and the

Province of Callao qualify for an additional 10 percent. We have found that cotton sheeting and sateen are medium value added products and qualify for a 20 percent rate if manufactured in the Department of Lima and the Province of Callao, and qualify for a 30 percent rate if manufactured outside of Lima/Callao.

Once the gross amount of the rebate certificate is determined, 2 percent of this amount is issued to the Fund for the Promotion of Nontraditional Exports (FOPEX), and 10 percent is issued to the Provincial Municipal Towncouncil from which the product originated. The exporter then receives the balance, 88 percent of the gross amount.

We found that the deductions for FOPEX and the Provincial Towncouncils do decrease the amount of gross subsidy, and that neither FOPEX nor Towncouncils provide any benefit to exporters which are not generally available.

Although the respondent claims the CERTEX certificates are further reduced in value due to delay in receipt, commissions charged on subsequent transfer of a certificate, and taxability of certificates, these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(6)(a)).

Respondent states that the rebate of indirect taxes on production is one of CERTEX's principal purposes and that there is a relationship between the present level of CERTEX payments and the incidence of indirect taxation on the producers of the products under investigation.

In determining whether the CERTEX program is a bona fide rebate of indirect taxes, the primary considerations are:

(1) Whether the CERTEX program operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for CERTEX payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported cotton sheeting and sateen and has demonstrated a clear link between such tax incidence and the amount of CERTEX payments.

Taxes rebated by CERTEX certificates include those on salaries and wages of workers, the enterprise patrimony, reevaluation of fixed assets, customs duties on fixed assets, goods and services tax collected over insurances and capital goods, interest tax on local and foreign currency, the fund for research and development, the consumption of electricity and fuel, customs duties on supplies, and the

municipal sales tax. Some of these taxes are direct taxes, while others are indirect taxes on goods which are not physically incorporated in the final product.

The government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual indirect tax incidence has been reasonably calculated and documented.

Since the above-described linkage has not been demonstrated, we have determined that the CERTEX payments must be considered as conferring bounties or grants in the amount of 17.253 percent of the f.o.b. value of the export for all exporters of cotton sheeting and/or sateen, regardless of area of production.

We have determined a weighted-average benefit rate based on total sales of export to the United States of producers located in the Department of Lima or Province of Callao and usage of the CERTEX rate applicable to that area, and total sales for export to the United States of producers located outside of Lima/Callao and the usage of the CERTEX rate applicable to that area. We note that in determining a weighted-average CERTEX rate, we used only verified sales data.

B. Nontraditional Export Fund (FENT). The Nontraditional Export Fund (FENT) was established by the government of Peru to grant financial support to nontraditional export activities. Changes were made to the FENT system in June 1982. The new FENT system was established to assure the exporter a line of credit with which it could finance its exports, and assist Peru in meeting the terms of its contract with the IMF.

The fund is administered by the Banco Industrial del Peru through credits to financial institutions for short-term financing of exports. The financing may be in the form of either pre-shipment credit or post-shipment credit. Pre-shipment credit is credit given to Peruvian exporters prior to shipment of the goods. Post-shipment credit is credit to the Peruvian exporter for which the bank collects foreign receivables and remits to the exporter the difference between the collection and the loan amount plus expenses. The FENT loans are for 90 days, but may be renewed once in order to cover both pre- and post-shipments, thus having an actual life of 180 days.

The exporter requesting FENT financing may apply directly to the Banco Industrial del Peru or to a financial intermediary for an amount of credit up to 90 percent of the f.o.b. value

of the export. The credits are denominated in foreign currency but the exporter actually receives the loan in sales converted at the exchange rate in effect on the date of receipt of the loan. The exporter must repay the loan with the foreign currency received in payment for the export shipment. The interest rate charged on the FENT loan is one percent.

In order to obtain a FENT credit, the exporter must make a deposit of an amount equivalent to 72 percent of the f.o.b. value of the export, or to 80 percent of the amount of the loan he is requesting. The deposit must be made in the Banco Central (Central Bank of Peru) and must be in a foreign currency. The exporter must obtain the resources for this deposit through borrowing from a commercial bank. The Banco Central pays the exporter interest on the deposit at a LIBOR 90-day rate plus five percent.

Since the current FENT loan program came into effect in June of 1982, we examined FENT loans received during the period July through September 1982 by exporters whose responses we had verified.

Most of the exporters had not repaid FENT loans received during this period. We found only a small number of the new FENT loans has been repaid. Most of the loans were still outstanding at verification and we were unable to determine interest rates and charges applicable to these loans, since the actual costs of the loans will not be known until the loans are completely repaid.

Exporters generally do not know interest and charges on the overseas loans needed to make the deposit required under FENT until the banks close out the loans and debit exporters' accounts in the amounts of applicable interest, taxes and charges. From bank statements on FENT loans we found that in most cases only incidental charges on the loans were debited to the exporters' accounts prior to settlement of the loan. Consequently, we based our determination of the actual cost of FENT loans on FENT loans that had been completely repaid.

The benefit derived from all of the FENT loans reported in verified responses and received during the period July through September of 1982 was determined by comparing the weighted-average rate of interest on repaid FENT loans from this period with a representative rate on local U.S. dollar loans (loans from U.S. dollar deposits in Peruvian banks), the most probable source of export financing had FENT loans not been available. We then applied the difference in the rates to the total of FENT loans received during the

period July through September of 1982, and divided the result by four. We divided by four to adjust from an annual to a quarterly basis. In this way we estimated the total interest savings resulting from FENT loans for the third quarter of 1982.

In calculating a weighted-average rate of interest on repaid FENT loans we weighted the effective rate of interest on each loan first by the principal amount of the loan and second by the number of days the loan was outstanding.

We then divided the total interest savings from verified FENT loans by estimated third quarter 1982 exports of cotton sheeting and sateen producers whose responses we had verified to express the total FENT benefit as a percent of total f.o.b. value.

On this basis we calculated a bounty or grant in the amount of 3.2 percent of the f.o.b. value of the export.

Since our information on actual third quarter exports in 1982 was incomplete, we estimated exports for that period by taking one fourth of total 1981 exports.

We selected local U.S. dollar loans as a basis of comparison since the FENT loan is denominated in dollars and is repaid by exporters from the dollar proceeds received from export sales. Although the loan amount paid out to the exporter in sales is less than the sole equivalent of the dollars which the exporter must repay when the loan comes due, the exporter does not incur a currency exchange loss since he receives a hard foreign currency, usually dollars, to repay the loan. We did not select sole loans as a basis of comparison for FENT loans, since sole loans were not generally available to finance export sales of cotton sheeting and sateen.

C. Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law). Petitioners alleged that a number of benefits are provided to producers, manufacturers, or exporters of cotton sheeting and sateen in Peru under various articles of the Export Law.

It is the aim of the Export Law to improve the foreign trade structure of Peru. The Export Law is a system aimed at the promotion of nontraditional exports.

We have determined that benefits are provided under articles 8, 9, 12, 14 and 16 in the following manners:

1. Decree Law 18350, the General Law of Industries, established four priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free

of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit.

The Export Law, Articles 8 and 9, permits exporters to upgrade their priority one level. Therefore, we have determined that the benefit provided by these articles is the additional amount of tax credit which cotton sheeting and sateen exporters may use by upgrading from priority two, the priority into which they would normally fall, to priority one. Since this upgrading is contingent on export performance, we regard the benefit of upgrading from priority two to priority one as an export subsidy.

Further, upon examining the industries comprising each of the priorities established by the General Law of Industries, we determined that although priority two included the majority of industries, priority three included a significant number of industries. We therefore concluded that the priority two reinvestment incentive is not generally available on equal terms to all producers and confers an additional subsidy to the extent that this investment allowance exceeded that available to priority three industries. Since category four includes a small number of non-essential industries, we concluded that category four would not serve as an appropriate basis for determining the benefit generally available.

On verification we found that an additional subsidy also exists in the fact that companies located outside of Lima/Callao (decentralized), regardless of priority, are allowed a higher percentage and selectivity index than companies located inside Lima/Callao (nondecentralized).

We therefore determined these additional benefits by applying the additional tax credits taken to total sales.

The net benefit provided by these articles of upgrading from priority two to priority one was determined by totaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 2.80 percent of the f.o.b. value of the export.

2. We have determined that Article 12 bestows a bounty or grant to exporters in that it allows them to take an additional amount of depreciation. Exporters are allowed to take an additional 50 percent, above normal depreciation under this article. The benefit was determined by figuring the amount of tax benefit to each company, totaling that amount, and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 0.95 percent of the f.o.b. value of the export.

Although the benefit provided by this article is available to other manufacturers under Article 28 of Supreme Decree No. 015-89-HC, we determined that Article 12 provides exporters with the automatic right of additional depreciation, whereas the benefit generally available to others under Article 28 must be applied for, and presumably could be denied.

3. According to Article 14 of the Export Law, enterprises that increase the number of permanent jobs in relation to those existing in the previous year may deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created, receiving income tax credits ranging from 30 to 60 percent.

Since this income tax deduction in the amount of the remuneration paid out on new jobs is available only to exporters, we regard the resulting income tax savings as a bounty or grant.

We found that some companies did use this Article. We determined the benefit provided by multiplying the deduction amount by the company's tax rate to find the actual tax savings, and allocating the net tax savings over total exports.

On this basis we calculated a bounty or grant in the amount of 0.01 percent of the f.o.b. value of the export.

Although Article 63 of Law No. 23407 allegedly makes this deduction generally available, this deduction was not generally available during the period of investigation, because Law No. 23407 was not in effect at that time.

4. Article 16 states that industrial companies exporting nontraditional goods that export 40 percent of their annual production shall enjoy suspension of payment of tariff duties levied on imported capital goods for a maximum period of five years.

If they have generated a net inflow of foreign exchange equal to 100 percent of the value of the imported goods before or by the end of the five years, they then enjoy total exemption. The company must obtain 40 percent exportation within a maximum period of two years from the date of commencement of the production generated by the imported capital goods.

In order to be eligible for this benefit the companies must sign a contract with the state. If the conditions are not met, the import duties which had previously been suspended must be repaid. A surcharge and an interest charge amounting to 9.6 percent on the duties deferred must also be paid.

Article 16 of the Export Law has been determined to provide a benefit, in that an enterprise which imports machinery is relieved of liability for the payment of import duties on machinery if certain export targets are subsequently met. Pending the meeting of those targets, the payment of duties is deferred.

We determined the amount of benefit resulting from deferral, by treating the duty amount as an interest-free loan (or a series of one-year loans if the period of deferral is longer than one year).

We found that none of the companies has received government certification of duty exemption. Therefore, the amount of the benefit was determined by applying the amount of duties deferred to the effective annual interest rate on sole short-term loans for the length of time during the year that duties were deferred. We then totaled the amount of interest payable and allocated it over total exports.

On this basis we calculated a bounty or grant in the amount of 5.96 percent of the f.o.b. value of the export.

II. Programs Determined Not To Confer Bounties or Grants

We have determined that bounties or grants are not being provided to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen under the following programs:

A. *The Fund for the Provision of Nontraditional Exports (FOPEX)*. The petition alleged that the Fund for the Promotion of Nontraditional Exports (FOPEX) is a subsidy whose functions include, among others, furnishing technical services contributing to the adaptation, increase, and diversification of nontraditional exports. FOPEX provides no credits, guarantees, grants, or other forms of economic assistance. We have ascertained that FOPEX provides only general information services on international trade, import/export development, export promotion programs, and international shipments and transportation. Based upon our analysis we have determined that FOPEX does not confer bounties or grants.

Export Law

B. 1. We determined that Decree Law 22392, dated November 19, 1978, abolished the taxes referred to in Article 15 of the Export Law. This varies from our preliminary determination where we stated that the law "... abolished the provision of Article 15 allowing an exemption from taxes. ..."

As we have found that the taxes referred to in Article 15—the registration tax and the real estate transfer tax (the

"Alcabala")—have been abolished, and the additional real estate transfer tax ("Adicional de Alcabala") applies only to the seller of property. Article 15 has been determined not to provide a bounty or grant.

Although on verification one company reported that they had been exempted from paying the Alcabala tax, we determined that this company was not subject to the tax because it had previously been eliminated.

2. Article 32 of the Export Law has been determined to allow exporters to hire personnel for a contracted period of time under the same requirements as under Law Decree 18138. Law Decree 18138 provides rules to regulate fixed term individual work contracts for any industry. According to Article 32, companies must pay contract employees at the same wage levels as permanent employees performing the same tasks. From an examination of payroll records, we found that benefits such as social security, accident insurance and pension benefits were the same for both contract and permanent employees.

The hiring of contract personnel does not affect company contributions to labor shares or distribution of net income to workers, as these amounts are determined as a fixed percentage of net income rather than by the number of employees.

Since we found that the benefit provided under Article 32 incorporates the provisions of Law Decree 18138, which is generally available, we determined that no countervailable benefit is being provided under Article 32 of the Export Law.

III. Programs Determined Not To Be Used

We determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation, Cotton Sheeting and Sateen from Peru" are not used by the manufacturers, producers, or exporters in Peru of cotton sheeting and sateen.

A. Articles 23, 24, 31, and 13 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).

1. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods exemption from various taxes. We determined that no consortia exporting the products under the investigation exist in Peru, therefore Article 23 was not used.

2. Article 24 allows an exemption from duties on raw materials and/or unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacturer of unfinished goods which, once processed, are included among such goods. Cotton,

which is the principal raw material used in the production of the products under investigation, must, by law, be purchased in Peru. We determined that this article has not been used by the manufacturers, producers or exporters of the merchandise under investigation.

3. We determined that no producers of cotton sheeting and sateen have obtained any preferential shipping rates under Article 31 of the Export Law. Therefore, the article has been determined not to have been used.

4. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with exemption from the income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law No. 19282 of January, 1972, any company may capitalize earnings which are invested or reinvested within three years, with exclusion from the five percent income tax on capitalization. Law Decree 22037 of December 1977, extended the allowable (re)investment period to five years.

We found that the benefit provided by this Article is the additional year it allows exporters in which to capitalize. We have found, however, that firms which capitalized earnings did so within a maximum of five years and did not take advantage of this additional provision for exporters.

IV. Petitioners' Comments

Comment 1: Petitioners argue that the presence or absence of U.S. production of a particular sheeting or sateen (osanburg) is not a relevant factor in the Department's inquiry. However osanburg fabric is produced in the U.S.

DOC Position: We agree, and have found no basis for the exclusion of osanburg from the findings of this investigation.

Comment 2: Petitioners argue that there is no evidence to support the contention that CERTEX is a bona fide indirect tax rebate, and that Article 77 of Law Number 23407, adopted May 1982, was not a factor in either the original design of, or calculation of the prevailing rates under, the CERTEX program.

DOC Position: We agree. As stated in the section on the Certificate of Tax Rebate, the government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual tax incidence has been reasonably calculated and documented.

Comment 3: Petitioners argue that no adjustment should be made to the

CERTEX because of delay in receipt or because CERTEX payments are taxable. To do so would be contrary to Department policy and the countervailing duty law.

DOC Position: We agree. As stated in the section on the "Certificate of Tax Rebate," these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(8)(a)).

Comment 4: Petitioners argue that preliminary calculations of CERTEX should be revised according to findings made on verification, and that few, if any, deductions of commissions actually occurred.

DOC Position: We agree. As stated in the section on the "Certificate of Tax Rebate," the final determination has been based on the weighted-average commission paid on exports to the United States, as found on verification.

Comment 5: Petitioners argue that a loan which is denominated in dollars, which bears a dollar-denominated interest rate, and which is repaid in dollars, is clearly a dollar loan. Because the underlying export transaction calls for payment in dollars, there is no exchange rate risk to the exporter in a dollar-denominated loan.

DOC Position: We agree. We determined, as noted under the section entitled "FENT", that the exporter does not incur a currency exchange loss, as he is receiving dollars with which to repay his dollar loan.

Comment 6: Petitioners argue that since dollar loans are commercially available to exporters and sole financing is evidently unavailable to them, any comparison to the decision in *Leather Wearing Apparel from Argentina* is incorrect.

DOC Position: We agree. We found that sole loans were not generally available in sufficient amounts, and thus would not be the appropriate benchmark. If there were no FENT loans and an insufficient amount of sole loans available, local dollar loans which were available would be used and therefore are used as the appropriate benchmark.

Comment 7: Petitioners argue that because the subsidies involved under the Export Law are clearly export subsidies, they should be allocated over exports, not sales or production.

DOC Position: We agree. As noted in the "Analysis of Programs" section, we have allocated any such benefits found over total exports.

Comment 8: Petitioners argue that Articles 8 and 9 of the Export Law appear to provide exporters with a benefit over and above those "generally available."

DOC Position: We agree. As stated in the "Law for the Promotion of Exports of Nontraditional Goods" section, Articles 8 and 9, we have found that the difference between the reinvestment rate allowed to priority three industries under Decree Law 18350 and the reinvestment rate allowed to exporters under the Export Law constitutes a bounty or grant.

Comment 9: Petitioners argue that the accelerated depreciation rates that may be available to nonexporting firms appear to be available on a discretionary basis rather than being automatic under Article 12 of the Export Law.

DOC Position: We agree. As stated in the "Export Law" section, we consider the additional amount of depreciation which exporters are allowed under Article 12 to be a bounty or grant.

Comment 10: Petitioners argue that Article 13 exporting firms benefit from an additional three years during which they may capitalize invested earnings exempt from tax.

DOC Position: We disagree. As stated in the "Export Law" section, all firms which capitalized earnings did so within a maximum of five years, as is generally available under Law Decree 22037 of December 1977.

Comment 11: Petitioners argue that since import duties on imported capital equipment are expenses which except for Article 16 would be payable in full at the time of importation, the exemption from payment is a benefit experienced in the current year.

DOC Position: We disagree. As stated in the "Export Law" section, Article 16 has been determined to provide a benefit, in that the payment of duties is deferred. This deferral of duties amounts to an interest-free loan until such time as the duties are paid or forgiven.

Comment 12: Petitioners argue that the exemption of duties under Article 16 is linked to exports, and therefore the benefit should be allocated over total exports.

DOC Position: We agree. As stated in the "Export Law" section, any benefit from Article 16 has been allocated over total exports.

V. Respondents' Comments

Comment 1: Respondents argue that the legislative history of the Act makes clear that the net subsidies definition does not apply to a country, such as Peru, that is not a "country under the Agreement."

DOC Position: We disagree. Section 771(5) of the Act explicitly states that the term "subsidy" has the same meaning as the term "bounty or grant."

References in the legislative history to a broad definition of the term subsidy apply equally to the term "bounty or grant" and to the term "subsidy." Defining the term "bounty or grant" in a more restrictive sense than the term "subsidy" would be *ultra vires* and would in effect penalize countries that had signed the Subsidies Code.

Comment 2: Respondents argue that under the Act, the DOC has the discretion not to apply the offset provisions of section 771(6) to Peru. Therefore respondents believe that the DOC should make adjustments for indirect taxes related to the exported products and for the additional costs incurred in locating in decentralized areas.

DOC Position: We disagree. The DOC has consistently limited offsets in the calculation of a net subsidy to those offsets provided for under section 771(6) regardless of whether the DOC was conducting its investigation under section 303 or under Title VII of the Act. In fact, the limitation of offsets was intended to apply particularly to export rebate payments, and to preclude, *inter alia*, the allowance of regional dislocation costs as an offset.

Comment 3: Respondents argue that Peru's CERTEX does meet the DOC's purpose test as described in the discussion of this program above.

DOC Position: While we agree that the government of Peru intended as one of its objectives in establishing the CERTEX the rebate of indirect taxes, we have found that the government of Peru rebates a broad spectrum of taxes and costs which fail to meet the DOC's physical incorporation test as described in Annex I of the Department's countervailing duty regulations. Nor have we been provided adequate evidence that the indirect taxes borne by the products under investigation have been reasonably documented and calculated.

Comment 4: Respondents claim that loss of value due to delay affects the amount of gross subsidy received and is thus not subject to offset restrictions. Even if offset restrictions were applicable, any amounts lost because of a delay are the result of a government order mandating a delay of at least 15 days.

DOC Position: We disagree. Section 771(6)(B) of the Act allows an adjustment for the reduction in value of a subsidy because of a delay in its receipt only if the delay is mandated by law. In the case of CERTEX, we found the delay to be an administrative delay in the application for, processing and issuance of the CERTEX certificate. Peruvian Supreme Decree No. 021-82-EF

makes reference to a 15-day period, but does not mandate a delay of 15 days before the CERTEX certificate may be issued. The wording of the Supreme Decree states that the CERTEX certificate shall be issued within 15 days of the date of application. Although in practice certificates are not issued within 15 days, the Supreme Decree does not appear to prohibit issuance of a certificate prior to the fifteenth day after the date of application.

Comment 5: Respondents claim that verification has shown that income taxes and Industrial Community contributions reduce the amount of CERTEX actually received and capable of being used. In this regard, it would be arbitrary and not in accordance with law for DOC to ignore the effects of income tax on CERTEX and yet ascribe income tax benefits to provisions of the Export Law.

DOC Position: We disagree. Although verification revealed that exporters were required to report CERTEX receipts along with sales receipts on their income tax returns, longstanding DOC practice has been to make no adjustment for potential reduction in the value of rebate payments due to income tax liability. This would require assumptions on the part of the Department as to the overall profitability of the firm in subsequent years. Such assumptions would be speculative at best.

Comment 6: Respondents claim that the proper benchmark for a FENT loan is a domestic loan in soles, not an external dollar loan. FENT's principal purpose is to enable Peru to meet certain international reserve targets imposed by its IMF loan agreement. The real cost of FENT must be calculated in soles, and that cost is in excess of the cost of commercial credit in soles. Verification has established that commercial loans in soles are available and that such loans constitute the most appropriate benchmark for a FENT credit.

DOC Position: We disagree. Although FENT loans are in fact received in soles, the loans are denominated in dollars and must be repaid in dollars. Since repayments are made from dollars generated by export sales, exporters do not incur an exchange loss on FENT loans. We selected local dollar loans rather than sole loans as a basis of comparison with FENT loans, since local dollar loans were freely available whereas sole loans did not appear to be generally available, particularly for export financing purposes. That sole loans were not freely available was attested to by the fact that exporters were usually forced to use FENT loans

to finance exports, despite a strong preference for sole loans.

The fact that a purpose of the FENT is to enable Peru to meet certain international reserve targets imposed by the IMF does not alter the fact that the FENT gives to exporters a readily available line of credit at preferential interest rates.

Comment 7: Respondents claim that Articles 8 and 9 of the Export Law provide reinvestment tax incentives generally available under the General Law of Industries.

DOC Position: Respondent has submitted various laws to show that certain industrial sectors are allowed to invest or reinvest free of income tax certain percentages of net income equal to or greater than the percentages of net income that may be invested tax free by cotton sheeting and sateen exporters. The laws submitted, however, do not establish that these investment incentives are generally available on equal terms to all industries. General Law of Industries 18350 which was in effect during our period of investigation for the export articles clearly assigns significant groups of industries investment tax incentives less than those available to cotton sheeting and sateen producers and exporters.

Comment 8: Article 12 allows for accelerated depreciation to exporters. According to Supreme Decree No. 015-69-HC, Article 28, any firm or industry in Peru can request and obtain an increase in its depreciation rates.

DOC Position: We disagree. Although Supreme Decree No. 015-69-HC, Article 28, allows firms to request an increase in depreciation rates, DOC is not persuaded that the requested increase would be granted in all cases. Under Article 12 of the Export Law, however, exporters receive the right to depreciate at an increased depreciation rate if they elect to do so. Article 28 of the Supreme Decree appears to allow the government discretion to grant or deny requests for accelerated depreciation. We cannot conclude that the Supreme Decree makes generally available on equal terms the accelerated depreciation available to exporters under Article 12 of the Export Law. Therefore, we view the provisions of Article 12 as conferring a bounty or grant on exports.

Comment 9: Article 13 allows exporters to capitalize profits free of income tax. Capitalization of reinvested profits is available to all industrial companies under Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262.

DOC Position: We agree. Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262, makes generally

available the provisions of Article 13 of the Export Law regarding the capitalization of reinvested profits with exemption from a five percent income tax. We found only one difference between Article 13 of the Export Law and Decree Law No. 18350. The former allows six years for capitalization, whereas the latter allows five years. To the best of our knowledge, capitalization done by firms under investigation was completed within five years. Therefore, Article 13 of the Export Law did not result in the payment of a bounty or grant.

Comment 10: Article 14 allows exporters certain labor tax credits. Article 63 of the New General Industry Law, Law No. 23407, makes certain labor tax credits available to all industries.

DOC Position: We disagree. Although Article 63 of the New General Industry Law, Law No. 23407, makes labor tax credits for new jobs created available to all industries, this law went into effect in June 1982. In our investigation of income tax benefits from the Export Law, we examined the latest period for which all information necessary to evaluate the income tax benefits was available. This period was calendar year 1981. For this period we had information on income tax savings realized in 1981 on the basis of the exporters 1980 income tax returns and complete export statistics for exporters we had verified. The General Industry Law in effect during 1981 did not have a provision for labor tax credits for non-exporting firms. Consequently, we find that during our period of investigation, the provisions of Article 14 of the Export Law resulted in the bestowal of a bounty or grant. We will reexamine this situation at the time of the annual review under section 751.

Comment 11: Article 32 allows exporters of non-traditional goods to hire contract personnel under the system generally established by Decree Law 18138.

DOC Position: We agree. The hiring of contract personnel is provided for under both Article 32 of the Export Law and Decree Law 18138, which is generally available to all producers. Therefore, Article 32 read in the light of Decree Law 18138, does not confer a bounty or grant.

Comment 12: Respondents claim DOC must make a number of significant adjustments in its calculations of possible benefits under Articles 8, 9, 12, 13, 14, 15 and 32 of the Export Law.

Firms that did not pay taxes in 1981 did not derive any benefits from Articles 8, 9, 12, 13, 14 or 15 of the Export Law. A tax benefit can only be found if the DOC

can show that but for that particular tax benefit, taxes would have been paid.

DOC Position: We agree. When exporters had no income or sustained a net loss even before the tax deductions permitted under the Export Law, we did not find a countervailable benefit from articles of the Export Law which the exporters might have used.

Comment 13: The government of Peru can see no rationale for using 1980 instead of 1981 tax results.

DOC Position: We disagree. We used 1980 income tax returns since the income tax savings realized on 1980 income tax returns were realized in 1981 when exporters actually filed their 1980 tax returns. We received 1981 income tax returns from most of the Peruvian exporters. We did not use the 1981 tax returns, however, since we viewed the savings on these returns as realized upon the filing of these returns in 1982, a year for which we had only incomplete f.o.b. export values for purposes of allocating the savings associated with the 1981 returns. This information would be used in a section 751 review.

Comment 14: Respondents claim the use of Article 12 providing for accelerated depreciation can result in the loss of other tax benefits, and these lost tax benefits must be offset against the benefits provided by Article 12.

DOC Position: The loss in tax benefits referred to by the respondent is the investment tax credit and the worker shares tax credit.

First, the investment tax credit which may increase with an increase in net income could have been larger had accelerated depreciation not been used. We have no evidence, however, that additional investment was in fact made. Therefore, we cannot make an adjustment for the potentially larger investment tax credit that would have been allowed had net income been larger due to a normal depreciation rate.

Second, the value of worker shares issued would have increased had net income been increased. In addition, the tax credit for worker shares would also have increased. However, since the increased value in worker shares was, in fact, not paid, we are precluded from making an adjustment for a tax credit based on a hypothetical increase in the value of worker shares issued.

Comment 15: The amount included under Article 13 of the Export Law regarding capitalization of profits in the countervailing duty response for La Bellota was in error.

DOC Position: We agree. On verification we established that La Bellota received no benefit under Article 13. La Bellota reported savings under

Article 13 as a result of a misinterpretation of DOC's questionnaire on this point.

Comment 16: Article 15 of the Export Law on tax exemptions for increases in capital does not currently exempt exports from tax payments.

DOC Position: We agree, since the registration tax and the real estate transfer tax ("Alcabala") have been abolished by Decree Law 22392, and the additional real estate transfer tax referred to in Article 15 applies only to the seller, we conclude that Article 15 no longer confers tax benefits.

Comment 17: The respondent believes that total sales or production should be used as the denominator for calculations. Since the benefits are on direct income taxes, the benefits can be used for all production, not just exports.

DOC Position: We disagree. Since benefits under the Export Law are contingent on export performance, the DOC regards these benefits as export rather than domestic subsidies and allocates the benefits solely to export sales.

Comment 18: Despite arguments by counsel or representatives for ATMI or AYSA, it is clear under the law that until its export contract with the government has been met and an exemption finally granted, a firm exporting non-traditional goods has not received any countervailable benefits under Article 16 of the Export Law.

DOC Position: We disagree. The suspension of import duties on imports of capital equipment result in an immediate benefit in that a cash expenditure is deferred for a period of years. Because of uncertainty as to whether or not exporters will meet export requirements and get complete exemption from duties or whether they will fall short of export requirements and be required to pay duty plus interest, the DOC must regard the suspension of duties as conferring a bounty or grant in the form of an interest-free loan with principal equal to the amount of duties deferred.

Comment 19: Respondent claims that firms which in 1981 did not export the product under investigation to the United States should be excluded from the DOC's calculation of import duties suspended under Article 16 of the Export Law.

DOC Position: We disagree. DOC cannot foresee whether exporters will or will not in a given year export a product under investigation to the United States. By allocating the benefit to total exports of all products, the DOC has estimated fairly the bounty or grant on products under investigation.

Comment 20: Respondent claims that the DOC should exclude duties on machinery and equipment that do not produce products under investigation.

DOC Position: Given the time constraints of the investigative period and the highly technical aspects of textile production machinery, the DOC has not been able to establish that certain machinery not only was not but, in fact, could not, be used in the production of the product under investigation. Under these circumstances, the DOC included the suspended duties on all machinery imported under Article 16 and allocated the benefits from Article 16 to total exports of all products produced by the respondents.

Comment 21: Respondent claims that import duties which are finally exempted should be allocated over the useful life of the equipment.

DOC Position: We disagree. Since the import duty suspension conveys an immediate benefit to the firm, the DOC rejects respondent's claim that countervailing duties should be imposed only when and if duties are finally exempted, an approach which could allow as much as a five-year time lapse before the DOC could make its determination on whether or not to impose a countervailing duty. Instead, as described earlier in this determination, DOC has determined to treat the import duty suspension as an interest-free loan rather than a grant, since the conditions of the suspension more closely resemble a loan than a grant, considering the fact that the import duties may eventually have to be repaid with interest in the event exporters do not meet the required export level.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on December 17, 1982. In accordance with the Department's regulations (19 CFR 355.4 (a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative

countervailing duty determination shall remain in effect until further notice. The net bounty or grant is 29.973 percent of the f.o.b. value of the export of cotton sheeting and/or sateen. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register.

The Department intends to conduct an administrative review within 12 months of the publication of this determination as provided in section 751 of the Act.

(Secs. 303 and 706 of the Act (19 U.S.C. 1303, 1671e).)

Lawrence J. Brady,

Assistant Secretary for Import Administration.

[FR Doc 83-2730 Filed 1-31-83; 8:45 am]
BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Cotton Yarn From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination and countervailing duty order; cotton yarn from Peru.

SUMMARY: We have determined that certain benefits which constitute bounties and grants within the meaning of the countervailing duty laws are being provided to manufacturers, producers or exporters in Peru of cotton yarn, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is indicated under the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, Telephone: (202) 377-5414 or 3530.

SUPPLEMENTAL INFORMATION:

Final Determination

Based upon our investigation, we have determined that the government of Peru provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Peru of cotton yarn, as described in the "Scope of Investigation" section of

this notice. The following programs are found to confer bounties or grants:

- Certificate of Tax Rebate (CERTEX)
- Nontraditional export Fund (FENT)
- Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (The Export Law).

The estimated net bounty or grant is 38.288 percent of the f.o.b. value of the export of cotton yarn.

Case History

On June 15, 1982, we received a petition from the American Yarn Spinners Association on behalf of the cotton yarn industry in the United States. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of cotton yarn in Peru.

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the products under investigation are dutiable, section 303 of the Act applies to this investigation. Therefore the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 6, 1982, we initiated a countervailing duty investigation (47 FR 30274).

On July 14, 1982, we presented a questionnaire concerning the allegations to the government of Peru at its embassy in Washington, D.C. Subsequently, on July 18, 1982, we determined that the case was "extraordinarily complicated" within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (47 FR 37263). On September 17, 1982, we received the responses to the questionnaire. A supplemental questionnaire was presented to the government of Peru in Washington, D.C. on October 12, 1982. On October 26, 1982 we received the responses to the supplemental questionnaire.

On November 12, 1982, we issued our preliminary determination in this investigation (47 FR 52215). This stated that the government of Peru was providing its manufacturers, producers, or exporters of cotton yarn with certain benefits which constitute bounties or

grants. The programs preliminarily determined to bestow countervailable benefits were:

- The Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 12, 13, 14, 15, 16 and 32 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).

Scope of Investigation

The products covered by this investigation, as described in the notice of amendment to the initiation notice (47 FR 33730) (August 14, 1982) consists of various cotton yarns currently classifiable under the following *Tariff Schedules of the United States Annotated* numbers:

300.60	302.01 through 302.60
301.01 through 301.60	302.70
301.70	302.80
301.80	302.82
301.82	302.84
301.84	302.86
301.86	302.88
301.88	302.92
301.92	302.94
301.94	302.96
301.96	302.98
301.98	

There are fourteen producers, all of which export cotton yarn from Peru, four of which account for 85 percent of exports. We conducted verification on six companies.

The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In our final determination, the estimated net bounties or grants are based on information which was verified.

We determined that the benefits provided under the programs concerned were bestowed upon Peruvian companies total exports to foreign markets. Therefore, any benefits that were found were allocated over recipient companies' total exports of all products to all markets, not just over their exports of products under investigation to the United States.

Under the various articles of the Export Law determined to provide bounties or grants, a variety of benefits were determined to exist, including tax credits, tax deductions and tax deferrals or exemptions. In each case we have allocated the articles' combined tax savings over total exports.

In determining benefits applicable to income tax under the Export Law, we applied 1980 tax savings over 1981 exports, since 1981 was the year in which any benefits claimed on the 1980 tax return were realized.

Based on our analysis of the petition, responses to our questionnaires, our verification and oral and written comments by interested parties, we determine the following:

I. Programs Determined To Be a Bounty or Grant

We have determined that bounties or grants are being provided under the programs listed below to manufacturers, producers, or exporters in Peru of cotton yarn.

A. The Certificate of Tax Rebate (CERTEX). The CERTEX is a tax certificate issued to exporters by the government of Peru in an amount equal to a percentage of the f.o.b. value of export shipments. The CERTEX can be used for paying taxes collected by the Central Government. Applications for CERTEX are made to the Division of Foreign Trade or to Regional Councils and must be submitted within four months from the date of export. To be eligible for CERTEX, an exporter must be registered in the Special Chapter of Exporting Enterprises and must submit certain required documentation.

The face value of the CERTEX is equal to a percentage of the f.o.b. value of the export shipment after deductions for consular expenses and commissions paid abroad. There are no consular expenses applicable to exports of cotton yarn to the United States. For our preliminary determination we used an average rate of commission of 4.5 percent of the f.o.b. value of the export, for exporters of yarn. Based on information obtained during the verification, we found that the weighted-average commission paid on exports of cotton yarn was 0.19 percent.

The percentage of rebate is set according to whether the product is classified as being a high, medium, or low value added and whether the producer is located inside or outside the areas of the Department of Lima or the Province of Callao. Products of low value added manufactured inside the Department of Lima or the Province of Callao receive 15 percent of the f.o.b. value after deductions of the export expenses. The percentages for medium and high value added products are 20 percent and 22 percent, respectively. Products manufactured outside the areas of the Department of Lima and the Province of Callao qualify for an additional 10 percent. We have found that cotton yarn is a medium value added product and qualifies for a 20 percent rate if manufactured in the Department of Lima and the Province of Callao, and qualifies for a 30 percent

rate if manufactured outside of Lima/Callao.

Once the gross amount of the rebate certificate is determined, 2 percent of this amount is issued to the Fund for the Promotion of Nontraditional Exports (FOPEX), and 10 percent is issued to the Provincial Municipal Towncouncil from which the product originated. The exporter then receives the balance, 88 percent of the gross amount.

We found that the deductions for FOPEX and the Provincial Municipal Towncouncils do decrease the amount of gross subsidy, and that neither FOPEX nor Towncouncils provide any benefit to exporters which are not generally available.

Although the respondent claims the CERTEX certificates are further reduced in value due to delay in receipt, commissions charged on subsequent transfer of a certificate, and taxability of certificates, these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(b)(a)).

Respondent states that the rebate of indirect taxes on production is one of CERTEX's principal purposes and that there is a relationship between the present level of CERTEX payments and the incidence of indirect taxation on the producers of the product under investigation.

In determining whether the CERTEX program is a bona fide rebate of indirect taxes, the primary considerations are: (1) Whether the CERTEX program operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for CERTEX payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported cotton yarn and has demonstrated a clear link between such tax incidence and the amount of CERTEX payments.

Taxes rebated by CERTEX certificates include those on salaries and wages of workers, the enterprise patrimony, revaluation of fixed assets, customs duties on fixed assets, goods and services tax collected over insurances and capital goods, interest tax on local and foreign currency, the fund for research and development, the consumption of electricity and fuel, customs duties on supplies, and the municipal sales tax. Some of these taxes are direct taxes, while others are indirect taxes on goods which are not physically incorporated in the final product.

The government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX

payments, nor has it shown that the actual indirect tax incidence has been reasonably calculated and documented.

Since the above-described linkage has not been demonstrated, we have determined that the CERTEX payments must be considered as conferring bounties or grants in the amount of 26.298 percent of the f.o.b. value of the export for all exporters of cotton yarn, regardless of area of production.

We have determined a weighted-average benefit rate based on total sales for export to the United States of producers located in the Department of Lima or Province of Callao and usage of the CERTEX rate applicable to that area, and total sales for export to the United States of producers located outside of Lima/Callao and the usage of the CERTEX rate applicable to that area. We note that in determining a weighted-average CERTEX rate, we used only verified sales data.

B. Nontraditional Export Fund (FENT). The Nontraditional Export Fund (FENT) was established by the government of Peru to grant financial support to nontraditional export activities. Changes were made to the FENT system in June, 1982. The new FENT system was established to assure the exporter a line of credit with which it could finance its exports, and assist Peru in meeting the terms of its contract with the IMF.

The fund is administered by Banco Industrial del Peru through credits to financial institutions for short-term financing of exports. The financing may be in the form of either preshipment credit or post-shipment credit. Preshipment credit is credit given to Peruvian exporters prior to shipment of the goods. Post-shipment credit is credit to the Peruvian exporter for which the bank collects foreign receivables and remits to the exporter the difference between the collection and the loan amount plus expenses. The FENT loans are for 90 days, but may be renewed once in order to cover both pre/and post-shipments, thus having an actual life of 180 days.

The exporter requesting FENT financing may apply directly to the Banco Industrial del Peru or to a financial intermediary for an amount of credit up to 90 percent of the f.o.b. value of the export. The credits are denominated in foreign currency but the exporter actually receives the loan in soles converted at the exchange rate in effect on the date of receipt of the loan. The exporter must repay the loan with the foreign currency received in payment for the export shipment. The interest rate charged on the FENT loan is one percent.

In order to obtain a FENT credit, the exporter must make a deposit of an amount equivalent to 72 percent of the f.o.b. value of the export, or to 80 percent of the amount of the loan he is requesting. The deposit must be made in the Banco Central (Central Bank of Peru) and must be in a foreign currency. The exporter must obtain the resources for this deposit through borrowing from a commercial bank. The Banco Central pays the exporter interest on the deposit at a LIBOR 90-day rate plus five percent.

Since the current FENT loan program came into effect in June of 1982, we examined FENT loans received during the period July through September 1982 by exporters whose responses we had verified.

Most of the exporters had not repaid FENT loans received during this period. We found only a small number of the new FENT loans had been repaid. Most of the loans were still outstanding at verification and we were unable to determine interest rates and charges applicable to these loans, since the actual costs of the loans will not be known until the loans are completely repaid.

Exporters generally do not know interest and charges on the overseas loans needed to make the deposit required under FENT until the banks close out the loans and debit exporters' accounts in the amounts of applicable interest, taxes and charges. From bank statements on FENT loans we found that in most cases only incidental charges on the loans were debited to the exporters' accounts prior to settlement of the loan. Consequently, we based our determination of the actual cost of FENT loans on FENT loans that had been completely repaid.

The benefit derived from all of the FENT loans reported in verified responses and received during the period July through September of 1982 was determined by comparing the weighted-average rate of interest on repaid FENT loans from this period with a representative rate on local U.S. dollar loans (loans from U.S. dollar deposits in Peruvian banks), the most probable source of export financing had FENT loans not been available. We then applied the difference in the rates to the total of FENT loans received during the period July through September of 1982, and divided the result by four. We divided by four to adjust from an annual to a quarterly basis. In this way we estimated the total interest savings resulting from FENT loans for the third quarter of 1982.

In calculating a weighted-average rate of interest on repaid FENT loans we

weighted the effective rate of interest on each loan first by the principal amount of the loan and second by the number of days the loan was outstanding.

We then divided the total interest savings from verified FENT loans by estimated third quarter 1982 exports of cotton yarn producers whose responses we had verified to express the total FENT benefit as a percent of total f.o.b. value.

On this basis we calculated a bounty or grant in the amount of 5.1 percent of the f.o.b. value of the export.

Since our information on actual third quarter exports in 1982 was incomplete, we estimated exports for that period by taking one fourth of total 1981 exports.

We selected local U.S. dollar loans as a basis of comparison since the FENT loan is denominated in dollars and is repaid by exporters from the dollar proceeds received from export sales. Although the loan amount paid out to the exporter in soles is less than the sole equivalent of the dollars which the exporter must repay when the loan comes due, the exporter does not incur a currency exchange loss since he receives a hard foreign currency, usually dollars, to repay the loan. We did not select sole loans as a basis of comparison for FENT loans, since sole loans were not generally available to finance export sales of cotton yarn.

C. Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law). Petitioners alleged that a number of benefits are provided to producers, manufacturers, or exporters of cotton yarn in Peru under various articles of the Export Law.

It is the aim of the Export Law to improve the foreign trade structure of Peru. The Export Law is a system aimed at the promotion of nontraditional exports.

We have determined that benefits are provided under articles 8, 9, 12, 14 and 16 in the following manners:

1. Decree Law 18350, the General Law of Industries, established four priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit.

The Export Law, Articles 8 and 9, permits exporters to upgrade their priority one level. Therefore, we have determined that the benefit provided by these articles is the additional amount of tax credit which cotton yarn exporters may use by upgrading from priority two,

the priority into which they would normally fall, to priority one. Since this upgrading was contingent on export performance, we regarded the benefit of upgrading from priority two to priority one as an export subsidy.

Further, upon examining the industries comprising each of the priorities established by the General Law of Industries, we determined that although priority two included the majority of industries, priority three included a significant number of industries. We therefore concluded that the priority two reinvestment incentive was not generally available on equal terms to all producers and conferred an additional subsidy to the extent that its investment allowance exceeded that available to priority three industries. Since category four included a small number of non-essential industries, we decided that category four would not serve as an appropriate basis for determining the benefit generally available.

On verification we found that an additional subsidy also exists in the fact that companies located outside of Lima/Callao (decentralized), regardless of priority, are allowed a higher percentage and selectivity index than companies located inside Lima/Callao (nondecentralized).

We determined these additional benefits by applying the additional tax credits taken to total sales.

The net benefit provided by these articles of upgrading from priority two to priority one was determined by totaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 0.61 percent of the f.o.b. value of the export.

2. We have determined that Article 12 bestows a bounty or grant to exporters in that it allows them to take an additional amount of depreciation. Exporters are allowed to take an additional 50 percent, above normal depreciation under this article. The benefit was determined by figuring the amount of tax benefit to each company, totaling that amount, and allocating this value, over total exports.

On this basis we calculated a bounty or grant in the amount of 0.75 percent of the f.o.b. value of the export.

Although the benefit provided by this Article is available to other manufacturers under Article 28 of Supreme Decree No. 015-69-HC, we determined that it provides exporters with the automatic right to additional depreciation, whereas the benefit generally available to others must be

applied for, and presumably, could be denied.

3. According to Article 14 of the Export Law, enterprises that increase the number of permanent jobs in relation to those existing in the previous year may deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created, receiving income tax credits ranging from 30 to 60 percent.

Since this income tax deduction in the amount of the remuneration paid out on new jobs is available only to exporters, we regarded the resulting income tax savings as a bounty or grant.

We found that some companies did use this Article. We determined the benefit provided by taking the deduction amount times the company's tax rate to find the actual tax savings, and allocating the net tax savings over total exports.

On this basis we calculated a bounty or grant in the amount of 0.07 percent of the f.o.b. value of the export.

Although Article 63 of Law No. 23407 allegedly makes this deduction generally available, this deduction was not generally available during the period of investigation, because Law No. 23407 was not in effect at that time.

4. Article 16 states that industrial companies exporting nontraditional goods that export 40 percent of their annual production shall enjoy suspension of payment of tariff duties levied on imported capital goods for a maximum period of five years.

If they have generated a net inflow of foreign exchange equal to 100 percent of the value of the imported goods before or by the end of the five years, they enjoy total exemption. The company must obtain 40 percent exportation within a maximum period of two years from the date of commencement of the production generated by the imported capital goods.

In order to be eligible for this benefit the companies must sign a contract with the state. If the conditions are not met, the import duties whose payment had previously been suspended must be paid. A surcharge and an interest charge amounting to 9.6 percent on the duties deferred must also be paid.

Article 16 of the Export Law has been determined to provide a benefit, in that an enterprise which imports machinery is relieved of liability for the payment of import duties on machinery if certain export targets are subsequently met. Pending the meeting of those targets, the payment of duties is deferred.

We determined the amount of benefit resulting from deferral, by treating the duty amount as an interest-free loan (or

a series of one-year loans if the period of deferral is longer than one year).

We found that none of the companies had received government certification of duty exemption. Therefore, the amount of the benefit was determined by applying the amount of duties deferred to the effective annual interest rate on sole short-term loans for the length of time during the year that duties were deferred. We then totaled the amount of interest payable and allocated it over total exports.

We found that one company which had duties deferred in 1981 had no production in 1981. To balance the effect of the inclusion of this company's deferred duties into total benefits received, we have allocated total benefits received by all firms over all exports during the period of investigation plus the estimated amount of annual production of this company. As this company is strictly an exporter and has no home market sales, the estimate of total production was derived by taking an average of sales for the latest two months in 1982 for which information was available, and annualizing that value.

On this basis we calculated a bounty or grant in the amount of 5.46 percent of the f.o.b. value of the export.

During reviews under section 751 of the Act the amount of production attributed to this company will be dealt with in greater detail as it is expected that more information will be available as to the company's actual production capacity.

II. Programs Determined Not To Confer Bounties or Grants

We have determined that bounties or grants are not being provided to manufacturers, producers, or exporters in Peru of cotton yarn under the following programs:

A. *The Fund for the Provision of Nontraditional Exports (FOPEX)*. The petition alleged that the Fund for the Promotion of Nontraditional Exports (FOPEX) is a subsidy whose functions include, among others, furnishing technical services contributing to the adaptation, increase, and diversification of nontraditional exports.

FOPEX provides no credits, guarantees, grants, or other forms of economic assistance. We have ascertained that FOPEX provides only general information services on international trade, import/export development, export promotion programs, and international shipments and transportation. Based upon our analysis we have determined that FOPEX does not confer bounties or grants.

Export Law

B.1. We determined that Decree Law 22392, dated November 19, 1978, abolished the taxes referred to in Article 15 of the Export Law. This varies from our preliminary determination where we stated that the law "... abolished the provision of Article 15 allowing an exemption from taxes."

As we have found that the taxes referred to in Article 15—the registration tax and the real estate transfer tax (the "Alcabala")—have been abolished, and the additional real estate transfer tax ("Adicional de Alcabala") applies only to the seller of property, Article 15 has been determined not to provide a bounty or grant.

Although on verification we found one company that stated they had been exempted from paying the Alcabala tax, we determined that this company was not subject to the tax because it had previously been eliminated.

2. Article 32 of the Export Law has been determined to allow exporters to hire personnel for a contracted period of time under the same requirements as under Law Decree 18138. Law Decree 18138 provides rules to regulate fixed term individual work contracts for any industry. According to Article 32, companies must pay contract employees at the same wage levels as permanent employees performing the same tasks. From an examination of payroll records, we found that benefits such as social security, accident insurance and pension benefits were the same for both contract and permanent employees.

The hiring of contract personnel does not affect company contributions to labor shares or distribution of net income to workers, as these amounts are determined as a fixed percentage of net income rather than by the number of employees.

Since we found that the benefit provided under Article 32 incorporates the provisions of Law Decree 18138, which is generally available, we determined that no countervailable benefit is being provided under Article 32 of the Export Law.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation, Cotton Yarn from Peru" are not used by the manufacturers, producers, or exporters in Peru of cotton yarn.

A. *Articles 23, 24, 31 and 13 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law)*.

1. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods exemption from various taxes. We determined that no consortia exporting the products under investigation exist in Peru, therefore Article 23 was not used.

2. Article 24 allows an exemption from duties on raw materials and/or unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacturer of unfinished goods which, once processed, are included among such goods. Cotton, which is the principal raw material used in the production of the products under investigation, must, by law, be purchased in Peru. We determined that this article has not been used by the manufacturers, producers or exporters of the merchandise under investigation.

3. We determined that no producers of cotton yarn have obtained any preferential shipping rates under Article 31 of the Export Law. Therefore, the article has been determined not to have been used.

4. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with exemption from income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law No. 19262 of January 1972, any company may capitalize earnings which are invested or reinvested within three years, with exclusion from the five percent income tax on capitalization. Law Decree 22037 of December 1977, extended the allowable (re)investment period to five years.

We found that the benefit provided by this Article is the additional year it allows exporters in which to capitalize. We have found, however, that firms which capitalized earnings did so within a maximum of five years and did not take advantage of this additional provision for exporters.

V. Petitioners' Comments

Comment 1: Petitioners argue that no evidence exists to show: (1) that CERTEX has the purpose of rebating indirect taxes, (2) linkage between indirect tax payments and the eligibility for CERTEX payments, and (3) reasonable calculation and documentation of actual tax incidence borne and linkage between tax incidence and amount of CERTEX payments.

DOC Position: We agree, as stated in the section on the "Certificate of Tax Rebate," the government of Peru has not satisfactorily demonstrated the requisite

linkage between indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual tax incidence has been reasonably calculated and documented.

Comment 2: Petitioners argue that CERTEX should not be adjusted for time delay in receipt of certificates or the effect of income taxes upon CERTEX.

DOC Position: We agree. As stated in the section "Certificate of Tax Rebate", these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(b)(a)).

Comment 3: Petitioners argue that FENT export credits are dollar loans, and as the Peruvian exporter receives dollars for exports with which to pay off the loan, he bears no exchange rate risk.

DOC Position: We agree, and as stated in the section entitled "FENT", we found that the exporter does not incur any currency exchange loss.

Comment 4: Petitioners argue that Article 16 of the Export Law is an exemption, not a suspension, of duties on imported capital equipment and machinery, and as such is a forgiveness of a cost that would normally be expensed in the year incurred.

DOC Position: We disagree that Article 16 forgives costs, but have found that it suspends them. As stated in the section "Export Law", Article 16 has been determined to provide a benefit in that the payment of duties is deferred.

Comment 5: Petitioners argue that the issue of "like" product is relevant only within the context of a determination of material injury by the U.S. International Trade Commission. (See comments 1, 2 and 3, Comments from Other Parties to the Proceedings)

DOC Position: In accordance with the definition of "like" product (19 U.S.C. 1677(10)), we believe that a "like" product is being produced by petitioners. Even if it were not, we believe petitioners do have the capability to produce a "like" product (19 U.S.C. 1677(4)(D)).

As representatives of an industry which either producers or has the capability to produce a "like" product, petitioners do qualify as "interested parties", and, as such, have standing to petition for the initiation of this investigation under 19 U.S.C. 1677(9).

This has previously been established in the case *Cotton Yarn from Brazil* (47 22114), in which the petitioners were found to have standing on the same products as covered in this investigation.

Comment 6: Petitioners argue that the currently outstanding countervailing duty order on cotton yarn from Brazil, which covers the same products of the instant investigation and was filed by

the American Yarn Spinners Association, is clearly established precedent with respect to the like product issue and the proper standing of the AYSA.

DOC Position: See DOC Position in response to Petitioner Comment 5.

V. Respondents' Comments

Comment 1: Respondents argue that the legislative history of the Act makes clear that the net subsidies definition does not apply to a country, such as Peru, that is not a "country under the Agreement."

DOC Position: We disagree. Section 771(5) of the Act explicitly states that the term "subsidy" has the same meaning as the term "bounty or grant." References in the legislative history to a broad definition of the term subsidy apply equally to the term "bounty or grant" and to the term "subsidy." Defining the term "bounty or grant" in a more restrictive sense than the term "subsidy" would be *ultra vires* and would in effect penalize countries that had signed the Subsidies Code.

Comment 2: Respondents argue that under the Act, the DOC has the discretion not to apply the offset provisions of section 771(6) to Peru. Therefore respondents believe that the DOC should make adjustments for indirect taxes related to the exported products and for the additional costs incurred in locating in decentralized areas.

DOC Position: We disagree. The DOC has consistently limited offsets in the calculation of a net subsidy to those offsets provided for under section 771(6) regardless of whether the DOC was conducting its investigation under section 303 or under Title VII of the Act. In fact, the limitation of offsets was intended to apply particularly to export rebate payments, and to preclude, *inter alia*, the allowance of regional dislocation costs as an offset.

Comment 3: Respondents argue that Peru's CERTEX does meet the DOC's purpose test as described in the discussion of this program above.

DOC Position: While we agree that the government of Peru intended as one of its objectives in establishing the CERTEX the rebate of indirect taxes, we have found that the government of Peru rebates a broad spectrum of taxes and costs which fail to meet the DOC's physical incorporation test as described in Annex I of the Department's countervailing duty regulations. Nor have we been provided adequate evidence that the indirect taxes borne by the products under investigation have been reasonably documented and calculated.

Comment 4: Respondents claim that loss of value due to delay affects the amount of gross subsidy received and is thus not subject to offset restrictions. Even if offset restrictions were applicable, any amounts lost because of a delay are the result of a government order mandating a delay of at least 15 days.

DOC Position: We disagree. Section 771(6)(B) of the Act allows an adjustment for the reduction in value of a subsidy because of a delay in its receipt only if the delay is mandated by law. In the case of CERTEX, we found the delay to be an administrative delay in the application for, processing and issuance of the CERTEX certificate. Peruvian Supreme Decree No. 021-82-EF makes reference to a 15-day period, but does not mandate a delay of 15 days before the CERTEX certificate may be issued. The wording of the Supreme Decree states that the CERTEX certificate shall be issued within 15 days of the date of application. Although in practice certificates are not issued within 15 days, the Supreme Decree does not appear to prohibit issuance of a certificate prior to the fifteenth day after the date of application.

Comment 5: Respondents claim that verification has shown that income taxes and Industrial Community contributions reduce the amount of CERTEX actually received and capable of being used. In this regard, it would be arbitrary and not in accordance with law for DOC to ignore the effects of income tax on CERTEX and yet ascribe income tax benefits to provisions of the Export Law.

DOC Position: We disagree. Although verification revealed that exporters were required to report CERTEX receipts along with sales receipts on their income tax returns, longstanding DOC practice has been to make no adjustment for potential reduction in the value of rebate payments due to income tax liability. This would require assumptions on the part of the Department as to the overall profitability of the firm in subsequent years. Such assumptions would be speculative at best.

Comment 6: Respondents claim that the proper benchmark for a FENT loan is a domestic loan in soles, not an external dollar loan. FENT's principal purpose is to enable Peru to meet certain international reserve targets imposed by its IMF loan agreement. The real cost of FENT must be calculated in soles, and that cost is in excess of the cost of commercial credit in soles. Verification has established that commercial loans in soles are available and that such loans

constitute the most appropriate benchmark for a FENT credit.

DOC Position: We disagree. Although FENT loans are in fact received in soles, the loans are denominated in dollars and must be repaid in dollars. Since repayments are made from dollars generated by export sales, exporters do not incur an exchange loss on FENT loans. We selected local dollar loans rather than sole loans as a basis of comparison with FENT loans, since local dollar loans were freely available whereas sole loans did not appear to be generally available, particularly for export financing purposes. That sole loans were not freely available was attested to by the fact that exporters were usually forced to use FENT loans to finance exports, despite a strong preference for sole loans.

The fact that a purpose of the FENT is to enable Peru to meet certain international reserve targets imposed by the IMF does not alter the fact that the FENT gives to exporters a readily available line of credit at preferential interest rates.

Comment 7: Respondents claim that Articles 8 and 9 of the Export Law provide reinvestment tax incentives generally available under the General Law of Industries.

DOC Position: Respondent has submitted various laws to show that certain industrial sectors are allowed to invest or reinvest free of income tax certain percentages of net income equal to or greater than the percentages of net income that may be invested tax free by cotton sheeting and sateen exporters. The laws submitted, however, do not establish that these investment incentives are generally available on equal terms to all industries. General Law of Industries 18350 which was in effect during our period of investigation for the export articles clearly assigns significant groups of industries investment tax incentives less than those available to cotton sheeting and sateen producers and exporters.

Comment 8: Article 12 allows for accelerated depreciation to exporters. According to Supreme Decree No. 015-69-HC, Article 28, any firm or industry in Peru can request and obtain an increase in its depreciation rates.

DOC Position: We disagree. Although Supreme Decree No. 015-69-HC, Article 28, allows firms to request an increase in depreciation rates, DOC is not persuaded that the requested increase would be granted in all cases. Under Article 12 of the Export Law, however, exporters receive the right to depreciate at an increased depreciation rate if they elect to do so. Article 28 of the Supreme Decree appears to allow the government

discretion to grant or deny requests for accelerated depreciation. We cannot conclude that the Supreme Decree makes generally available on equal terms the accelerated depreciation rates available to exporters under Article 12 of the Export Law. Therefore, we view the provisions of Article 12 as conferring a bounty or grant on exports.

Comment 9: Article 13 allows exporters to capitalize profits free of income tax. Capitalization of reinvested profits is available to all industrial companies under Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262.

DOC Position: We agree. Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262, makes generally available the provisions of Article 13 of the Export Law regarding the capitalization of reinvested profits with exemption from a five percent income tax. We found only one difference between Article 13 of the Export Law and Decree Law No. 18350. The former allows six years for capitalization, whereas the latter allows five years. To the best of our knowledge, capitalization done by firms under investigation was completed within five years. Therefore, Article 13 of the Export Law did not result in the payment of a bounty or grant.

Comment 10: Article 14 allows exporters certain labor tax credits. Article 63 of the New General Industry Law, Law No. 23407, makes certain labor tax credits available to all industries.

DOC Position: We disagree. Although Article 63 of the New General Industry Law, Law No. 23407, makes labor tax credits for new jobs created available to all industries, this law went into effect in June 1982. In our investigation of income tax benefits from the Export Law, we examined the latest period for which all information necessary to evaluate the income tax benefits was available. This period was calendar year 1981. For this period we had information on income tax savings realized in 1981 on the basis of the exporters 1980 income tax returns and complete export statistics for exporters we had verified. The General Industry Law in effect during 1981 did not have a provision for labor tax credits for non-exporting firms. Consequently, we find that during our period of investigation, the provisions of Article 14 of the Export Law resulted in the bestowal of a bounty or grant. We will reexamine this situation at the time of the annual review under section 751.

Comment 11: Article 32 allows exporters of non-traditional goods to hire contract personnel under the

system generally established by Decree Law 18138.

DOC Position: We agree. The hiring of contract personnel is provided for under both Article 32 of the Export Law and Decree Law 18138, which is generally available to all producers. Therefore, Article 32 read in the light of Decree Law 18138, does not confer a bounty or grant.

Comment 12: Respondents claim DOC must make a number of significant adjustments in its calculations of possible benefits under Articles 8, 9, 12, 13, 14, 15 and 32 of the Export Law.

Firms that did not pay taxes in 1981 did not derive any benefits from Articles 8, 9, 12, 13, 14 or 15 of the Export Law. A tax benefit can only be found if the DOC can show that but for that particular tax benefit, taxes would have been paid.

DOC Position: We agree. When exporters had no income or sustained a net loss even before the tax deductions permitted under the Export Law, we did not find a countervailable benefit from articles of the Export Law which the exporters might have used.

Comment 13: The government of Peru can see no rationale for using 1980 instead of 1981 tax results.

DOC Position: We disagree. We used 1980 income tax returns since the income tax savings realized on 1980 income tax returns were realized in 1981 when exporters actually filed their 1980 tax returns. We received 1981 income tax returns from most of the Peruvian exporters. We did not use the 1981 tax returns, however, since we viewed the savings on these returns as realized upon the filing of these returns in 1982, a year for which we had only incomplete f.o.b. export values for purposes of allocating the savings associated with the 1981 returns. This information would be used in a section 751 review.

Comment 14: Respondents claim the use of Article 12 providing for accelerated depreciation can result in the loss of other tax benefits, and these lost tax benefits must be offset against the benefits provided by Article 12.

DOC Position: The loss in tax benefits referred to by the respondent is the investment tax credit and the worker shares tax credit.

First, the investment tax credit which may increase with an increase in net income could have been larger had accelerated depreciation not been used. We have no evidence however, that additional investment was in fact made. Therefore, we cannot make an adjustment for the potentially larger investment tax credit that would have been allowed had net income been larger due to a normal depreciation rate.

Second, the value of worker shares issued would have increased had net income been increased. In addition, the tax credit for worker shares would also have increased. However, since the increased value in worker shares was, in fact, not paid, we are precluded from making an adjustment for a tax credit based on a hypothetical increase in the value of worker shares issued.

Comment 15: The amount included under Article 13 of the Export Law regarding capitalization of profits in the countervailing duty response for La Bellota was in error.

DOC Position: We agree. On verification we established that La Bellota received no benefit under Article 13. La Bellota reported savings under Article 13 as a result of a misinterpretation of DOC's questionnaire on this point.

Comment 16: Article 15 of the Export Law on tax exemptions for increases in capital does not currently exempt exports from tax payments.

DOC Position: We agree, since the registration tax and the real estate transfer tax ("Alcabala") have been abolished by Decree Law 22392, and the additional real estate transfer tax referred to in Article 15 applies only to the seller, we conclude that Article 15 no longer confers tax benefits.

Comment 17: The respondent believes that total sales or production should be used as the denominator for calculations. Since the benefits are on direct income taxes, the benefits can be used for all production, not just exports.

DOC Position: We disagree. Since benefits under the Export Law are contingent on export performance, the DOC regards these benefits as export rather than domestic subsidies and allocates the benefits solely to export sales.

Comment 18: Despite arguments by counsel or representatives for ATMI or AYSA, it is clear under the law that until its export contract with the government has been met and an exemption finally granted, a firm exporting non-traditional goods has not received any countervailable benefits under Article 16 of the Export Law.

DOC Position: We disagree. The suspension of import duties on imports of capital equipment result in an immediate benefit in that a cash expenditure is deferred for a period of years. Because of uncertainty as to whether or not exporters will meet export requirements and get complete exemption from duties or whether they will fall short of export requirements and be required to pay duty plus interest, the DOC must regard the suspension of duties as conferring a

bounty or grant in the form of an interest-free loan with principal equal to the amount of duties deferred.

Comment 19: Respondent claims that firms which in 1981 did not export the product under investigation to the United States should be excluded from the DOC's calculation of import duties suspended under Article 16 of the Export Law.

DOC Position: We disagree. DOC cannot foresee whether exporters will or will not in a given year export a product under investigation to the United States. By allocating the benefit to total exports of all products, the DOC has estimated fairly the bounty or grant on products under investigation.

Comment 20: Respondent claims that the DOC should exclude duties on machinery and equipment that do not produce products under investigation.

DOC Position: Given the time constraints of the investigative period and the highly technical aspects of textile production machinery, the DOC has not been able to establish that certain machinery not only was not but, in fact, could not, be used in the production of the product under investigation. Under these circumstances, the DOC included the suspended duties on all machinery imported under Article 16 and allocated the benefits from Article 16 to total exports of all products produced by the respondents.

Comment 21: Respondent claims that import duties which are finally exempted should be allocated over the useful life of the equipment.

DOC Position: We disagree. Since the import duty suspension conveys an immediate benefit to the firm, the DOC rejects respondent's claim that countervailing duties should be imposed only when and if duties are finally exempted, an approach which could allow as much as a five-year lapse before the DOC could make its determination on whether or not to impose a countervailing duty. Instead, as described earlier in this determination, DOC has determined to treat the import duty suspension as an interest-free loan rather than a grant, since the conditions of the suspension more closely resemble a loan than a grant, considering the fact that the import duties may eventually have to be repaid with interest in the event exporters do not meet the required export level.

Comment 22: Respondent claims that Textil Trujillo which produced no cotton yarn in 1981 should be excluded from our calculation of benefits due to suspensions under Article 17 of import duties on machinery.

DOC Position: Although Textil Trujillo did not export during our period of investigation, they have exported subsequent to this period with benefit of import duty suspensions under Article 16. For this reason DOC cannot exclude this company from its calculations. To compensate for the fact that Textil Trujillo did not export during our period of investigation, we have imputed exports to this company based on its exports in 1982.

Comments From the Other Parties to the Proceedings

Comment 1: Counsel for FISCO argue that Pima cotton yarn imports from Peru falling in TSUS item numbers 301.30 are high count yarns should be excluded from this proceeding on the basis that they are not a "like" product (19 U.S.C. 1677(10)) and therefore, petitioners are not an "interested party" (19 U.S.C. 1677(9)).

DOC Position: We disagree. We have determined that petitioners are an "interested party" within the meaning of 19 U.S.C. 1677(9)(D), and that they do produce, or have the capability to produce, a "like" product within the meaning of 19 U.S.C. 1677(10).

Comment 2: Counsel for Industria Textil Piura, S.A. and J.J. Ryan and Sons, Inc. argue that yarns classifiable under certain TSUS items should be excluded from our final determination because they are high count cotton yarns which are unlike, in character and use, cotton yarns produced and sold in the United States, and therefore are not "like" products.

DOC Position: We disagree. Although there may be differences on the basis of quality, we determined that cotton yarns produced and sold in the United States are "like" those imported from Peru on the basis of 19 U.S.C. 1677(10).

Comment 3: Counsel for Industria Textil Piura, S.A. and J.J. Ryan and Sons, Inc. argue that the American Yarn Spinners Association lacks standing to seek the imposition of countervailing duties on high count cotton yarns. Lack of standing is due to the fact that: (1) None of its members produce yarns over 80 count; (2) a majority of its members do not produce other high count yarns of the same quality; (3) and the data provided as evidence of standing relates to a period which is not contemporaneous with the subject proceeding.

DOC Position: We disagree. We have determined that the American Yarn Spinners Association is an "interested party" in accordance with 19 U.S.C. 1677(9)(D) and therefore does have standing with which to seek the

imposition of countervailable duties on high count cotton yarns, in accordance with 19 U.S.C. 1671a (b).

Comment 4: Counsel for Danco, Division of General Mills, argue that the Department should calculate the net amount of such bounty or grant as may be found on a company-by-company basis to the extent feasible.

DOC Position: We disagree. We have determined that there are differences if calculated on a company-by-company basis, however, we have determined they are not significant.

Comment 5: Counsel for Danco, Division of General Mills, argue that CERTEX benefits should be calculated considering the effect of delay in receipt and on an after tax basis.

DOC Position: We disagree. As stated in the "CERTEX" section of this notice, not mandated by government time delays and the effect of income tax are not considered permissible offsets under 19 U.S.C. 1677(f)(4).

Comment 6: Counsel for Danco, Division of General Mills, argue that Article 16 of the Export Law provides for a conditional suspension of import duties on capital equipment, and as such is not countervailable.

DOC Position: We disagree. We have determined that Article 16 of the Export Law does represent a conditional deferral of import duties. However, this deferral does represent a countervailable benefit to exporters.

Comment 7: Counsel for Danco, Division of General Mills, argue that the use of 1980 tax figures would be unequivocally wrong both as a matter of law and as a matter of good sense.

DOC Position: We disagree. As stated in the "Analysis of Programs" section of this notice, tax deductions and credits taken in 1980 represent a benefit to 1981, the year in which such benefits are recognized, and therefore are appropriate to use in analysis of 1981.

Comment 8: Counsel for Danco, Division of General Mills, disagrees with the departments interpretation of FENT and argues that the FENT program does not constitute a bounty or grant as preliminarily determined due to shortcomings in analysis: (1) Misunderstanding of purpose; (2) significant additional costs; and (3) effect of currency devaluation.

DOC Position: We disagree. For reasons described in the section entitled "FENT", we have determined that FENT does constitute a bounty or grant.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal

procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on December 17, 1982. In accordance with the Department's regulations (19 CFR 355.34 (a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall remain in effect until further notice. The net bounty or grant is 38.288 percent of the f.o.b. value of the export of cotton yarn. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register.

The Department intends to conduct an administrative review within 12 months of the publication of this determination as provided in section 751 of the Act.

(Secs. 303 and 706 of the Act) (19 U.S.C. 1303, 1671e.)

Lawrence J. Brady,

Assistant Secretary for Import Administration.

[FR Doc. 83-2729 Filed 1-31-83; 6:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination; Prestressed Concrete Steel Wire Strand From Brazil

AGENCY: International Trade Administration; Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits that constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of prestressed concrete steel wire strand (PC strand). The estimated net subsidy is 13.90 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension

agreement. We continued the investigation at the request of the petitioners. If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative, the suspension agreement shall remain in force.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of PC strand. The following programs are found to confer subsidies:

- Industrialized Products Tax (IPI) export credit premium
- IPI rebates for capital investment
- Preferential working capital financing for exports: Resolution 674
- Income tax exemption for export earnings
- Accelerated depreciation for capital goods manufactured in Brazil

We determine the estimated net subsidy on PC strand from Brazil to be 13.90 percent *ad valorem*.

The Department and the government of Brazil have entered into a suspension agreement. If the ITC makes a final affirmative determination, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On March 4, 1982, the Department received a petition from counsel for American Spring Wire Corporation, Florida Wire & Cable Company, Pan American Ropes, Inc. and Shinko Wire America, Inc., filed on behalf of the U.S. industry producing PC strand. The petition alleged that certain benefits that constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Brazil of PC strand.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on March 30, 1982, we initiated a

countervailing duty investigation (47 FR 13396).

We stated that we expected to issue a preliminary determination by May 28, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until August 2, 1982 (47 FR 20652).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On April 19, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 18200).

On March 25, 1982, we presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On May 26, 1982, we received the response to the questionnaire.

On August 2, 1982, we issued our preliminary determination in this investigation (47 FR 34609). We stated in our preliminary determination that the government of Brazil was providing its manufacturers, producers, or exporters of PC strand with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- IPI export credit premium
- IPI rebates for capital investment
- Preferential working capital financing for exports:
- Resolution 674
- Income tax exemption for export earnings
- Accelerated depreciation for capital goods manufactured in Brazil

On October 15, 1982, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the Federal Register on October 22, 1982, (47 FR 47048). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of PC strand to the United States. The petitioners are challenging this agreement in the Court of International Trade in the case of *American Spring Wire Corp. v. United States*, Court No. 82-11-01579.

By letter of November 12, 1982, counsel for the petitioners requested that the investigation be continued under section 704(g) of the Act. Therefore, we are required to complete

the investigation and issue a final determination.

Scope of Investigation

The product covered by this investigation is prestressed concrete steel wire strand manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term "prestressed concrete steel wire strand" covers wire strand of steel other than stainless steel for prestressed concrete, as currently provided for in item 842.1120 of the *Tariff Schedules of the United States Annotated*.

Companhia Siderurgica Belgo-mineira (Belgo-Mineira) is the only known producer and exporter in Brazil of PC strand to the United States. The period for which we are measuring subsidization is calendar year 1981, which coincides with Belgo-Mineira's fiscal year.

Analysis of Programs

In its response, the government of Brazil provided data for the applicable periods. Throughout this notice, general principles and conclusions of law applied by the Department of Commerce to the facts of this investigation are described in detail in Appendices 2 and 4, which appeared with the notice of "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 39304).

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in Brazil of PC strand.

A. Industrialized Products Tax (IPI) Export Credit Premium. The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Exporters of PC strand are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction. Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These

adjustments include: any agent commissions, rebates, or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

Our preliminary determination on this program was made using the best information available to us. We preliminarily determined that a subsidy in the amount of 12.5 percent *ad valorem* existed, which was the maximum amount available to Belgo-Mineira at that time.

At verification, we sampled many of Belgo-Mineira's receipts of the IPI credits and traced each to the appropriate shipment, as a basis for calculating the value of the IPI credits. We established that the only deduction made from the value of the shipment before the IPI credits were calculated was an agent fee and that shipments frequently did not have this deduction. For each shipment, we calculated the value of the IPI credits as a percentage of the gross value of the shipment. We made this calculation as of the date of shipment rather than the date of receipt of the IPI credits and did not take into account the devaluation of the cruzeiro between the date of shipment and the date of receipt in accordance with section 771(6)(B) of the Act.

Although deductions for an agent commission occurred for some shipments during 1981, we could not establish an average rate for such deductions; when examining *all* shipments in a particular period, we found none with deductions for an agent fee. Therefore, we calculated a subsidy value during 1981 of 15 percent. This rate is premised on an IPI export credit premium of 15 percent.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent to 11 percent on September 30, 1982. Accordingly, we have proportionally reduced our calculation above. On this basis, we calculated a current *ad valorem* export subsidy of 11 percent.

B. IPI Rebates for Capital Investment. Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the

end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax due in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital.

We consider the amount rebated each year as an untied capital grant received in that year. As such, we have allocated the grants over 15 years, the estimated average life of capital assets in integrated steel mills (based on Internal Revenue Service studies of actual experience in integrated mills in the U.S.).

In making the calculation for our preliminary determination, we took the amount of the rebate received in each year, converted the cruzeiro value to dollars by using the average exchange rate for the year, and used as the discount rate for each year the average LIBOR (London Interbank Offered Rate) plus the prevailing spread over LIBOR in Brazil in that year. The grants were amortized over 15 years and the total benefit for 1981 was divided by the total value of sales, converted into dollars using the average exchange rate for 1981.

We chose the above method for our preliminary determination because at that time we did not have sufficient information to employ the indexing procedure that establishes the rate of return on long-term cruzeiro debt instruments in Brazil. At verification we learned that government bonds and long-term cruzeiro loans are fully indexed to the inflation rate in Brazil and have fixed real interest rates. The index used is the ratio established for the Readjustable Bonds of the National Treasury (ORTN). In the case of a loan, the cruzeiro value is converted to an ORTN value by using the ORTN index rate in the month of receipt. The stream of principal and interest payments over the life of the loan is then calculated in ORTN and when a payment is made, the ORTN value due is converted into cruzeiros at the ORTN index rate in the month of payment.

Based on this information, we have recalculated the benefit from these grants in accordance with Appendix 2.

We have taken the amount of the rebate received in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in the month of receipt, added the monthly ORTN amounts to determine the amount of the grant in each year, and used as the discount rate for each year the interest rate of 4 percent on ORTN-indexed government debt. The total benefit in ORTN for 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for 1981. The *ad valorem* benefit of this subsidy is 0.91 percent.

C. Preferential Working Capital Financing for Exports: Resolution 674. Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We have determined that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of Belgo-Mineira's exports in 1981 to calculate the amount of preferential financing received.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable.

Currently, the annual rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.13 percent.

D. Income Tax Exemption for Export Earnings. Exporters of PC strand are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax statements to determine if any benefit was received in fiscal year 1981. Belgo-Mineira had a taxable profit in fiscal year 1980, and received a benefit under this program in 1981. By dividing the benefit received by the value of exports, we calculated an *ad valorem* export subsidy of 0.55 percent.

E. Accelerated Depreciation for Capital Goods Manufactured in Brazil. This program allows companies that purchase Brazilian-made capital equipment as part of an expansion project approved by the Industrial Development Council (CDI) to depreciate eligible equipment at twice the rate normally permitted under tax laws. As with the income tax exemption for export earnings, the tax benefit received under this program in a particular fiscal year equals the amount by which total depreciation (including accelerated depreciation) exceeds normally-permitted depreciation in the prior fiscal year. Belgo-Mineira used the accelerated depreciation provisions to reduce its tax liabilities in its fiscal year 1980 income tax statement and received a benefit in 1981. By dividing the benefit received by the total value of sales, we

calculated an *ad valorem* benefit of 0.31 percent.

II. Programs Determined Not To Confer Subsidies

We have determined that subsidies are not being provided under the following programs described below to manufacturers, producers, or exporters in Brazil of PC strand.

A. Regional Development Investment Subsidy From Credit to the Corporate Income Tax. Brazilian Tax law allows any corporation that owes corporate income taxes to elect to apply up to 51 percent of its corporate income taxes owed to the government to specified investment funds. The investment funds generally are for the economic development of certain regions, industries or national interests (e.g., the Amazon, the Northeast, fisheries, tourism and reforestation). The steel industry is not among the targeted sectors. If a corporation elects to direct the taxes it owes to the government into one or more of the specified investment funds, it receives stock for its investment in those funds. Upon receipt of the stock, which must be held at least five years, the investment is included in the equity holdings of the corporation.

Belgo-Mineira has taken part in this program, but not during 1981. We have determined that election to participate in this program does not constitute a subsidy to PC strand, however, since all corporations which pay corporate income taxes are eligible to participate in the program on equal terms.

B. Long-Term Loans. Belgo-Mineira has long-term loans from various sources in both domestic and foreign currencies. The loans in foreign currencies have interest rates ranging between 0.5 percent and 2.25 percent above LIBOR (depending on the date the loan was granted), which are typical rates for such loans in Brazil.

Long-term financing in cruzeiros is normally available in Brazil only through government-controlled financial institutions. Belgo-Mineira has received loans from FINAME, a program of the government-controlled National Bank for Economic Development (BNDE), for the purchase of capital equipment manufactured in Brazil. These loans are fully-indexed by ORTN and were made at fixed real interest rates ranging from 8 to 11 percent.

FINAME loans are available to a wide variety of sectors in Brazil. The steel industry has received such loans in proportions similar to other large capital-intensive industries in Brazil. This appears to be warranted by the capital requirements of such industries. In addition, numerous other sectors also

received loans from FINAME during this period. Based on the general availability of these fully-indexed loans, we have determined that they do not confer a subsidy.

C. Transportation Subsidies. The Brazilian government stated that Belgo-Mineira received no preferential rates when using railroads and ports. At verification, we found no evidence that any programs exist which give preferential freight rates to steel exporters.

D. Income Tax Deductions for Employee Training and Meals. Belgo-Mineira has a tax deductible training program for which it has taken special deductions for training costs, but it has never had a tax-deductible program for which it may take special deductions for employee meals. The maximum deduction for training costs is 10 percent of taxes owed, and for meals 5 percent of taxes owed, although the combined deduction may not exceed 10 percent of taxes owed.

The government of Brazil stated that under applicable tax law any manufacturer, without sectoral or regional preference, may take the above deductions for training and meal expenditures for employees. Consequently, we have determined that the benefits conferred under this program are not countervailable because they are generally available on equal terms.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by manufacturers, producers, or exporters in Brazil of PC strand.

A. The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIE). BEFIE grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: a reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; and extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIE projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign

BEFIE contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil has stated that the steel industry in Brazil has been developed primarily to supply the domestic market. Since Belgo-Mineira exports only a small portion of its production, it is not in a position to make the required export commitment. Belgo-Mineira did not receive any benefits from this program in 1981.

B. Industrial Development Council (CDI) Program. This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI Decree Law 1728 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. Belgo-Mineira did not receive such benefits during 1981.

C. Deductions From Income Tax for Foreign Market Expenditures. The government of Brazil stated that expenses incurred abroad in connection with export sales are deductible for income tax purposes in the same way that similar expenses incurred on domestic sales are deductible. Belgo-Mineira did not deduct any such expenses incurred on export sales in 1981.

Petitioner's Comments

Comment 1: The petitioners assert that in calculating the net subsidy under Resolution 674 financing, the Department used an incorrect benchmark. They state that the Banco do Brasil rate for discounting accounts receivable is not a proper benchmark; that the Department must factor in compensating balances (although illegal in Brazil) to determine an effective interest rate; and that in determining the appropriate benchmark, the Department should use as one basis of comparison the commercial rate for short-term borrowing in Brazilian financial markets.

DOC Position: The Department believes from evidence available to it that there is no meaningful commercial market for short-term working capital loans in Brazil. Instead, most firms meet their needs for working capital through the sale of accounts receivable. Therefore, the Department has determined that the discounting of

accounts receivable provides the most appropriate basis for comparison.

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggested that this was the appropriate standard. As the largest single banking entity in Brazil (representing 35-40 percent of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verification support our preliminary determination in several respects. First, the annual Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. Second, as it applies to Belo-Mineira, the market for discounting accounts receivable is still quite active. During the period for which we are measuring subsidization, Belo-Mineira discounted a significant percentage of its domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of the receivable minus the discount rate, the tax on financial transactions (IOF) and a small commission.

Comment 2: The petitioners disagree with the Department's determination that certain programs did not constitute subsidies because they were generally available. They claim that the Department's position on generally available programs, set forth in Appendix 4, is in error and based upon an incorrect interpretation of the legislative history and section 771(5) of the Act.

DOC Position: The Department's position remains unchanged from that elaborated in Appendix 4.

Respondent's Comments

Comment 1: The respondent claims that IPI rebates for capital investment under Decree Law 1547 are not countervailable for the following three reasons. First, as a result of a revamping of legislation concerning the IPI tax that began in 1979, the IPI tax is currently applicable to only 14 product sectors, and exemption from the tax is the rule while the obligation to pay is the exception. Thus, the elimination of the tax is the generally available situation and the reduction of the tax on any the remaining sectors subject to it does not constitute a subsidy. Second, since the

IPI tax is paid by the Brazilian steel producers, the funds for the rebates do not originate from the government of Brazil. Thus, the rebates do not constitute subsidies. Third, the rebates are generated solely by domestic, not export, sales and it is not within the purview of the U.S. countervailing duty law to countervail benefits received on production not destined for the United States.

DOC Position: The IPI tax is an indirect tax and as such is passed forward to the consumer. A steel company collects this tax on sales as the agent for the government; the company does not, itself, pay the tax.

Decree Law 1547 is a mechanism by which a steel company is permitted to collect funds due the government and then receive a 95 percent rebate of the taxes due. The program does not involve the rebate of payments made from the company's own funds.

Not all steel companies receive this rebate. Although the same level of IPI tax is applicable to all steel products, only companies producing certain priority products, with approved expansion projects, can receive the rebate. Fabricators of steel products, such as pipe and tube manufacturers who purchase coil, are not eligible for the rebate. Members of the SIDERBRAS group have not been eligible for the rebates since December 1980, when Decree Law 1843 directed rebates of the IPI tax collected on sales by state-owned steel companies go to SIDERBRAS. Thus, the rebates are not generally available within the steel sector and represent a selective benefit to priority producers.

These rebates, when received, are applied to capital investment projects. The IPI tax is collected on domestic sales and to rebate is simply a mechanism to raise capital for the companies that receive them. That the rebates are generated only by domestic sales does not alter the fact that they benefit all production, including exports.

Comment 2: The respondent claims that, absent a showing of immediate competitive advantage by the Department, we must allocate in equal installments the face value of the grants received from the IPI rebates for capital investment over the full useful life of the assets purchased, as required by the legislative history and the Court of International Trade in *Michelin Tire Corporation v. United States*, 2 C.I.T. 143 (1981). Respondent further alleges that the use of the present value methodology for the calculation of grant benefits violates Article 4(2) of the Subsidies Code in that the U.S. government will collect countervailing

duties in excess of the face value of a grant.

DOC Position: We have allocated these grants over the full useful life of the assets purchased in accordance with *Michelin Tire Corporation v. United States*, Slip Op. 82-115 (December 15, 1982). In this case, the Court did not rule how the Department should allocate the benefit from a grant over the useful life of the asset. However, the Court did suggest that a method which recognizes the time value of money may be "an acceptable and recognizable means of analyzing financial benefit" from a grant. The present value concept is such a recognized principal of financial analysis and its use is fully consistent with the Subsidies Code and U.S. countervailing duty law. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, the amount countervailed will not exceed the total net subsidy.

Comment 3: The respondent claims that the government of Brazil has the right to exempt loans received, under Resolution 674 from the IOF tax because it is the exemption of an indirect tax on the financing of products for export. Therefore, for the Department to determine the interest-rate subsidy by considering the IOF tax an integral part of the commercially-available rate (considering exemption of the IOF tax a subsidy) is contrary to the GATT and U.S. law.

DOC Position: We have addressed this issue in preliminary and final determinations in other Brazilian countervailing duty investigations. In those determinations, we stated that although the IOF tax was an indirect tax and was paid on domestic financial transactions, we did not consider that fact relevant. Since we consider the discounting of a cruzeiro-denominated account receivable, a transaction upon which the IOF is paid, as the commercial alternative to Resolution 674 loans, it is entirely appropriate that we include the exemption of Resolution 674 loans from the IOF as part of the subsidy, in order to measure the full benefit provided under this program. Our analysis of this issue has not changed.

Comment 4: The respondent claims that benefits derived from the income tax exemption for export earnings should be allocated over total revenues rather than export revenues. Under this program, a Brazilian exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon the ratio of export to total revenues, provided that the firm has made an

overall profit on total production. The respondent argues that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Further, an exemption of a direct tax calculated on this basis cannot directly affect the price of the exported product; it can only have a general effect on all prices, both domestic and export. Thus, by allocating the benefits only to export revenues, the Department overstates the value of the subsidy, and allocating the tax savings over total revenues would more accurately reflect the true value of the benefit conferred.

DOC Position: The government of Brazil has made this argument before in several section 751 administrative reviews of countervailing duty orders on Brazilian products. In those reviews, we responded that when a firm must export to be eligible for benefits under a subsidy program and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program is an export subsidy. The fact that the firm as a whole must be profitable in order to benefit from this program does not detract from the program's basic function as an export subsidy. The possibility that a firm may not be profitable in a particular year and, due to this uncertainty, could not specifically apply benefits from this program to its export prices is not relevant to our determination. Therefore, the Department will continue to allocate the benefits under this program over the firm's export revenues instead of total revenues.

Comment 5: The respondent argues that the Department, based upon information for 1982 it has verified, must make adjustments in the amount of net subsidy determined to exist under the income tax exemption for export earnings, accelerated depreciation for capital goods manufactured in Brazil and the IPI export credit premium. Otherwise, the Department overstates the amount of subsidy conferred on 1982 exports.

DOC Position: When conducting an investigation to determine the existence and extent of subsidization, we choose an appropriate period of investigation. In this case, the period for which we are measuring subsidization is calendar year 1981. Normally, the period of investigation provides the most current information available.

We recognize that for any one company the level of benefit from a particular subsidy program (such as the income tax exemption for export earnings) may change after the period of

investigation and that in some cases this may be known prior to the final determination. However, we cannot make adjustments for that program when complete information is unavailable for determining the amount of subsidization in its entirety from any of the several programs that a company may be eligible for and use. For this reason, we determine the estimated net subsidy based on the period of investigation. Changes in the amount of benefit a company receives from a program subsequent to the period of investigation, whether that increases or decreases the level of subsidization, can be taken into account during a section 751 administrative review.

However, when there is a fundamental change in a program after the period of investigation (or after the review period in a section 751 administrative review), which affects the benefits to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. In the case of the IPI export credit premium, there have been three verified reductions in the maximum available benefit during 1982. Currently, the rate is 11 percent as opposed to the 15 percent rate that prevailed during most of 1981. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program.

Comment 6: The respondent argues that the Department's calculation of the benefit from the IPI export credit premium on the basis of the IPI credits earned on the date of export of each shipment rather than on the actual date of receipt by the company of the IPI credits for each shipment reflects an improper interpretation of section 771(6)(B) of the Act. Further, respondent claims that this procedure will result in the collection of countervailing duties in excess of the benefit actually received, which is contrary to the Subsidies Code and U.S. countervailing duty law.

Respondent states that because of the ongoing devaluation of the cruzeiro, the dollar value of the benefit to the company on each export shipment should be calculated by converting the cruzeiro amount of the IPI credits into dollars at the exchange rate on the date of their receipt rather than at the exchange rate on the date of shipment. This procedure allegedly would not

involve use of an impermissible offset and would allow a precise measure of the effects of devaluation on the real value of the IPI credits received, since it would compare dollar value received to dollar-denominated exports and take into account economic realities in Brazil.

DOC Position: The language in the Act concerning permissible offsets is unambiguous. Under section 771(6)(B), an offset is allowed for "any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order." In the case of the IPI export credit premium, no such government mandate exists. Delays in a company's receipt of the IPI credits are purely administrative, frequently the result of a company's delayed application for it. When a company applies for the IPI credits it must determine the amount for which it is eligible by using the exchange rate in effect on the date of shipment; even if application is made months later and the exchange rate has changed substantially.

Further, a company quotes its export prices in dollars but receives cruzeiros. The amount of cruzeiros received is determined at the exchange rate in effect when the exchange contract for the shipment is negotiated. This occurs on or before the date of shipment. Any change in the exchange rate after the date of shipment has no effect on the cruzeiro amount to be received by the company for either the IPI credits or the gross value of the shipment, their exchange value in terms of dollars having already been predetermined.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturer's records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on September 15, 1982. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-

privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of PC strand from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will be voided and this proceeding will be terminated. If, however, the ITC determines that such injury does exist, the suspension agreement shall remain in effect in accordance with its terms.

In the event the suspension agreement is violated, the Department in accordance with section 703(i) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This determination is published in accordance with section 705(d) of the Act.

Dated: January 26, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-2727 Filed 1-31-83; 8:45 am]

BILLING CODE 3512-25-M

DEPARTMENT OF DEFENSE

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 1 March 1983, at the Palisades Institute for Research Services, Inc., 1925 North Lynn Street, 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 developmental programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments proposes to initiate with industry, universities or in their laboratories. The agenda for this

meeting will include programs on Radiation Hardened devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 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: January 21, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 83-2625 Filed 1-31-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Long-Term Management of Existing Radioactive Wastes and Residues at the Niagara Falls Storage Site; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) to assess the environmental impacts of several alternatives for the long-term management of existing radioactive wastes and residues stored at the DOE's Niagara Falls Storage Site (NFSS).

SUMMARY: There are radioactive wastes and residues stored at the DOE's Niagara Falls Storage Site near Buffalo, New York. These wastes are primarily residues resulting from the processing of uranium ores during World War II and slightly contaminated soils that have been cleaned up from parts of the site and nearby areas. A decision must be made relative to the long-term management of these wastes and residues. In addition to engineering and cost considerations, DOE will factor consideration of potential environmental impacts into this decision by preparing an EIS on several alternatives for long-term management.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. Comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at two scoping

meetings to be held at the Central Lewiston-Porter Senior High School auditorium on Creek Road (Highway 18), Lewiston, New York. The first meeting will start at 7:30 p.m., February 17, 1983, and the second meeting will start at 10:00 a.m., February 19, 1983. On completion of the draft EIS, its availability will be announced in the Federal Register and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meetings may be submitted to: Mr. L. F. Campbell, Deputy Director, Technical Services Division, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box E, Oak Ridge, TN 37830 (615) 576-1052.

Envelopes should be marked "DEIS for Niagara Falls Storage Site".

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from: Office of Environmental Compliance, EP-362, Office of Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Wodbury, Washington, D.C. 20585 (202) 252-4610.

DATES: Written comments postmarked by February 25, 1983, will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held at the Central Lewiston-Porter Senior High School, Lewiston, New York on February 17, 1983, starting at 7:30 p.m. and on February 19, 1983, starting at 10:00 a.m. Requests to speak at these meetings should be received by L. F. Campbell at the above address by February 14, 1983. Requests to speak may also be made during registration for the meetings.

Background

The Niagara Falls Storage Site is located in the Town (township) of Lewiston, Niagara County, New York, about 30 km (19 mi) north of Buffalo, New York. The current 77-ha (190-acre) site is part of a former 610-ha (1500-acre) Manhattan Engineering District (MED) site, which in turn was part of the former Lake Ontario Ordnance Works (LOOW). Beginning in 1944, the MED used the site for storage of radioactive residues that resulted from the processing of uranium ores (pitchblende) during development of the atomic bomb.

Additional residues were brought to the site for several years after World War II.

Subsequent to MED, responsibility for the site was transferred to the Atomic Energy Commission, the Energy Research and Development Administration, and the DOE. The site is currently administered by the Oak Ridge Operations Office of DOE. It is fenced and access is limited.

About 11,000 cubic meters (14,000 cubic yards) of the residues stored at NFSS currently belong to Afrimet-Indussa, an American company controlled by a Belgian firm. The Afrimet residues are stored in buildings and their uranium concentrations range from 550 ppm (parts per million) to 30,000 ppm and radium concentrations range from 0.002 to 0.365 ppm. Afrimet supplied the Federal government with uranium ore (pitchblende) from the Belgian Congo but retained ownership of the residues because of the potentially recoverable, valuable elements that remain in the residues. Afrimet currently holds a license from the New York State Department of Labor for storage of these residues at NFSS. The present storage lease agreement between Afrimet and DOE expires June 30, 1983. Negotiations relative to the future ownership and disposition of these residues are currently underway between Afrimet, DOE, and their respective governments.

The Federal government owns the remaining wastes and residues at NFSS. Most of these are stored in a large pile (R-10 pile) which contains about 7,300 cubic meters (10,000 cubic yards) of residues and will contain an additional 69,000 cubic meters (90,000 cubic yards) of slightly contaminated soils as of the end of interim remedial actions in 1983. The R-10 residues are less radioactive than the Afrimet residues; uranium concentrations range from 100 to 2,300 ppm and radium concentrations range from 0.00001 to 0.01 ppm. Most of the large volume of contaminated soils has concentrations only slightly above natural background concentrations.

The DOE has been carrying out a series of interim remedial actions as part of its ongoing maintenance and caretaker responsibilities at NFSS. These activities include improving the storage of residues and cleaning up contaminated areas so as to bring the site into compliance with DOE regulations. It is anticipated that these interim actions will be completed in 1984.

Although the interim remedial actions will bring the site under much greater control and will result in markedly reduced emissions of radioactive substances from the site, the DOE must

decide how to manage the radioactive wastes and residues for the long-term. In addition to engineering, costs, and other considerations, environmental impacts must be factored into this decision. The DOE will prepare an EIS to assess and compare the potential environmental impacts of various alternatives for the long-term management of these radioactive wastes and residues.

Preliminary Definition of Alternatives To Be Considered in the EIS

DOE is presently considering several alternatives for analysis in the EIS, including:

Alternative 1: No Action—Continued interim storage of all existing wastes and residues (including Afrimet residues) at NFSS in the facilities provided as of the completion of interim remedial actions in 1984 with continued surveillance monitoring and periodic maintenance.

Alternative 2: Long-Term Management at NFSS—A decision to manage the existing wastes and residues at NFSS for the long-term, including actions to reduce the need for long-term surveillance, monitoring and maintenance.

Alternative 2a: Long-Term Management at NFSS: Modify Form—Modify the form of the more radioactive residues.

Alternative 2b: Long-Term Management at NFSS: Modify Containment—Modify the containment of the wastes and residues.

Combinations of these sub-alternatives are also possible.

Alternative 3: Long-Term Management at Other Sites—Remove all radioactive wastes and residues from NFSS and transport them to other sites.

Alternative 3a: Long-Term Management at an Arid Site—Remove all materials from NFSS and transport to an existing DOE-owned low-level waste burial site located in an arid environment. The Hanford site in the State of Washington is being considered for this alternative using long-term management by near-surface burial.

Alternative 3b: Long-Term Management at Another Humid Site—Remove all materials from NFSS and transport to an existing DOE-owned low-level waste burial site located in a humid environment. The Oak Ridge site in the State of Tennessee is being considered for this alternative using long-term management by near-surface burial.

Alternative 3c: Ocean Disposal—Remove all material from NFSS and transport to a port for transport offshore and disposal in the ocean. Although Congress established a 2-year

moratorium period on ocean disposal in December 1982, ocean disposal could be permitted by the Environmental Protection Agency after the 2-year period. Other nations are using ocean disposal for some low-level radioactive wastes.

DOE does not plan to identify a preferred alternative in the draft EIS.

DOE believes that these alternatives encompass the range of reasonable alternatives to be considered by the DOE decision maker. Comments on the scope and definition of these alternatives, as well as suggestions on other reasonable alternatives which the DOE decision maker should consider, are invited via the scoping process described below.

Preliminary List of Potential Issues

There are a number of potential issues associated with the above mentioned alternatives. Some of these issues deal with potential environmental impacts, whereas others are factors that may influence or be influenced by implementation of one or more of the alternatives. Following is a list of major issues that may require analysis in the EIS:

1. Potential radiological impacts:

- On people, including workers and the public, individuals and the total population, children and adults, present and future generations;
- In terms of both radiation doses and resulting health risks;
- Near NFSS, along transportation routes, and near other sites included in the alternatives;
- Associated with both routine operations and accidents;
- Associated with various pathways to man, including surface waters and groundwaters, gases, dust, and particulates;
- Due to natural forces such as erosion and flooding;
- Associated with human intrusion into the contaminated materials.

2. Potential socioeconomic impacts:

- Due to perceptions and distributions of risks;
- Associated with land uses, values, and marketability;
- On local transportation system.

3. Potential engineering and technical issues

- Which engineering options are most reasonable for each type of waste/residue;
- Probable duration of isolation; rates and magnitude of loss of containment;
- Site-specific geohydrological data;
- Site-specific wind dispersion

- patterns;
- Site characterization and R&D work necessary before the decision or before actual implementation of an alternative.
4. *Potential chemical impacts:*
- Contamination of surface waters and groundwaters by heavy metals and other elements contained in the residues.
5. *Potential institutional issues:*
- Project-specific criteria for decontamination, effluents, environmental concentrations, and release of a site for unrestricted or restricted uses;
 - Ownership and responsibility for residues and wastes;
 - Future institutional controls (monitoring and maintenance);
 - Institutional issues which need to be resolved before an alternative could be implemented.
6. *Potential issues relative to mitigative measures and monitoring:*
- Worker health-physics safety procedures;
 - Erosion-and dust-control measures.

This list is based on DOE experience with major issues that have been raised relative to other DOE proposals of this nature. Interested parties are invited to participate in the scoping process discussed below and to help refine this list to arrive at the significant issues to be analyzed in depth in the EIS and to eliminate from detailed study the issues that are not significant.

SCOPING: The scoping process will involve all interested agencies (Federal, state, and local), groups, and members of the public. Comments are invited on both the alternatives and the issues to be considered in the EIS. Two public scoping meetings are scheduled: the first meeting for Thursday, February 17, 1983, starting at 7:30 p.m. and the second meeting for Saturday, February 19, 1983, starting at 10:00 a.m. Both meetings will be held in the Central Lewiston-Porter Senior High School auditorium on Creek Road (Highway 18, Lewiston, New York).

These will be informal meetings with a presiding officer. The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the

organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits. Both oral and written comments will be considered and will be given equal weight. A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., SW, Washington, DC 20585, during business hours, Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Copies of the public meeting transcript and other NEPA documents and major references used in the preparation of the EIS will be made available during normal business hours at the Office of the Town Clerk, 1375 Ridge Road, Lewiston, New York, and at other locations as appropriate. A notice of locations of availability will be published in the Federal Register at the time of announcement of availability of the Draft EIS.

Those interested parties who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comment should notify Mr. L. F. Campbell at the address given above in the Summary section.

Dated at Washington, D.C., this 26 day of January 1983, for the United States Department of Energy.

William A. Vaughan,
Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-2095 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Amerada Hess Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Amerada Hess Corporation (Hess) as a final order of the Department.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy,

1341 W. Mockingbird, Room 200E, Dallas, Texas 75247, 214/767-7404.

SUPPLEMENTARY INFORMATION: On December 8, 1982, 47 FR 55265, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Hess on November 5, 1982 which would become effective no sooner than 30 days after publication of that notice. The Consent Order with Hess, with its home office located in Tulsa, Oklahoma, is a firm engaged in the production of crude oil, and was subject to the Mandatory Petroleum Price Regulations at 10 CFR Parts 210, 211, 212, resolves potential and civil liability of Hess arising out of these regulations during the period August 1, 1980 through January 27, 1981 ("the period covered by this Consent Order"). Notwithstanding the fact that both Hess and DOE disagree concerning the proper application of such regulations and that neither disavows any position it has taken with regard to such issues, Hess has agreed to this Consent Order to avoid protracted, expensive litigation. By the terms of this Consent Order, Hess will remit \$510,000 to the DOE within thirty (30) days after the effective date for deposit in the U.S. Treasury as miscellaneous receipts. Pursuant to 10 CFR 205.199(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Seven comments were received. All seven comments objected to what they perceived to be payment of the funds from Hess into the U.S. Treasury. One comment suggested that payments by Hess should be distributed to what were described as individual direct purchasers injured by the alleged overcharges. The other comments suggested that the proceeds, after payment to identifiable injured customers, should be distributed to the various states which would distribute them to or use them for the benefit of parties they considered to be injured by the alleged overcharges. The problems posed by the refining of the crude oil into various products before it reached ultimate consumers were given little consideration. Apparently some of the comments fail to realize that although Hess is a fully integrated oil company with production, refining and marketing activities, only crude production issues are involved in the case resolved by this consent order.

The primary goal of DOE enforcement activities in this sphere is to refund overcharges resulting from first sales of crude oil to those parties who actually suffered harm from them. Because of the ability of refiners which purchased

crude oil from Hess at allegedly improper prices to bank, allocate and pass through those costs to ultimate consumers under the refiner price regulations, it is virtually impossible to identify in what time period, to what product and to which purchasers the effects of crude oil violations were channelled. This impossibility of locating injured parties and ascertaining the extent of their injuries, led DOE to the conclusion that depositing the sum paid by Hess in the U.S. Treasury is an appropriate remedy. None of the comments received by DOE has offered a more promising solution to the problems arising from this situation.

Having considered all the comments submitted, DOE has determined that the proposed Consent Order with Hess should be made final in its present form. The proposed Consent Order, therefore, was made final and effective the date of publication of this notice.

Issued in Dallas, Tex., on the 24th day of January 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-2692 Filed 1-31-83; 8:46 am]

BILLING CODE 6450-01-M

Petrolane-Lomita Gasoline Co./ Petrolane Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Petrolane-Lomita Gasoline Company/Petrolane Incorporated and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by March 3, 1983.

ADDRESS: Send comments to: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, United States Department of Energy, 500 Dallas Street, Suite 610, Houston, Texas 77002.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 19, 1983, the ERA executed a proposed Consent Order with Petrolane-Lomita Gasoline Company and its parent, Petrolane Incorporated ("the Consenting Firm") of Long Beach, California. For purposes of the Consent Order, "the Consenting Firm" includes

Petrolane-Lomita Gasoline Company and its parent, Petrolane Incorporated, and all of their other subsidiaries and affiliates.

Under 10 CFR 205.199(j), a proposed Consent Order which involves a sum of \$500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Petrolane-Lomita Gasoline Company, with its home office located in Long Beach, California, is engaged in the sale of natural gas liquids and natural gas liquid products. Petrolane Incorporated, with its home office located in Long Beach, California, and its other subsidiaries are engaged in the sale of various products, primarily propane, butane, and natural gasoline, at the wholesale and retail level. The Consenting Firm was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by the Consent Order, August 19, 1973 through January 27, 1981 ("settlement period"). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212 (and predecessor regulations) in connection with the Consenting Firm's compliance with those regulations during the settlement period, the ERA and the Consenting Firm entered into a Consent Order, the significant terms of which are as follows:

A. The ERA has conducted an audit of the Consent Firm's books and records relating to its compliance with the federal petroleum price and allocation regulations beginning August 19, 1973. As a result of that audit, the DOE believes that certain sales of covered products were made by the Consenting Firm at prices in excess of the maximum allowable prices in violation of 10 CFR Part 210 and 10 CFR Part 212, Subparts E, F and K of the federal petroleum price and allocation regulations.

B. The Consent Order settles all matters arising from the Consenting Firm's sales of covered products during the settlement period.

C. Neither ERA nor the Consenting Firm has retreated from the positions

that it has taken previously on the issues addressed by this Consent Order, and each believes that its positions on these issues are meritorious. The parties desire, however, to resolve the civil dispute without resort to complex, lengthy and expensive compliance actions. ERA believes that the terms and conditions of this Consent Order provide a satisfactory resolution and an appropriate conclusion of its audit of the Consenting Firm and that the Consent Order is in the public interest.

D. The provisions of 10 CFR 205.199(j), including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds and Civil Penalty

The Consent Order requires a refund payment of \$3 million, which includes interest which has accrued through the effective date of the Consent Order, to be paid in eight quarterly installment payments commencing sixty days after the effective date of the Consent Order. The Consenting Firm agrees to pay the sum of \$60 thousand in compromise of civil penalties relating to the matters covered by the Consent Order.

The Consent Order also provides details concerning the conclusion of the audit, confidentiality of audit data, recordkeeping and procedures concerning enforcement of the provisions of the Consent Order. Upon becoming final after consideration of public comments, the Consent Order will be a final order of DOE to which the Consenting Firm has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by the Consenting Firm nor a finding by ERA of a violation of any federal petroleum price and allocation statutes or regulations.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. Comments received by 4:30 p.m., local time, on March 3, 1983 will be considered by ERA before determining whether to adopt the Consent Order as a final order. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Petrolane Consent Order." Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Houston, Texas on the 19th day of January, 1983.

Sandra K. Webb,

Director, Houston Economic Regulatory Administration.

[FR Doc 83-2694 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Resources Extraction and Processing Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Resources Extraction and Processing Company of Houston, Texas.

The Proposed Remedial Order charged this company with pricing violations in the amount of \$1,180,330.56, plus accrued interest, in sales of natural gas liquids and natural gas liquid products during the period of October 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 21st day of January, 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-2693 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Tauber Oil Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Tauber Oil Company and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: March 3, 1983.

ADDRESS: Send comments to: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT:

Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002, [phone] (713) 229-3715.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 19, 1983, the ERA executed a proposed Consent Order with Tauber Oil Company of Houston, Texas. Under 10 CFR 205.199(b), a proposed Consent Order which involves a sum of \$500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Tauber Oil Company, with its home office located in Houston, Texas, was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Part 205, 210, 211, and 212, in connection with Tauber's transactions involving resales of crude oil during the period August 19, 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Tauber entered into a Consent Order, the significant terms of which are as follows:

A. During the period covered by the Consent Order, Tauber purchased and sold crude oil without substantially changing its form. Accordingly, Tauber was to "reseller" of crude oil and subject to the provisions of Subparts F and L of 10 CFR Part 212.

B. DOE alleges that during that period Tauber sold crude oil in a manner contrary to and at prices in excess of those authorized by the applicable regulations.

C. Execution of the Consent Order, however, constitutes neither an admission by the company nor a finding by DOE of any violation of any statute or regulation.

II. Remedy

Under this Consent Order, Tauber will pay the sum of \$575,000 within 15 days of the effective date of the Consent Order to DOE for deposit in a suitable account for appropriate disposition. Upon full satisfaction of the terms and conditions of this Consent Order by Tauber, the DOE releases Tauber from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested parties are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Tauber Oil Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on March 3, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedure of 10 CFR 205.9(f).

Issued in Houston, Texas on the 19th day of January 1983.

Sandra K. Webb,

Director, Houston Economic Regulatory Administration Office.

[FR Doc. 83-2693 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Light Water Reactor Safety R&D Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: February 22-23, 1983; 9 a.m. to 5 p.m.

Place: Department of Energy, Room 4A-110, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Contact: Charles E. Cathey, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-6933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Administrative items

- Reviews of LWR Safety R&D work in progress, both Federal and non-Federal
- Discussion of the program implications of the reviews
- Discussion of future Panel work plan and assignments

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 26, 1983.

J. R. Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-2831 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

University Research Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: University Research Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: February 14, 1983, from 9 a.m. to 5 p.m.

Place: Department of Energy, Room 8E-089, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 200/252-8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Briefing on manpower issues in mathematics, engineering, and sciences
- Briefings on federally sponsored research and development programs in the universities
- Discussion of draft outline of report

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mary Gant at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 26, 1983.

J. R. Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-2830 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 819]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26, 1983.

JD NO	JA 1PT	FEI NO	D (SERV) SER(2) WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
-ARDOLIE OIL CO			RECEIVED: 12/29/82 JA: TX			
8315898	F-09-055419	4223780000	102 W O LONG #1	DEWEER (CONGLOMERATE)	25.0	TEXAS UTILITIES F
-ARCO ENERGY CORP			RECEIVED: 12/29/82 JA: TX			
8315885	F-04-055124	4221531212	103 H L MARTIN #3	PENITAS 9500	15.1	VALERO TRANSMISSI
-ADORE OIL & GAS CORPORATION			RECEIVED: 12/29/82 JA: TX			
8315941	F-03-057983	4205132168	102-2 LAUDERDALE #8	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ALTA ENERGY CORP			RECEIVED: 12/29/82 JA: TX			
8315971	F-7C-058277	4241300800	103 107-TF CODY BELL #1	CANYON SAND	109.5	PRODUCER'S GAS CO
-AMOCO PRODUCTION CO			RECEIVED: 12/29/82 JA: TX			
8315977	F-04-058584	4204730860	103 WESTENA OIL & GAS #P	ALTA MESA N (1100)	57.0	VALERO INTERSTATE
-ANDERSON PETROLEUM INC			RECEIVED: 12/29/82 JA: TX			
8315836	F-7C-053293	4210533224	103 107-TF AUSTIN C MILLSPAUGH #8 2-3	OZONA (CANYON SAND)	58.0	ANDERSON PIPELINE
8315903	F-7C-055572	4210533820	103 107-TF AUSTIN C MILLSPAUGH #8 3-2	OZONA (CANYON SAND)	109.0	ANDERSON PETROLEU
8315791	F-7C-044462	4210533653	103 107-TF AUSTIN C MILLSPAUGH #8 3-3	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8315827	F-7C-052521	4210533743	103 107-TF JOE FRIEND EST 2028	ALDWELL RANCH (CANYON	200.0	OZONA PIPELINE CO
8315966	F-7C-058122	4210534041	103 107-TF TOM MITCHELL-STATE 1-20	OZONA (CANYON SAND)	150.0	ANDERSON PIPELINE
-APEX PETROLEUM INC			RECEIVED: 12/29/82 JA: TX			
8315932	F-7B-056525	4208333044	102-4 JOHN E WOLF #1 (102153)	WOLF (SERRATT)	45.0	ODESSA NATURAL CO
8315931	F-7B-056524	4208333046	102-4 JOHN E WOLF #2 (102152)	WOLF (SERRATT)	56.0	ODESSA NATURAL CO
-ARKLA EXPLORATION COMPANY			RECEIVED: 12/29/82 JA: TX			
8315987	F-08-058930	4207330418	102-4 SIMMONS #1	PUSK SE (PETIT)	0.0	
-BANAM CORP			RECEIVED: 12/29/82 JA: TX			
8315907	F-73-055637	4215131523	102-4 BRIDGES #1-6	SATURDAY EAST (CANYON	3.6	CONOCO INC
-BLANKS ENERGY CORP			RECEIVED: 12/29/82 JA: TX			
8315866	F-08-054611	4243131136	103 107-TF MCENTIRE 35-1	CREDO E (CISCO UP)	146.0	INTRATEX GAS CO
-BOB WALLACE OIL INC			RECEIVED: 12/29/82 JA: TX			
8316098	F-10-60485	4235730934	102-4 HARRAUGH (84496) #1	LONE BUTTE (CLEVELAND	24.0	PHILLIPS PETROLEU
8316099	F-10-60486	4235730965	102-4 HARRAUGH (84496) #2142	LONE BUTTE (CLEVELAND	24.0	PHILLIPS PETROLEU
-BRAZOS RESOURCES INC			RECEIVED: 12/29/82 JA: TX			
8316034	F-7B-60017	4205933836	102-4 JOHN D ISENHOWER #A #3 (ID # N/A)	ISENHOWER (DUFFER)	91.0	LONE STAR GAS CO
-BRUNER OIL & GAS INC			RECEIVED: 12/29/82 JA: TX			
8315775	F-7B-036466	4236720032	103 R D WESSER #1	BRAZOS EAST (BIG SALI	0.0	SOUTHWESTERN GAS
-BRYANT & WHITE OIL CO			RECEIVED: 12/29/82 JA: TX			
8316089	F-8A-60416	4207900000	103 LANEY #18	LEVELLAND	1.0	CITIES SERVICE CO
8316091	F-8A-60419	4207962773	103 LANEY #13	LEVELLAND	1.0	CITIES SERVICE CO
8316088	F-8A-60415	4207900000	103 LANEY #4A	LEVELLAND	1.0	CITIES SERVICE CO
8316090	F-8A-60417	4207900000	103 LANEY #9	LEVELLAND	1.0	CITIES SERVICE CO
-BTA OIL PRODUCERS			RECEIVED: 12/29/82 JA: TX			
8316046	F-08-60106	4249531471	102-TF 7457 JV-5 HUTCHING-SEALY #4	WINK S (MCINTOY-ELLEN	547.0	LONE STAR GAS CO
-BURNT ROCK RESOURCES			RECEIVED: 12/29/82 JA: TX			
8315834	F-06-053054	4236531391	103 107-TF WEST CLAYTON GAS UNIT #1	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI

VOLUME	PAGE	FIELD NAME	PPCD	PURCHASER
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	MESTENA GRANDE (QUEEN)
8315945	F-04-057271	102-3	MESTENA H-4	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	ANT #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	FLOWERS #1-30	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	FRANT #33	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	W L RIVERS #A-#17	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	O A GUENE #5-L	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	F A BIRD ESTATE #F-#2	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	MEPCO-ELECTRA #1-C	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	PARKS-GILBERT #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	SCOTT STATE #1-U	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	107-TF VARGA GAS UNIT #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	GEORGE BLEVINS #10 (1010860)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	108-FR	MARBAUGH #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	107-TF CONOCO AVNO UNIT #1 ID #100327	0.0 AMERICAN PIPELINE
8315945	F-04-057271	108	J C RUSSELL #4-#7 ID #23725	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	RAMSEY #4-#2	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	107-TF ROSA V BENAVIDES #B-#13	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	107-TF ROSA V BENAVIDES #E-#14	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	107-TF VAQUILLAS RANCH #E-#20	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	107-TF VAQUILLAS RANCH #6-#22	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	POGERS #4	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-4	L E JONES #1 (10778)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	R E VOYLES #4	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	J H KING #E-#11	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	MORRISBUCKLE #A-#2	0.0 AMERICAN PIPELINE
8315945	F-04-057271	108	MYERS #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	VAUGHN #1-L	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	UNIVERSITY #25-A-#1 (RRC #08023)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	UNIVERSITY #25-A-#2 (RRC #08023)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	UNIVERSITY #25-A-#3 (RRC #08023)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	UNIVERSITY #25-A-#4 (RRC #08023)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	UNIVERSITY #25-A-#5 (RRC #08023)	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	102-2	RUBENSTEIN #1	0.0 AMERICAN PIPELINE
8315945	F-04-057271	RECEIVED: 12/29/82	JAN: TX	0.0 AMERICAN PIPELINE
8315945	F-04-057271	103	WILCOAT	0.0 AMERICAN PIPELINE

CC IN	JA DAT	AFI AC	F SEC(1) SEC(2) WELL NAME	VOLUME P/L	FIELD NAME	PROD	PURCHASER	PAGE
8315915	F-78-055885	4213333579	102-4 KING #2		RANGER NW (HARBLE FAL	46.0	LONE STAR GAS CO	003
-DANSON OIL CORPORATION			RECEIVED: 12/29/82	JA: TX				
8315893	F-03-055253	4217531561	102-4 JOE KEENE GAS UNIT #1		MILBY CREEK (FRIO 260	208.0		
8315979	F-05-058586	4240130605	103 LINVILLE BENNETT NGAS UT #1 WELL #1		OAK HILL	170.0	DELMH GAS PIPELIN	
-DIAMOND SHAMROCK CORPORATION			RECEIVED: 12/29/82	JA: TX				
8316029	F-10-599935	4235731234	103 DAVID A KELLIN #3		PARSELL	175.0		
8315822	F-10-051709	4221131466	103 FRANK SHALLER #2 #4		CANADIAN SE	0.0	INTER NORTH INC	
8315837	F-10-053484	4221100806	103 J B LINDLEY #4		CANADIAN SE	0.0	INTER NORTH INC	
8316030	F-10-59994	4235731268	103 SAM K HILL #2		ELLIS RANCH	128.0		
8316031	F-10-59996	4229531184	103 TOM ABRAHAM #2-507		LIPSCOMB SW	290.0		
-DISCOVERY OPERATING INC			RECEIVED: 12/29/82	JA: TX				
8316019	F-84-59932	4231732544	103 MIDDLETON #1		ACKERLY (DEAN SAND)	18.0	TEXACO INC	
8316015	F-08-59780	4231700000	103 PAINTER #1		SPRABERRY (TRENDA AREA	21.6	PHILLIPS PETROLEU	
8316020	F-08-59933	4231731527	103 PETERS #1		SPRABERRY (TRENDA AREA	18.0	PHILLIPS PETROLEU	
-DOWCO PETROLEUM INC			RECEIVED: 12/29/82	JA: TX				
8315981	F-06-055444	4240131432	102-4 SMITH R T #1 RRC ID N/A		MINDEN EAST (TRAVIS P	0.0	TEXAS UTILITIES F	
-DYNEX ENERGY INC			RECEIVED: 12/29/82	JA: TX				
8315831	F-06-052748	4240130969	103 107-TF DURLAM #1 PERMIT #R0246		OAK HILL	108.0	UNITED GAS PIPELI	
-EATON OPERATING CO			RECEIVED: 12/29/82	JA: TX				
8316010	F-03-059553	4232100000	102-4 PIERCE-MEFFELFINGER #1		BLESSING	55.0	CHANNEL INDUSTRIE	
-EDWIN L COX			RECEIVED: 12/29/82	JA: TX				
8316038	F-04-60061	4247933403	103 107-TF OLMITOS RANCH #5		MUJERES CREEK (LOBO 6	360.0	EL PASO NATURAL G	
-EL PASO NATURAL GAS COMPANY			RECEIVED: 12/29/82	JA: TX				
8315811	F-7C-049576	4243500000	108 SIMMONS #1		SONORA (CANYON UPPER)	18.0	EL PASO NATURAL G	
-ENERGETICS INC			RECEIVED: 12/29/82	JA: TX				
8316008	F-01-059470	4217731161	102-2 H E CHRISTIAN #2		CHRISTIAN (6800C)	50.0	VALERO TRANSMISSI	
-ENERGY RESERVES GROUP INC			RECEIVED: 12/29/82	JA: TX				
8315773	F-7C-031656	4238331682	108-ER RUPERT P RICKER #2		CALVIN (DEAN)	21.2	UNION TEXAS PETRO	
-ENSEARCH EXPLORATION INC			RECEIVED: 12/29/82	JA: TX				
8315855	F-01-053932	4201300000	103 H A SCHUMANN #A UNIT 1 #3-1		FASHING	712.0	NATURAL GAS PIPEL	
8315840	F-09-053565	4249732404	103 JOHN N VALCIK #2		BOONSVILLE (BCC)	100.0	LONE STAR GAS CO	
8315835	F-7C-053192	4213700000	103 107-TF MIERS #B #2		SAWYER	120.0	LONE STAR GAS CO	
8315946	F-7C-057335	4213700000	103 107-TF MIERS #B #5		SAWYER (CANYON)	120.0	LONE STAR GAS CO	
8315780	F-01-040286	4201300000	103 OTTO LITKE #2-LT		FASHING	0.0	NATURAL GAS PIPEL	
8315779	F-01-040285	4201300000	103 OTTO LITKE #2-UT		FASHING	0.0	NATURAL GAS PIPEL	
8315828	F-02-052581	4226500000	103 T C W B UNIT #4		WORD NORTH (EDWARDS)	0.0	VALERO TRANSMISSI	
8315938	F-09-057050	4249732383	103 107-TF W L MIERS #B #3		BOONSVILLE (BCC)	156.0	LONE STAR GAS CO	
8315922	F-7C-056305	4213730824	103 107-TF W L MIERS #B #34		SAWYER (CANYON)	0.0	LONE STAR GAS CO	
8315939	F-7C-057049	4213730829	103 107-TF W L MIERS #B #37		SAWYER (CANYON)	0.0	LONE STAR GAS CO	
8315959	F-7C-057937	4213730827	103 107-TF W L MIERS #B #37		SAWYER	120.0	LONE STAR GAS CO	
-EXXON CORPORATION			RECEIVED: 12/29/82	JA: TX				
8316056	F-08-00262	4210332915	103 J B TUBB #27U		SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G	
8315951	F-08-053856	4210332841	103 J B TUBB A/C 2 #265L		SAND HILLS (TUBB)	14.0	ODESSA NATURAL G	
8316027	F-08-059977	4210332900	103 J B TUBB B #26U		SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G	
8315991	F-08-059070	4210332848	103 J B TUBB C #31L		SAND HILLS (TUBB)	15.0	ODESSA NATURAL G	
8316057	F-08-00263	4210332915	103 J C TUBB #27L		SAND HILLS (TUBB)	15.0	EL PASO NATURAL G	
8315964	F-08-058091	4200333260	103 MEANS-QUEEN #1 OIL UNIT #1351		MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU	
-F WILLIAM CARR			RECEIVED: 12/29/82	JA: TX				
8316102	F-02-60492	4229700000	102-4 GEORGE WEST ESTATE #5-L		GEORGE WEST WEST	1800.0	TEXAS EASTERN TRA	
8316101	F-02-60491	4229700000	102-4 GEORGE WEST ESTATE #5-U		GEORGE WEST WEST	1500.0	TEXAS EASTERN TRA	
-FAMCO OIL INC			RECEIVED: 12/29/82	JA: TX				
8316051	F-10-60178	4223300000	108 JOHNSON G #1 RRC 25253		WEST PANHANDLE	6.6	PHILLIPS PETROLEU	
8316052	F-10-60179	4223300000	108 PHILLIPS SANFORD #23		WEST PANHANDLE	6.7	PHILLIPS PETROLEU	

PAGE 505

VOLUME 11

FIELD NAME

RECEIVED DATE

PAGE

NAME

HENRY ENERGY CORP	42,373,264	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 CITIES SERVICE CO
R15161 F-14-04595			PATTON #1		
HEWITT & DOUGHERTY	42,925,000	102-4	RECEIVED: 12/29/82	JAS: TX	1500.0
R16025 F-12-50045			K. D. ROCHF #1		HEARD RANCH (3075*)
R15460 F-02-0104	42,925,000	102-4	RECEIVED: 12/29/82	JAS: TX	50.0 TRUNKLINE GAS CO
R15460 F-02-0104			RECEIVED: 12/29/82	JAS: TX	HEARD RANCH (4800*) SAN
HILL INTERNATIONAL PRODUCTION CO	42,421,142	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 UNITED GAS PIPE L
R15852 F-14-05285			KINNEY-LINOSTROM FOUNDATION INC #20		FIELD UNAPPLIED (PAGE 5
HILL PRODUCTION CO-WISCONSIN	42,411,234	102-4	RECEIVED: 12/29/82	JAS: TX	73.0 FERGUSON CROSSING
R16032 F-03-60013			OLGA LUEKE #1		CALDWELL (AUSTIN CHAL
HNG OIL COMPANY	42,355,317	102-4	RECEIVED: 12/29/82	JAS: TX	80.0 HOUSTON PIPE LINE
R15956 F-14-05751			CHAPMAN HILLS #1		ARNOLD-DAVID (#400)
HONE PETROLEUM CORPORATION	42,677,674	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 CLAYTON GAS CO
R15924 F-13-05679			F. P. MITCHELL #1		GIDDINGS (AUSTIN CHAL
R15785 F-11-04290	42,285,157	102-4	RECEIVED: 12/29/82	JAS: TX	94.3 TEXAS EASTERN TRA
HUO PRODUCTION CORP	42,410,000	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 PANHANDLE EASTERN
R15933 F-10-01494			PRET #1		BRENT (PANHANDLE MOOR
HUMBLE EXPLORATION CO INC	42,341,578	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 PANHANDLE EASTERN
R15520 F-10-05617			PRET #2		BRENT (PANHANDLE MOOR
R15804 F-13-04675	42,270,000	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 PHILLIPS PETROLEU
R15887 F-13-05521	42,149,310	102-4	RECEIVED: 12/29/82	JAS: TX	126.0 PHILLIPS PETROLEU
R15829 F-11-05264	42,177,112	102-4	RECEIVED: 12/29/82	JAS: TX	334.3 VALERO TRANSMISSI
INDIAN WELLS OIL CO	42,355,140	102-4	RECEIVED: 12/29/82	JAS: TX	0.0 INTER NORTH INC
R15966 F-10-05116			RICHEY #1		J. R. (5505)
J. R. HAMILTON	42,110,000	102-4	RECEIVED: 12/29/82	JAS: TX	100.0 VALERO TRANSMISSI
R16097 F-14-04747			CUELLAR #1		100.0 VALERO TRANSMISSI
R16097 F-14-04747	42,131,000	102-4	RECEIVED: 12/29/82	JAS: TX	182.0 TRANSMISSI PIPE
JACK G. JONES	42,295,000	102-4	RECEIVED: 12/29/82	JAS: TX	11.0 EL PASO NATURAL G
R15975 F-10-01494			DEWIS #1		WEATHERFORD S. F. (2100)
JAKE L. HANON	42,105,240	102-4	RECEIVED: 12/29/82	JAS: TX	73.0 MID-STATE GAS COR
R15807 F-10-04977			SUTTON #1		EL TORO SOUTH (6900)
JAY ENERGY CORP	42,267,272	102-4	RECEIVED: 12/29/82	JAS: TX	GIDDINGS (AUSTIN CHAL
R16105 F-11-05095			SHAW #1		YOUNG COUNTY REGULAR
JOE McDONALD	42,403,000	102-4	RECEIVED: 12/29/82	JAS: TX	75.0 PHILLIPS PETROLEU
R15857 F-09-05403			KING #1		8.0
J3 OIL CO INC	42,299,175	102-4	RECEIVED: 12/29/82	JAS: TX	219.0 UNITED TEXAS TRAN
R15961 F-12-05797			RECEIVED: 12/29/82	JAS: TX	PANHANDLE GRAY COUNTY
KEITH D. GRAM	42,011,263	102-4	RECEIVED: 12/29/82	JAS: TX	50.0 VALLEY GAS TRANSM
R16061 F-03-60344			SCHOENBERG UNIT #1		0.0 VALERO TRANSMISSI
KEITH-STEVENSON RESOURCES INC	42,500,000	102-4	RECEIVED: 12/29/82	JAS: TX	175.7 VALERO TRANSMISSI
R15882 F-09-05039			CGP #1		
KENNEDY & MITCHELL INC	42,371,005	102-4	RECEIVED: 12/29/82	JAS: TX	
R15978 F-10-05855			SPENCE #1		
KILLAM & HORD LTD	42,051,208	102-4	RECEIVED: 12/29/82	JAS: TX	
R15814 F-03-04970			SKRIVANEX #1		
KILROY CO OF TEXAS	42,265,137	102-4	RECEIVED: 12/29/82	JAS: TX	
R15880 F-02-05442			MCELROY #1		
KIM PETROLEUM CO INC	42,179,124	102-4	RECEIVED: 12/29/82	JAS: TX	
R16108 F-10-60563			MUSTO #1		
L. & L. PETROLEUM CORPORATION	42,297,272	102-4	RECEIVED: 12/29/82	JAS: TX	
R15963 F-02-05024			ANNA MAY WELLS #1		
LADO PETROLEUM CORPORATION	42,105,000	102-4	RECEIVED: 12/29/82	JAS: TX	
R16103 F-10-60565			107-1F IRA CARSON #1		
R16104 F-10-60564			107-1F MONTGOMERY #1		

VOLUME 11

PAGE 104

FIELD NAME	PROD	PURCHASER
SAND HILLS (MCNIGHT)	72-2	WARREN PETROLEUM
COLLIE (DELAWARE)	91-2	INTRATEX GAS CO
GENEVA (WELLSBERGER)	365-0	PRODUCERS GAS CO
COLLIE (DELAWARE)	91-2	INTRATEX GAS CO
FAGAN FIELD	0-0	LONE STAR GAS CO
FAGAN FIELD	146-0	LONE STAR GAS CO
FAGAN	650-0	LONE STAR GAS CO
FAGAN FIELD	146-0	LONE STAR GAS CO
FAGAN	146-0	LONE STAR GAS CO
FAGAN FIELD	146-0	LONE STAR GAS CO
MURTEN (GEORGETOWN)	547-5	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL)	365-0	CLAJON GAS CO
CARLILE & HOWELL (TP)	285-0	UNITED GAS PIPELINE
WILLOW SPRINGS (PETTI)	9-0	DELHI GAS PIPELINE
RINCON (A-9)	73-0	TENNESSEE GAS PIPE
JKT (CANYON)	0-0	PRODUCERS GAS CO
TAOS (CANYON)	0-0	INTER NORTH INC
ACKERLY (OCEAN SAND)	0-0	TENACO INC
SPRABERRY (TRENCH AREA)	0-0	J L DAVIS
MICAR (BEND CONGL 372)	119-0	WARREN PETROLEUM
GENTRY-PERTINS (STRAW)	104-0	NATURAL GAS PIPE
RENO (CONGL)	13-6	NATURAL GAS PIPE
BRIDGEPORT (CALDO CON)	10-2	NATURAL GAS PIPE
WADISONVILLE (SUB-CLA)	274-0	LONE STAR GAS CO
BOONSVILLE (CONSOLIDA)	9-5	NATURAL GAS PIPE
VIENNA (MIDDLE WILCOX)	750-0	UNITED TEXAS TRAN
RENG (CONGL)	0-0	NATURAL GAS PIPE
OAKS (COTTON VALLEY S)	273-4	TEXAS UTILITIES F
K & B (CANYON)	274-0	ESPERANZA PIPELINE
BOONSVILLE (BEND CONG)	12-3	NATURAL GAS PIPE
PHOME (CALDOO)	11-8	NATURAL GAS PIPE
RIFE (CONGL 3900)	0-0	SOUTHWESTERN GAS
COTTONWOOD CREEK (CAN)	25-4	UNITED GAS PIPELINE
CORPUS CHRISTI (6106)	489-5	TEXAS UTILITIES F
COMO (SMACKOVER)	1-5	TEXAS UTILITIES F
BRANNEY NORTHWEST (D)	4-7	
GOLD RIVER NORTH (OLM)	0-0	DELHI GAS PIPELINE
GOLD RIVER NORTH (CLM)	0-0	DELHI GAS PIPELINE
GOLD RIVER NORTH (CLM)	0-0	DELHI GAS PIPELINE

1-7-13 516.1 WILL 2-2

442 21

JUL

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS
RECEIVED: 12/29/82	JA: TX
103	107-TF BLAIR #1
RECEIVED: 12/29/82	JA: TX
102-4	F SUGG 15 #1 RRC # - NOT ASSIGNED
RECEIVED: 12/29/82	JA: TX
101	COLFMAN #0 #2
RECEIVED: 12/29/82	JA: TX
103	UNIVERSITY #16-0 #1
RECEIVED: 12/29/82	JA: TX
102-4	COPELAND RANCH #4 (19021)
RECEIVED: 12/29/82	JA: TX
103	R B POORE #2
103	RESSIE FOYD #1 407-24
103	M G LEONARD #1 10155
103	HERMAN FANNIN #1
103	J W ROBINSON #1 117374
102-4	L ALLEN JR #1
103	M L EAPP #1 02773
103	107-TF M W EVERETT #1
102-4 103	MCWHORTER #14 #2-U
103	NASH-BILLINGSLEY #1 428759
103	NFL HULLDESTON A #2 191601
103	R H GAULDOIN #P 091433
RECEIVED: 12/29/82	JA: TX
102-4	A L SMITH #1
102-4	CHARLES P WIL GAS UNIT #1
107-PE	ROBERT FORD GAS UNIT #1
102-4	SHOOK ESTATE #1
RECEIVED: 12/29/82	JA: TX
107-TF	LOCKER RANCH (SEC 1853) 3 (93201)
107-TF	LOCKER RANCH #2 #P (93684)
107-TF	LOCKER RANCH #C #P (93685)

RECEIVED: 12/29/82	JA: TX
103	REIOLAND #2
RECEIVED: 12/29/82	JA: TX
102-4 103	BLACKWELL #1
102-4	BRUTON #27 #1
102-4 103	COLLIE #P #3
RECEIVED: 12/29/82	JA: TX
107-PE	MARY ALICE ANDERSON #A#6
107-PE	MARY ALICE ANDERSON A-1
107-PE	MARY ALICE ANDERSON A-10
107-PE	MARY ALICE ANDERSON A-11
107-PE	MARY ALICE ANDERSON A-4
107-PE	MARY ALICE ANDERSON A-5
RECEIVED: 12/29/82	JA: TX
102-2	ANDERSON #1
102-2	STEPHEN #1
RECEIVED: 12/29/82	JA: TX
101	LOCKE #1-1
103	T & HALE #2
RECEIVED: 12/29/82	JA: TX
102-4	LA PRISA L & C CO - STATE OF TEXAS

[illegible]

APR 83	DATE	FILE NO.	FILE NAME	FILE TYPE
8315825	F-10-052132	4223300000	108	108
8315808	F-08-049110	4200304805	108	108
-PITTS OIL CO & DALLAS PROD INC	RECEIVED: 12/29/82	JAN: TX	PANHANDLE HUTCHINSON	0.0 EL PASO NATURAL GAS
8315821	F-06-056205	4207330467	102-3	4.0 EL PASO NATURAL GAS
-PRODECO EXPLORATION INC	RECEIVED: 12/29/82	JAN: TX	WHITE OAK CREEK (IRAV)	365.0 DELHI GAS PIPELINE
8316000	F-03-059216	4204130784	102-2	0.0 PRODUCERS GAS CO
8315813	F-03-049664	421451282	102-2	GIDDINGS (AUSTIN) CHAL
8315812	F-03-049663	4214970996	102-2	GIDDINGS (AUSTIN) CHAL
-PYRON EXPLORATION & DRILLING CORP	RECEIVED: 12/29/82	JAN: TX	STEPHENS COUNTY REGULAR	72.0 WARREN PETROLEUM
8315843	F-78-053727	4242933154	103	0.0 CLAUON GAS CO
-Q M G OPERATIONS INC	RECEIVED: 12/29/82	JAN: TX	WELLBORN S (GEORGETOWN)	0.0 CLAUON GAS CO
8315786	F-03-042415	4204160000	102-4	0.0 LONE STAR GAS CO
-R A W ENERGY CORP	RECEIVED: 12/29/82	JAN: TX	WESSLER (SARAH)	0.0 SOUTHWESTERN GAS
8315853	F-78-053882	4236731240	102-4	120.0 DIAMOND SHAMROCK
8315829	F-78-053539	4236332897	102-4	0.0 SEAGULL PIPELINE
-REO INDUSTRIES INC	RECEIVED: 12/29/82	JAN: TX	CHENANGO WEST (8150)	0.0 INTER NORTH INC
8315841	F-03-053648	4203931591	103	0.0 HOUSTON PIPE LINE
-RIO PETROLEUM INC	RECEIVED: 12/29/82	JAN: TX	WEST PANHANDLE	90.0 NATURAL GAS PIPELINE
8315841	F-03-053648	4203931591	103	182.4 PHILLIPS PETROLEUM
-RK PETROLEUM CORP	RECEIVED: 12/29/82	JAN: TX	GIDDINGS (AUSTIN) CHAL	252.0 PHILLIPS PETROLEUM
8316086	F-68-06398	421732577	103	500.0 UNITED TEXAS TRAN
-ROCKWOOD RESOURCES INC	RECEIVED: 12/29/82	JAN: TX	BRAYSON EAST	54.0 TEXAS UTILITIES F
8315900	F-03-055437	4203931760	102-4	73.0 TEXAS UTILITIES F
-ROY FARRELL	RECEIVED: 12/29/82	JAN: TX	BOBIL (CONGL)	36.0 LONE STAR GAS CO
8315833	F-10-053032	4206531002	103	73.0 SUN GAS TRANSMISS
-SAGE ENERGY CO	RECEIVED: 12/29/82	JAN: TX	JACK COUNTY REGULAR	127.0 LONE STAR GAS CO
8315930	F-03-056631	4205113924	102-2	76.7 THROCKMORTON GAS
8315929	F-03-056825	4247730479	102-2	20.1 THROCKMORTON GAS
-SANCHEZ-OBRIEN OIL & GAS CORP	RECEIVED: 12/29/82	JAN: TX	MAZEL (STRAWN)	65.0 LONE STAR GAS CO
8316058	F-01-60285	421131650	103	0.0 CHANNEL INDUSTRIE
-SCANDRILL INC	RECEIVED: 12/29/82	JAN: TX	ROSENBURG (NORTH-5200)	300.0 VALERO INTERSTATE
8315862	F-03-054422	4223734467	103	19.1 EL PASO NATURAL GAS
8315863	F-03-054424	4223734461	103	105.0 EL PASO HYDROCARB
8315860	F-03-054416	4223734334	102-4	34.2 LONE STAR GAS CO
8315824	F-03-052115	4223734316	103	37.0 PHONTO COMPRESSIO
8315940	F-03-057071	4223734597	102-4	162.0
8315944	F-78-057250	4244731087	103	0.0
8315861	F-78-054421	4244731002	103	
8315877	F-03-054832	4223734334	102-4	
-SEAGULL RESOURCES INC	RECEIVED: 12/29/82	JAN: TX	ROSENBURG (NORTH-5200)	
8315934	F-03-054962	4215700000	102-4	
-SHELL OIL CO	RECEIVED: 12/29/82	JAN: TX	MCALLEN PANCH (VICKSE)	
8315962	F-04-057992	4221531223	103	YUCCA HUTIE (DEVONIAN)
8316006	F-04-057952	4257100000	108	GRIEF (FRY)
-SHORTES V M & MABEL F	RECEIVED: 12/29/82	JAN: TX	DOUGLAS (GARDENH SE)	
8316011	F-78-05686	4208000000	103	YOUNG COUNTY REGULAR
-SIDCO INC	RECEIVED: 12/29/82	JAN: TX	TIJERINA-CANALES-PLUC	
8315909	F-78-05688	4239932346	102-4	FLOWELLA/VICKSBURG 4
-SPRUIELL DRILLING CO INC	RECEIVED: 12/29/82	JAN: TX		
8316017	F-09-059919	4250335542	103	
-SUN EXPLORATION & PRODUCTION CO	RECEIVED: 12/29/82	JAN: TX		
8316050	F-04-60137	427331667	103	
8315838	F-04-053509	4204731079	102-4	

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to The Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice. The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS Lease

- 102-1: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-3: New onshore reservoir
- 102-5: New reservoir on old OCS Lease

Section 107-DP: 15,000 feet or deeper

- 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-DX: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well

- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2703 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26, 1993.

FIELD NAME	FACTOR	PERCENTAGE
1168.0 EL PASO HYDROCARB		
15.4 BLACK HAWK GASOL		
32.0 LONE STAR GAS CO		
27.3 PHILLIPS PETROLEU		
36.5 AMOCO PRODUCTION		
0.0 GETTY OIL CO		
ANN MCKNIGHT (PALUXY)	0.0	
ANN MCKNIGHT (PALUXY)	0.0	
ANN MCKNIGHT (PALUXY)	0.0	
ANN MCKNIGHT (PALUXY)	0.0	
TALLY (CONGLOMERATE)	117.2 TEXAS UTILITIES F	
HOOKER CREEK (NAVARRO)	46.0 FERGUSON CROSSING	
HOOKER CREEK (NAVARRO)	27.0 FERGUSON CROSSING	
SPRABERRY (TREAD AFCA)	8.0 PHILLIPS PETROLEU	
LIMES (WILCOX 4000)	350.0 HOUSTON PIPE LINE	
GIDDINGS (AUSTIN CHML)	0.0	
PATSY (CADD0 LOWER) 6	14.6 MST GATHERING CO	
MONTE CHRISTO (VICISB)	1000.0 TFC PIPELINE CO	
LAKE CISCO MARELE FAL	0.0 LONE STAR GAS CO	
LAKE CISCO MARELE FAL	0.0 LONE STAR GAS CO	
ANTELOPE S E (PARGLE)	186.2 SOUTHWESTERN GAS	
BURNS CHERRY CANYON	125.0 DELHI GAS PIPELIN	
PANHANDLE - HUTCHINSON	93.1 DIAMOND SHARROCK	
COLEMAN COUNTY REGULA	50.0 LONE STAR GAS CO	

JO #	DATE	FILE #	FILE NAME	FILE	PUNCHER
8316181	F-56-61117	422732640	G W DODGE #66	103	
8316183	F-08-61119	4241532259	SACROC UNIT #20-13	103	IATAN-EAST HOWARD
8316182	F-08-61118	4233532282	W L FOSTER 1 #73	103	KELLY-SNYDER
CITIES SERVICE COMPANY					
8316184	F-08-61154	4233533977	FOSTER GRSA UNIT #411	103	12/29/82 JA: TX
8316185	F-08-61154	4233533928	FOSTER GRSA UNIT #412	103	COWDEN SOUTH
8316186	F-08-61154	4233533959	WEST GOLDSMITH UNIT #3906	103	COWDEN SOUTH
8316187	F-08-61154	4233533941	WEST GOLDSMITH UNIT #4004	103	GOLDSMITH W (CLEARFOR
8316188	F-08-61154	4233533943	WEST GOLDSMITH UNIT #4006	103	GOLDSMITH W (CLEARFOR
8316189	F-08-61154	4233533945	WEST SEMINOLE SAN ANDRES UNIT #626	103	GOLDSMITH W (CLEARFOR
8316190	F-08-61154	4233533947	WEST SEMINOLE SAN ANDRES UNIT #627	103	SEMINOLE WEST
CLAYTON HOUSTON					
8316191	F-7P-61126	4233300000	MC CONNELL-MORELAND #1 (076832)	10P	12/29/82 JA: TX
CONOCO INC					
8316192	F-03-60623	4234900001	A F STEINHAUSER #7	10P	12/29/82 JA: TX
8316193	F-10-61150	4206500000	BURNETT #58A	10P	GIDDINGS (AUSTIN CHAL
8316194	F-10-61152	4206500001	BURNETT #68A	10P	WEST PANHANDLE
8316195	F-PA-61182	4207930317	CONOCO DEAN UNIT #91 ID #60106	10P	WEST PANHANDLE
8316196	F-7P-61182	4233300000	FLOWERS WEST UNIT #5 ID#1177	10P	SLAUGHTER
8316197	F-10-61150	4207900000	FUGUA W H #7	10P	FLOWERS WEST/CANYON S
8316198	F-10-61149	4206500000	G W DEHL #1	10P	WEST PANHANDLE
8316199	F-10-61148	4206500000	G W DEHL #2	10P	WEST PANHANDLE
8316200	F-08-61186	4231731341	GRISHAM & GREENMAN #36 ID # 22261	10P	SPRABERRY/TREND AREA/
8316201	F-08-61187	4210931348	J C RUSSELL #4- #8 ID #23725	10P	GERALDINE/4000 DELAWA
8316202	F-10-61151	4206500000	J E WONGOLE #1	10P	WEST PANHANDLE
8316203	F-06-61133	4210931356	RAMSEY #44 #4 ID #27636	10P	GERALDINE/DELAWARE 34
8316204	F-7P-61186	4235100000	ROUND TOP PALO PINTO #81 ID#11416	10P	ROUND TOP/PALO PINTO
8316205	F-7C-61182	4238330877	UNIVERSITY #91 IC#04307	10P	BIG LAKE/SPRABERRY/
CONSOLIDATED OIL & GAS INC					
8316206	F-04-60670	4247933144	ZACHRY #13	10P	12/29/82 JA: TX
8316207	F-04-60669	4247933243	ZACHRY #15	10P	LAREDO (LOB80)
COSTA RESOURCES INC					
8316208	F-08-61271	4237133569	ADORE #1	10P	12/29/82 JA: TX
COTTON PETROLEUM CORPORATION					
8316209	F-10-60815	4225500000	BRADFORD #0 #1	10P	12/29/82 JA: TX
CPC EXPLORATION INC					
8316210	F-03-61154	4205111761	RAY MAASS #1 LEASE NO 14982	10P	12/29/82 JA: TX
D H BRAMAN JR					
8316211	F-7C-611437	4225531646	10-1F D H BRAMAN JR -B1 ADA MOREHEAD	10P	12/29/82 JA: TX
JOHNSON OIL CORPORATION					
8316212	F-04-60747	4247933376	O S PETTY #2-11	10P	12/29/82 JA: TX
8316213	F-04-60749	4247933577	O S PETTY #3-11	10P	107-1F O S PETTY #2-11
8316214	F-04-60746	4247933307	O S PETTY #4-11	10P	107-1F O S PETTY #3-11
8316215	F-04-60748	4247933310	O S PETTY #4-2	10P	107-1F O S PETTY #4-11
DELRAY OIL INC					
8316216	F-7P-61343	4206333160	HERTIE E STONE #21	10P	12/29/82 JA: TX
8316217	F-7P-61393	4207312718	DELBERT LEFEVRE #1	10P	102-4 DELBERT LEFEVRE #1
8316218	F-7P-61395	4207312720	L D LEFEVRE #2	10P	102-4 L D LEFEVRE #2
DELTA DRILLING CO					
8316219	F-06-61299	4242300000	WILLIAMS #A #1U	10P	12/29/82 JA: TX
DESO TO GLASS OIL CO					
8316220	F-08-60656	4249500000	COWDEN #1	10P	12/29/82 JA: TX
DIAMOND SHAMROCK CORPORATION					
8316221	F-08-60656	4249500000	CAEOT CORP	10P	14-6 CAEOT CORP

JD NC	JA TAT	4-1 NC	RECEIVED	SECTION	WELL NAME	DATE	FIELD NAME	PROP	PURCHASER
8316252	F-16-061575	4255726260	103	RECEIVED:	BROWNLEE BROS-COOK #2	12/29/82	NORTHUP	58.0	SOUTHWESTERN PUBL
-DIRKS	PETROLEUM CORP	4202531294	108	RECEIVED:	HENRY AMEN #3	JA: TX		66.0	TRANSCO GAS PIPEL
8316274	F-02-061313	4202531415	108	RECEIVED:	SARA BATOT #1	090977		3.7	TRANSCO GAS PIPEL
-DOUBLE	EAGLE DRILLING	4207732618	103	RECEIVED:	W R FULGHAM #6 WELL 6	JA: TX		0.0	FAGADAU ENERGY CO
-ECON	EXPLORATION INC	4236772351	102-4	RECEIVED:	J J WRIGHT #3	101995		95.0	PARKER GAS INC
8316120	F-78-06053	4207531207	102-4	RECEIVED:	EDC-DON POWDERHORN RANCH #3	1010797		109.5	DOW CHEMICAL CO
-ENERGY	DEVELOPMENT CORPORATION	4220300000	108	RECEIVED:	O AND E K KNOX 1-T & 1-C	JA: TX		0.0	TEXAS EASTERN TRA
8316376	F-02-061664	4245930536	103	RECEIVED:	107-TF YOUNG GAS UNIT #1 WELL #2	JA: TX		875.0	WESTERN GAS CORP
-EWSERCH	EXPLORATION INC	4217931263	103	RECEIVED:	FELIX #13 (ID#0511P)	JA: TX		100.0	CABOT PIPELINE CO
8316299	F-06-061919	4231732351	102-4	RECEIVED:	BAYES PROYMERS #1	JA: TX		2.0	
-ESTATE	OF WM D MCBEE	4210332914	103	RECEIVED:	J P TUBB B #28L	JA: TX		15.0	EL PASO NATURAL G
8316194	F-06-061144	4210332914	103	RECEIVED:	J P TUBB B #28U	JA: TX		15.0	EL PASO NATURAL G
-EXCEL	PRODUCTION CO	4210333178	103	RECEIVED:	J B TUBB B #29L	JA: TX		15.0	EL PASO NATURAL G
8316367	F-10-061614	4210333178	103	RECEIVED:	J B TUBB B #29U	JA: TX		15.0	EL PASO NATURAL G
-EXON	CORPORATION	4227331289	102-4	RECEIVED:	K R CHILPIN 61-F (020820)	JA: TX		400.0	ARMCO STEEL CORP
8316339	F-08-061511	4226130235	102-4	RECEIVED:	K R SAN JOSE DE LA PARRA 15	073994		200.0	ARMCO STEEL CORP
8316138	F-08-060771	4204700000	108	RECEIVED:	MC GILL BROS 163 (053728)	JA: TX		16.0	TRUNKLINE GAS CO
8316137	F-08-060770	4204700000	108	RECEIVED:	MC GILL BROS 17 (042984)	JA: TX		120.0	TRUNKLINE GAS CO
8316164	F-08-060753	4224730805	103	RECEIVED:	MRS A M K BASS 35 (101200)	JA: TX		1400.0	ARMCO STEEL CORP
8316163	F-08-060934	4226130740	102-4	RECEIVED:	MRS S K KAST 141 (101850)	JA: TX		642.0	ARMCO STEEL CORP
8316327	F-04-061495	423532376	103	RECEIVED:	N R & E MONTALVO 10 (061881)	JA: TX		2.0	TENNESSEE GAS PIP
8316328	F-04-061496	4201530465	103	RECEIVED:	SARAH E MELLRUTH #20	JA: TX		32.0	
8316262	F-04-061281	4201530465	103	RECEIVED:	TOMBALL GAS UNIT #9 #15	JA: TX		6.2	TEXAS SOUTHEASTER
8316264	F-04-061283	4201530465	103	RECEIVED:	WEBSTER FIELD UNIT #2775	JA: TX		438.6	NATURAL GAS PIPEL
8316177	F-04-061111	4220131413	103	RECEIVED:	WEBSTER FIELD UNIT #2780	JA: TX		20.0	HOUSTON PIPELINE
8316178	F-04-061112	4220131417	103	RECEIVED:	WEBSTER	JA: TX		11.0	HOUSTON PIPELINE
8316263	F-04-061282	4225332276	103	RECEIVED:	CARSON #1	JA: TX		62.0	CONOCO INC
8316157	F-7C-060885	4247532537	103	RECEIVED:	RILEY #3 #26653	JA: TX		54.7	INTER NORTH INC
8316373	F-03-061643	4247532609	103	RECEIVED:	RILEY #4-A #26653	JA: TX		109.5	INTER NORTH INC
8316225	F-03-061191	4247532621	103	RECEIVED:	STAYTON #4-A #2614	JA: TX		29.5	EXXON CO
8316226	F-03-061194	4232931080	103	RECEIVED:	SAUNDERS #1	JA: TX		15.0	PHILLIPS PETROLEU
8316224	F-03-061189	4247530844	108	RECEIVED:	BROWN UNIT #1	JA: TX		21.0	EL PASO HYDROCARB
-FGB	ENERGY INC	4230130209	103	RECEIVED:	TADPOLE #1	JA: TX		19.0	EL PASO HYDROCARB
8316306	F-78-061453	4225331960	103	RECEIVED:	BAKER #E #4	JA: TX		70.0	INTER NORTH INC
-FLAG-REDFERN	OIL CO	4225331962	103	RECEIVED:	MURPHY #1221 #5	JA: TX		63.0	FARMLAND INDUSTRI
8316387	F-08-061124	4202333292	103	RECEIVED:	UNIVERSITY #17A #3	JA: TX		7.0	PHILLIPS PETROLEU
8316386	F-08-061123	4242933403	102-4	RECEIVED:	G E LANGFORD -A- #1-A	JA: TX		18.0	LONE STAR GAS CO
8316385	F-08-061122								
-FLOYD J	H JR								
-FOREST	OIL CORPORATION								
8316323	F-08-061481								
8316384	F-08-061860								
-FORTUNE	PRODUCTION CO								
8316290	F-7C-061384								
8316269	F-7C-061297								
-FRAC	INC								
8316279	F-08-061339								
-G L PAGE	PETROLEUM INC								
8316145	F-78-060817								

JD 20	JA CAT	API AC	RECEIVED	12/29/82	WELL NAME	VOLUME	F2	FIELD NAME	FACD	PURCHASER	PAGE
											105
-MACK PETROLEUM			RECEIVED:	12/29/82	JA: TX						
8316151	F-05-60843	4239530279	103	12/29/82	JA: TX						
-MAPCO PRODUCTION COMPANY			RECEIVED:	12/29/82	JA: TX						
8316301	F-10-661429	4223360000	108	12/29/82	JA: TX						
-MARATHON OIL COMPANY			RECEIVED:	12/29/82	JA: TX						
8316247	F-04-661233	4240931211	102-4	12/29/82	JA: TX						
8316248	F-04-661234	4240931211	102-4	12/29/82	JA: TX						
8316235	F-04-661212	4240900000	108	12/29/82	JA: TX						
8316246	F-04-661232	4240931444	102-4	12/29/82	JA: TX						
8316237	F-04-661214	4240900000	108	12/29/82	JA: TX						
8316245	F-04-661231	4240931316	102-4	12/29/82	JA: TX						
8316244	F-04-661230	4240931316	102-4	12/29/82	JA: TX						
8316242	F-04-661228	4240931195	102-4	12/29/82	JA: TX						
8316241	F-04-661227	4240931611	103	12/29/82	JA: TX						
8316236	F-04-661213	4240900000	108	12/29/82	JA: TX						
8316238	F-04-661215	4240900000	108	12/29/82	JA: TX						
8316243	F-04-661229	4240931347	102-4	12/29/82	JA: TX						
-MEARCO PROPERTIES			RECEIVED:	12/29/82	JA: TX						
8316364	F-7C-661592	423531622	102-2	12/29/82	JA: TX						
-MITCHELL ENERGY CORPORATION			RECEIVED:	12/29/82	JA: TX						
8316176	F-03-61106	4244900000	108	12/29/82	JA: TX						
8316136	F-09-60758	4249732431	103	12/29/82	JA: TX						
8316354	F-7B-661558	4231760000	108	12/29/82	JA: TX						
-MOBIL PROS TEXAS & NEW MEXICO INC			RECEIVED:	12/29/82	JA: TX						
8316267	F-8A-661292	4221933550	103	12/29/82	JA: TX						
8316295	F-8A-661397	4221933545	103	12/29/82	JA: TX						
-MONSANTO OIL CO			RECEIVED:	12/29/82	JA: TX						
8316292	F-10-661368	4219500000	108	12/29/82	JA: TX						
-MR OIL CO			RECEIVED:	12/29/82	JA: TX						
8316207	F-08-61162	4247532651	103	12/29/82	JA: TX						
8316296	F-08-661398	4247532410	103	12/29/82	JA: TX						
8316203	F-08-61157	4247532695	103	12/29/82	JA: TX						
-N D STOVALL & SON			RECEIVED:	12/29/82	JA: TX						
8316325	F-7B-661492	4235332408	103	12/29/82	JA: TX						
-NATURAL GAS ANADARKO INC			RECEIVED:	12/29/82	JA: TX						
8316311	F-10-60596	4235731264	102-4	12/29/82	JA: TX						
-NOEL PAUTSKY			RECEIVED:	12/29/82	JA: TX						
8316312	F-7B-661461	4244732614	103	12/29/82	JA: TX						
-OILWELL OPERATORS INC			RECEIVED:	12/29/82	JA: TX						
8316343	F-10-661521	4217900000	104	12/29/82	JA: TX						
8316342	F-10-661520	4217900000	108	12/29/82	JA: TX						
8316345	F-10-661523	4217900000	108	12/29/82	JA: TX						
8316344	F-10-661522	4217900000	108	12/29/82	JA: TX						
8316324	F-10-661491	4217900000	103	12/29/82	JA: TX						
8316326	F-10-661493	4217900000	103	12/29/82	JA: TX						
-PANHANDLE PRODUCING COMPANY			RECEIVED:	12/29/82	JA: TX						
8316191	F-10-61130	4223300000	108	12/29/82	JA: TX						
8316188	F-10-61127	4223300000	108	12/29/82	JA: TX						
8316189	F-10-61128	4223300000	108	12/29/82	JA: TX						
8316190	F-10-61129	4223300000	108	12/29/82	JA: TX						
-PARKER & PARSLEY INC			RECEIVED:	12/29/82	JA: TX						
8316280	F-08-661341	4231732584	103	12/29/82	JA: TX						
-PARKER OPERATING CO INC			RECEIVED:	12/29/82	JA: TX						

[illegible]

VOLUME 826

PAGE 607

JD NO	JA INT	FPI AC	RECEIVED:	FIELD NAME	PROC	PURCHASER
-50-TEX PETROLEUM, INC.			12/29/82	JAS: TX		
8316369	F-78-061616	4244132254	103	SOUTH CORNETT #4		36.5 UNION TEXAS PETRO
-SOUTHLAND ROYALTY CO			12/29/82	JAS: TX		
8316155	F-03-060883	423930537	102-4	BARRIE DEAN ROSIER #1		5.1 WINNIE PIPELINE C
8316382	F-08-061431	421030000	108	BRYANT #20 #3		9.0 EL PASO NATURAL G
-STALLWORTH OIL & GAS INC			12/29/82	JAS: TX		
8316149	F-78-060834	4208332596	103	TIMMINS "A" #1 WELL - 095566		55.0 BRADY TEXAS MUNIC
-SUN EXPLORATION & PRODUCTION CO			12/29/82	JAS: TX		
8316251	F-01-061240	421270000	103	RIG WELLS (SAN MIGUEL) UNIT #1032		3.0 MCUSTON PIPE LINE
8316377	F-01-061666	4212732374	103	RIG WELLS (SAN MIGUEL) UNIT #1306		3.0 HOUSTON PIPE LINE
8316253	F-01-061242	4212732375	103	RIG WELLS (SAN MIGUEL) UNIT #1307		26.0 HOUSTON PIPE LINE
8316254	F-01-061243	4212732354	103	RIG WELLS (SAN MIGUEL) UNIT #1410		24.0 HOUSTON PIPE LINE
8316252	F-01-061241	4212732178	103	RIG WELLS (SAN MIGUEL) UNIT #12127		28.0 HOUSTON PIPE LINE
8316311	F-01-061459	4212732180	103	RIG WELLS (SAN MIGUEL) UNIT #2128		80.0 HOUSTON PIPE LINE
8316357	F-04-061574	424270000	108	D O OIL CO-B-#5		8.0
8316307	F-7C-061453	4208130929	103	D M MILLICAN "A" #1		86.0 LONE STAR GAS CO
8316308	F-7C-061456	4208131015	103	D M MILLICAN "A" #2		198.0 LONE STAR GAS CO
8316310	F-09-061458	422751213	102-4	FANT		22.0 SUN GAS TRANSMISS
8316355	F-04-061572	424270000	108	FRANCISCA G DE PEREZ #1		13.0 TRANSCONTINENTAL
8316356	F-04-061573	424270000	108	FRANCISCA G DE PEREZ #5		17.0
8316222	F-09-061185	424270000	108	HENRY KELLY UNIT #2		8.0 NATURAL GAS PIPEL
8316309	F-03-061457	4207131070	102-4	JACOBSON UNIT #3		125.0 TEXAS EASTERN TRA
8316213	F-78-061174	4242933241	103	VEALE-PARKS (CADD00) UNIT #13		4.0 WARREN PETROLEUM
8316218	F-78-061181	4242933224	103	VEALE-PARKS (CADD00) UNIT #14		2.0 WARREN PETROLEUM
8316210	F-78-061174	4242900000	103	VEALE-PARKS (CADD00) UNIT #16		4.0 WARREN PETROLEUM
8316219	F-78-061182	4242933262	103	VEALE-PARKS (CADD00) UNIT #18		0.4 WARREN PETROLEUM
8316221	F-78-061184	4242933280	103	VEALE-PARKS (CADD00) UNIT #20		0.4 WARREN PETROLEUM
8316217	F-78-061179	4242933291	103	VEALE-PARKS (CADD00) UNIT #22		2.0 WARREN PETROLEUM
8316215	F-78-061176	4242933278	103	VEALE-PARKS (CADD00) UNIT #23		2.0 WARREN PETROLEUM
8316216	F-78-061178	4242933222	103	VEALE-PARKS (CADD00) UNIT #24		2.0 WARREN PETROLEUM
8316211	F-78-061182	4242933522	103	VEALE-PARKS (CADD00) UNIT #26		4.0 WARREN PETROLEUM
8316214	F-78-061175	4242933294	103	VEALE-PARKS (CADD00) UNIT #28		2.0 WARREN PETROLEUM
8316209	F-78-061170	4242933309	103	VEALE-PARKS (CADD00) UNIT #30		0.4 WARREN PETROLEUM
8316220	F-78-061183	4242933220	103	VEALE-PARKS (CADD00) UNIT #7		0.4 WARREN PETROLEUM
8316212	F-78-061173	4242933405	103	VEALE-PARKS (CADD00) UNIT #9		2.0 WARREN PETROLEUM
-SUPERIOR OIL CO			12/29/82	JAS: TX		
8316228	F-84-061197	4211531659	103	ACKERLY (DEAN SAND)		0.0 GETTY OIL CO
8316227	F-84-061196	4211531701	103	ACKERLY (DEAN SAND)		0.0 GETTY OIL CO
8316231	F-84-061202	4211531567	103	ACKERLY (DEAN SAND)		0.0 GETTY OIL CO
8316230	F-84-061201	4211531700	103	ACKERLY (DEAN SAND)		0.0 GETTY OIL CO
8316229	F-84-061198	4211531566	103	ACKERLY (DEAN SAND)		0.0 GETTY OIL CO
-TAUBERT SPEED GUNN & MEEDERS			12/29/82	JAS: TX		
8316284	F-84-061348	4226931039	102-4	S B BURNETT ESTATE #60 #15		1.3 LONE STAR GAS CO
-TERRA RESOURCES INC			12/29/82	JAS: TX		
8316165	F-7C-060943	4223730366	102-2	MADLYN PFLUGER #1		9.1
-TEXACO INC			12/29/82	JAS: TX		
8316169	F-10-061016	4206500000	108	C R GARNER "D" NCT-2 #1		2.1 GETTY OIL CO
8316168	F-10-061015	4206500000	108	C R GARNER "D" NCT-2 #3		3.2 GETTY OIL CO
8316170	F-10-061017	4206500000	108	E J MOORE NCT-2 #1		1.0 GETTY OIL CO
8316171	F-08-061021	4230100000	108	EL WAR DELAWARE UNIT #1144		0.2 PHILLIPS PETROLEU
8316172	F-08-061022	4230100000	108	EL WAR DELAWARE UNIT #233		1.0 PHILLIPS PETROLEU
-TRANSCONTINENTAL OIL CORPORATION			12/29/82	JAS: TX		
8316320	F-7C-061476	4223500000	108	PEARL WILLIAMS "A" #1		0.5 FARMLAND INDUSTRI

JG NO	JG EXT	API NO	D SFC(1) SFC(2) WELL NAME	RECEIVED:	DATE	WELL NAME	FIELD NAME	VOLUME	PAGE	PROD	PURCHASER
-TRICENTROL RESOURCES INC		4217531492		102-4	12/29/82	L F SCHRADE 100981	ANDER (1400 SAND)	75.0	VALERO TRANSMISSI		
8316117	F-02-60612			102-4	12/29/82	SMITH #1 (18755)	RANGER NW (MARBLE FAL	9.0	LONE STAR GAS CO		
8316250	F-02-60612			102-4	12/29/82	SMITH #2 (18755)	RANGER NW (MARBLE FAL	7.0	LONE STAR GAS CO		
8316249	F-02-60612			102-4	12/29/82	CAMILLE #1 RRC ID #15997	GIDDINGS (AUSTIN CHAL	0.0	PSP GAS PRODUCTS		
-U S OPERATING INC		4228731280		102-2	12/29/82	JOSEPHINE #1 RRC ID #15905	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING		
8316159	F-03-60891			102-2	12/29/82	LINDA #2 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PSP GAS PRODUCTS		
8316255	F-03-60612			102-2	12/29/82	MOLLIE C DAVIS #2 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PSP GAS PRODUCTS		
8316288	F-03-60615			103	12/29/82	RUSSELL #3	PANHANDLE MOORE	0.0	PHILLIPS PETROLEU		
8316287	F-03-60615			103	12/29/82	W B TRAMMELL #13-10	JUDY GIAL EAST (CANYO	0.0	PALO DURO PIPELIN		
-W B OIL & GAS CO		4234136892		102-4	12/29/82	D SALINAS #2	LEAL (MIOCENE 2200)	50.0	TENNESSEE GAS PIP		
8316282	F-10-60613			103	12/29/82	HUNTER #1 (1005168)	PANHANDLE CARSON	50.0	GETTY OIL CO		
-W B TRAMMELL		4215131557		103	12/29/82	FLINT #B #12-26	CONGER (PENN)	99.9	TEXAS UTILITIES C		
8316257	F-08-60612			103	12/29/82	M F HENDERSON #168	DUNE	4.7	EL PASO NATURAL G		
-W CARLTON WEAVER		4213132885		103	12/29/82	P J LEA #134	LEA SOUTH (TUBB)	19.9	EL PASO NATURAL G		
8316268	F-04-60612			103	12/29/82	P J LEA #138	LEA (SAN ANDRES)	4.3	EL PASO NATURAL G		
-L BRUCE OPERATOR		4206531228		103	12/29/82	WELLS #1A	WOLFONG (STRAWN)	100.0	NATURAL GAS PIPEL		
8316174	F-10-61054			103	12/29/82	J H RICHARDS #1	JACK COUNTY REG	202.0	CITIES SERVICE CO		
-WAGNER & BROWN		4243131217		103	12/29/82	POWELL #2 #1	POWELL #300	45.0	PHILLIPS PETROLEU		
8316336	F-08-60615			103	12/29/82	WILLIAMS #1	PALO PINTO COUNTY REG	2.1	CITIES SERVICE GA		
-WARREN PETR CO A DIV		4210332964		103	12/29/82	WINDERLY ESTATE #1A	JACK COUNTY REGULAR	1.1	CITIES SERVICE GA		
8316331	F-08-60615			103	12/29/82						
8316338	F-08-60615			103	12/29/82						
8316337	F-08-60615			103	12/29/82						
-WESTERN ENERGY RESOURCES INC		4236332934		102-4	12/29/82						
8316276	F-08-60615			102-4	12/29/82						
-WHITEHEAD PRODUCTION CO INC		4223700000		102	12/29/82						
8316223	F-09-61186			102	12/29/82						
-WILLIAM E HENDON JR		4217331308		102-4	12/29/82						
8316175	F-08-61055			102-4	12/29/82						
-WILMAR OIL INC		4236300000		108	12/29/82						
8316162	F-08-60927			108	12/29/82						
8316161	F-09-609-26			108	12/29/82						

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2704 Filed 1-31-83; 845 am]

BILLING CODE 6717-01-C

[Docket No. ER83-264-000]

American Electric Power Service Corp.; Filing

January 27, 1983.

The filing Company submits the following:

Take notice that on January 18, 1983, the American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliate Appalachian Power Company (APCO), which is an AEP operating subsidiary, Modification No. 20 dated January 1, 1983 to the Interconnection Agreement dated February 1, 1948 between Virginia Electric and Power Company and APCO. The Commission has previously designated the 1948 Agreement as APCO's Rate Schedule FERC No. 16.

AEP states that Section 1 of Modification No. 20 provides for an increase in the transmission demand charge for Short Term Power to \$0.35 per kilowatt per week and to \$0.07 per kilowatt per day. Section 2 increases the Limited Term Power transmission demand charge to \$1.50 per kilowatt per month. These transmission demand charges are utilized for multi-party transactions and apply only to APCO. AEP requests an effective date of January 17, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

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 February 14, 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. 83-2705 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER77-485-000]

Carolina Power & Light Co.; Refund Report

January 27, 1983

The filing Company submits the following:

Take notice that on January 11, 1983, Carolina Power & Light Company submitted for filing a refund report pursuant to the Commission's direction.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 11, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-2706 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-266-000]

Pacific Power & Light Co.; Filing

January 27, 1983.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on January 19, 1983, tendered for filing, Pacific's Revised Appendix 1, for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests an effective date of August 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Bonneville, the Oregon Public Utility Commission and Bonneville's Direct Service Industrial customers.

Any person desiring to be heard or to protest said filing should file a motion petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 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. 83-2707 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. E-7796-007]

Pacific Power & Light Co., et al.; Order Accepting for Filing and Suspending Notice of Cancellation and Establishing Procedures

Issued January 25, 1983.

On November 28, 1982, Pacific Power and Light Company (PP&L) tendered for filing, on behalf of itself and six other utility companies, a notice of cancellation of an agreement known as the Seven-Party Agreement.¹ The agreement is the subject of an investigation ordered by the Federal Power Commission on November 20, 1972, in Docket No. E-7796. PP&L requests that the cancellation be made effective as of July 20, 1978.

Notice of the filing was issued with comments due on or before December 23, 1982. On December 23, 1982, the Northern California Power Agency and its members and the Cities of Anaheim, Riverside, Colton, and Azusa, California (NCPA and Cities) filed a protest in which they set forth the history of the proceedings to date in Docket No. E-7796 and request that the notice of cancellation be rejected on the grounds that the notice presents issues that are currently before the presiding administrative law judge, who has already conducted extensive hearings. The intervenors assert that these issues are not mooted by virtue of the cancellation notice, contrary to the assertions of PP&L, and that the investigation ordered in Docket No. E-7796 should be "reactivated."

On January 7, 1983, Pacific Gas and Electric Company (PG&E), one of the signatories to the agreement, filed a motion for leave to answer the protest of NCPA and Cities on the grounds that (1) the protest did not clearly describe the overlap between the issues in Docket

¹ See Attachment A for rate schedule designations. The remaining companies are identified in footnotes 2 and 3, *infra*.

No. E-7796 and in a related docket, Docket No. E-7777 (Phase II), (2) the hearing in Docket No. E-7777 was one of the longest in the Commission's history, and (3) granting the request to "reactivate" Docket No. E-7796 would "institute a completely unnecessary and futile proceeding." The presiding judge issued an order dated January 6, 1983, which stated that PG&E's response is unnecessary because it contains only arguments that have already been made in the course of the proceedings before him. The judge indicated that he will take all arguments made on both sides into account in writing an initial decision in the proceeding.

Background

Proceedings in this docket were initiated when the Commission in 1972 ordered an investigation into the justness and reasonableness of the Seven-Party Agreement pursuant to section 206 of the Federal Power Act. The agreement provides for the purchase and sale of electric energy between the Northwest companies² and the California companies.³ NCPA and Cities intervened in the proceedings and requested that the Commission: (1) Eliminate certain alleged anticompetitive provisions of the agreement; (2) open the agreement to participation by other electric utilities in California, including NCPA and Cities, on a fair and equitable basis; (3) cure its indefinite pricing provisions; and (4) require PG&E and others to transmit energy purchased or sold under the agreement by NCPA and Cities. In May and June of 1978, NCPA and Cities filed direct testimony on these issues. On July 21, 1978, one month before testimony was due from the Northwest and California companies, the Northwest companies filed a motion for partial initial decision, asserting that the proceeding was rendered moot because the parties to the agreement had agreed not to enter into any further transactions under the agreement since 1975. NCPA and Cities opposed the motion and the presiding judge ordered that a hearing be held on the limited question of whether it would be in the public interest to terminate the proceedings in the docket. All parties and staff filed testimony on this limited question, a hearing was held in August 1978, and briefs to the judge were filed in March and April of 1979. The matter currently

remains before the presiding judge for initial decision.

On October 29, 1982, the judge issued an order noting that service could not be terminated under the Seven-Party Agreement absent a notice of cancellation filed pursuant to § 35.15 of the Commission's regulations. Accordingly, the judge directed the signatories to the Seven-Party Agreement to file such a notice. It is that notice of cancellation which is the subject of this order.

Discussion

As a preliminary matter, we find that PG&E has not set forth good cause for the Commission to waive Rule 213(a)(2) and accept its answer to NCPA's protest. Accordingly, we shall deny PG&E's motion for leave to file an answer.

NCPA and Cities argue that the notice of cancellation should be rejected because hearings have already been held and briefs filed on the issue of whether it would be in the public interest to terminate the investigation and on related issues, including the extent to which transactions have been conducted under the agreement. They note that they have alleged illegal or anticompetitive practices, and argue that the mere cessation of such conduct does not moot an investigation into the conduct. NCPA and Cities have not challenged the sufficiency of PP&L's filing. Inasmuch as PP&L's filing conforms to the requirements of § 35.15 of the Commission's regulations and no other persuasive basis for rejection has been shown, the request to reject will be denied.

Our review of PP&L's filing and the related pleadings indicates that the notice of cancellation has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the notice for filing and suspend its operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC § 61,189 (1982), we explained the Commission's suspension policy primarily in the context of rate schedule filings involving increases in rate level. The instant submittal does not purport to modify rates and charges, but rather to terminate existing service agreements. Because the intervenors in this docket have raised significant questions which should be evaluated before the proposed cancellation becomes effective, we shall suspend the proposed cancellation for five months

until June 26, 1983. The presiding judge will be directed to issue an initial decision on the justness and reasonableness of cancellation of the Seven-Party Agreement by such date as will allow the Commission to issue a final order on or before that date.

We also find that the reasonableness of the proposed retroactive effective date ultimately is a matter best left for consideration following the initial decision. While the limited hearing held thus far may have addressed questions concerning cancellation of the Seven-Party Agreement and termination of the related investigation, it is not apparent whether the hearing has addressed the question of an appropriate effective date for cancellation. Accordingly, we shall set that question for whatever hearing may be necessary, and in any event, shall order that the matter be addressed as part of the initial decision.

The Commission orders:

(A) The motion of PG&E for leave to file an answer to the protest of NCPA is hereby denied.

(B) The request of NCPA and Cities to reject the notice of cancellation is hereby denied.

(C) PP&L's notice of cancellation is hereby accepted for filing and suspended for five months from sixty days after filing, to become effective on June 26, 1983, subject to the outcome of the related hearing.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the notice of cancellation and the requested effective date of such cancellation filed by PP&L, to the extent that the presiding judge shall consider further hearing to be necessary.

(E) The presiding administrative law judge shall issue an initial decision on the issues presented by the notice of cancellation by such date as will allow the Commission to issue a final order on the notice of cancellation on or before June 26, 1983.

(F) The Secretary shall promptly publish this order in the Federal Register.

²PP&L, Puget Sound Power & Light Company (PSP&L), Portland General Electric Company (PGE), and Washington Water Power Company (WWP).

³Pacific Gas & Electric Company (PG&E), Southern California Edison Company (So. Cal. Ed.), and San Diego Gas & Electric Company (SDG&E).

By the Commission.
Kenneth F. Plumb,
Secretary.

**ATTACHMENT A—PACIFIC POWER & LIGHT
COMPANY, ET AL., DOCKET NO. E-7796,
RATE SCHEDULE DESIGNATIONS**

Designation	Description
Pacific Power & Light Company, Supplement No. 1 to Rate Schedule FPC No. 105.	Notice of cancellation.
Portland General Electric Company, Supplement No. 1 to Rate Schedule FPC No. 21.	Do.
Puget Sound Power & Light Company, Supplement No. 1 to Rate Schedule FPC No. 26.	Do.
The Washington Water Power Company, Supplement No. 1 to Rate Schedule FPC No. 73.	Do.
Pacific Gas and Electric Company, Supplement No. 1 to Rate Schedule FPC No. 49.	Do.
Southern California Edison Company, Supplement No. 1 to Rate Schedule FPC No. 62.	Do.
San Diego Gas & Electric Company, Supplement No. 1 to Rate Schedule FPC No. 27.	Do.

[FR Doc. 83-2708 Filed 1-31-83; 8:45 am]
BILLING CODE 5717-01-M

[Docket No. ER83-265-000]

Tampa Electric Co.; Filing

January 27, 1983.

The filing company submits the following:

Take notice that on January 18, 1983, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement for Interchange Service between Tampa Electric and the City of Lakeland, Florida (Lakeland), together with Service Schedules A, B, and C thereunder. This filing would supersede Tampa Electric's Rate Schedule FPC No. 3.

Tampa Electric states that Service Schedules A, B, and C provide for emergency, scheduled, and economy interchange service, respectively, between Tampa Electric and Lakeland.

Tampa Electric proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Lakeland and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 February 14, 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. 83-2708 Filed 1-31-83; 8:45 am]
BILLING CODE 5717-01-M

[Docket No. TA83-1-17-006]

**Texas Eastern Transmission Corp.
(Texas Eastern); Proposed Changes in
FERC Gas Tariff**

January 26, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 25, 1983, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Second Substitute Sixty-fourth Revised Sheet No. 14
Substitute Sixty-fourth Revised Sheet No. 14A
Substitute Sixty-fourth Revised Sheet No. 14B
Substitute Sixty-fourth Revised Sheet No. 14C
Substitute Sixty-fourth Revised Sheet No. 14D

The above sheets were issued in substitution for those sheets filed December 30, 1982, consisting of Texas Eastern's semi-annual PGA tracking adjustment to be effective February 1, 1983. The above sheets reflect a reduction in the commodity component of rates of 17.94 cents/dth below the rates filed December 30, 1982. This filing reflects the impact of Texas Eastern's exercise of its "market out" provisions in certain of its gas purchase contracts.

The proposed effective date of the above tariff sheets is February 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214, of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions to intervene or protest should be filed on or before February 3, 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. 83-2709 Filed 1-31-83; 8:45 am]
BILLING CODE 5717-01-M

[Docket No. ER83-2-001]

**Wisconsin Electric Power Co.; Order
Granting Motion To Strike and Denying
Rehearing**

Issued January 26, 1983.

By order issued on November 29, 1982,¹ the Commission, *inter alia*, suspended for one day Wisconsin Electric Power Company's (WEPCO) proposed step-two full and partial requirements rates to become effective, subject to refund, on December 2, 1982. On December 27, 1982, an application for rehearing was filed on behalf of the Cities and Villages of Clintonville, Elkhorn, Kiel, Oconto Falls, and Shawano, Wisconsin, the City of Crystal Falls, Michigan, the Oconto Electric Cooperative, the Ontonagon Rural Electrification Association, and the Wisconsin Public Power Incorporated System (Intervenors). Intervenors request that the Commission review the decision in the November 29, 1982 order to determine if an error in the suspension analysis had been made, the correction of which would justify a five month suspension period, or to indicate whether all ratemaking issues had been resolved in WEPCO's favor. On January 6, 1983, Intervenors filed an amendment to their application (and their initial motion to intervene in Docket No. ER83-2-000), expanding upon certain arguments raised in their motion to intervene.

In support of their request, Intervenors reiterate the arguments raised in their motion to intervene. Intervenors also state that the top sheets served by the trial staff in Docket No. ER83-2-000 indicate that the second step rates are excessive by more than ten percent of the proposed increase thereby reinforcing their contention that a five month suspension is appropriate. Intervenors contend that the Commission apparently has followed has followed a practice of presuming that no adjustment should be made to a filing where no clear error or contravention of precedent has been

¹ Wisconsin Electric Power Co., Docket No. ER83-2-000, 21 FERC ¶ 61,220 (1982).

identified, in effect giving a utility the benefit of the doubt as to any disputed issues. Intervenor asserts that such a presumption in favor of the utility ought to be abandoned, or announced, at the very least.

On January 11, 1983, the Commission staff filed a motion to strike all references to the top sheets in Intervenor's application for rehearing. Staff asserts that such references are, by clear precedent, impermissible. On January 20, 1983, Intervenor filed a response opposing staff's motion to strike.

Discussion

Intervenor argues that WEPCO's proposed rates appear to be substantially excessive in light of the top sheet figures submitted by the Commission's trial staff. Intervenor contends that a longer suspension period is appropriate. Similar arguments have been made and rejected repeatedly, because top sheets are privileged, and because the trial staff's top sheet analysis cannot and should not be expected to correspond precisely with the Commission's preliminary examination of the filing for suspension purposes.

The Commission has consistently adhered to a policy of striking all references in pleadings to the trial staff's top sheet positions on the grounds that settlement documents must be afforded a privileged status in order to assure a free exchange of information in settlement discussions.² We shall follow that practice in this docket. Moreover, we consider such references to the trial staff's settlement position to be irrelevant for purposes of inquiring into the validity of the Commission's initial review of a rate filing.³

Having reviewed our suspension decision in this docket in light of the Intervenor's request for rehearing, we find no reason to depart from our earlier conclusion. We believe it appropriate, however, to briefly address the Intervenor's contention that the Commission has followed a policy for suspension purposes of presuming the correctness of the filing utility's position on all issues as to which no clear precedent governs. The Commission has no policy of making such sweeping

presumptions. Rather, in instances where no clear precedent controls, the Commission must exercise its judgment as to individual aspects of the filing based on all the circumstances in each case. Sometimes the judgment will be to preliminarily accept the position of the utility, sometimes that of its wholesale customers and sometimes neither, depending on the circumstances. Certain issues which result in close "judgment calls" will later be the subject of a hearing at which time the trial staff may well espouse a position other than that preliminarily adopted by the Commission. Additional information may be available to the trial staff or it may be the case that reasonable individuals would simply come to a different judgment on the merits of a given issue. In any event, a different result reached by the trial staff is not grounds for rehearing of the Commission's preliminary judgment.

The Commission orders:

(A) Staff's motion, filed on January 11, 1983, to strike the figures and arguments in Intervenor's pleading which derive from the trial staff's top sheets is hereby granted.

(B) Intervenor's application for rehearing filed on December 27, 1982, and amended on January 6, 1983, is hereby denied.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-2710 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL83-7-000]

Wholesale Customers of Ohio Edison and Ohio Edison Co.; Filing

January 27, 1983.

The Complainants submit the following:

Take notice that on January 14, 1983, the Wholesale Customers of Ohio Edison Company ("WCOE") filed a complaint against Ohio Edison Company ("Ohio Edison"). WCOE seeks modification to the partial requirements contracts and tariffs governing WCOE members' purchases of the bulk of their wholesale electric requirements from Ohio Edison. According to WCOE, the terms of Ohio Edison's filed tariffs are unjust and unreasonable.

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 February 28, 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. 83-2711 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-217]

River City Federal Savings and Loan Association; Baton Rouge, Louisiana; Final Action, Approval of Conversion Applications

January 27, 1983.

Notice is hereby given that on November 12, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of River City Federal Savings and Loan Association, Baton Rouge, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.

[FR Doc. 83-2744 Filed 1-31-83; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-218]

Stockton Savings and Loan Association, Stockton, California; Final Action, Approval of Conversion Applications

Dated: January 27, 1983.

Notice is hereby given that on November 10, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General

² *Delmarva Power & Light Co.*, Docket No. ER80-363-000, 16 FERC ¶ 61,177 (1981); *New Orleans Public Service, Inc. v. FERC*, 659 F.2d 509 (5th Cir. 1981); *Arizona Public Service Co.*, Docket No. ER82-481-001, et al., 20 FERC ¶ 61,413 (1982); *Wisconsin Electric Power Co.*, Docket No. ER82-347-000, 19 FERC ¶ 61,026 (1982).

³ *West Texas Utilities Co.*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), followed in *Arizona Public Service Co.*, Docket Nos. ER82-481-000, et al., 20 FERC ¶ 61,413 (1982).

Counsel or his designee, approved the application of Stockton Savings and Loan Association, Stockton, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.

[FR Doc. 83-2745 Filed 1-31-83; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2152]

Beacon International Despatch Inc.; Order of Revocation

On January 6, 1983, Beacon International Despatch Inc., P.O. Box 488, North Tonawanda, NY 14120, surrendered its Independent Ocean Freight Forwarder License No. 2152 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. 2152 issued to Beacon International Despatch Inc. be revoked effective January 6, 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 Beacon International Despatch Inc.,
Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 83-2738 Filed 1-31-83; 8:45 am]
BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street,

NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T-3904-3.

Title: Tacoma/Totem Lease
Amendment.

Parties: Port of Tacoma (Port)/Totem Ocean Trailer Express, Inc. (Totem).

Synopsis: Agreement No. T-3904-3 modifies the basic agreement between the parties which provides for the lease by Port to Totem of land and terminal facilities, as well as preferential berthing privileges at Port's Alaska Terminal. The purpose of the modification is to provide for the relocation of Totem's operations to new facilities to be constructed by Port at Blair Waterway. The lease area is increased by 8.8 acres, with corresponding increase in compensation. The number of 2-year renewal options is increased from 9 to 14.

Filing agent: Thomas M. Kilbane, Jr., Garvey, Schubert, Adams & Barer, 30th Floor, The Bank of California Center, Seattle, Washington 98164.

Agreement No. T-4083.

Title: Puerto Rico Ports Authority/
Caribe Shipping Company, Inc. Lease.

Parties: Puerto Rico Ports Authority (PRPA)/Caribe Shipping Company, Inc. (Caribe).

Synopsis: Agreement No. T-4083, provides for the lease to Caribe on an exclusive basis of certain office space, maintenance shop and open area at Pier 9, San Juan. The premises will be used for the purpose of loading and unloading vessels and activities incidental to such operations. Caribe will pay rental to PRPA as mutually agreed and as set forth in the agreement. The agreement's terms is three years.

Filing agent: Carmen Guede Mijares, Esquire, Legal Counsel, Maritime Department, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Dated: January 27, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 83-2738 Filed 1-31-83; 8:45 am]
BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Chavez, Bogdanski and Cincinello International, Inc., d.b.a. CBC International, Inc., 4849 No. Scott Street, Suite 20, Schiller Park, IL 60176; Officers: Ronald J. Bogdanski, President; Frank Cincinello, Treasurer; Venustiano Chavez, Secretary

Alirez International, Inc.; 3141 Bordentown Avenue, Parlin, NJ 08859; Officers: Ahmed A. Alireza, President; Patricia M. Tracy, Vice President/Secretary; Judith Anne McCabe, Vice President/Treasurer

Combined Transport System, Inc., 11 Glen Eagles Drive, Bridgewater, NJ 08807; Officer: Per Ulf Varnum, President

By the Federal Maritime Commission.

Dated: January 26, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83-2611 Filed 1-31-83; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 24, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in

carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the *Federal Register*, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the *Federal Register*. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Approval With Revisions

1. Report title: Monthly Survey of Selected Deposits and Other Accounts
Agency form number: FR 2042
Frequency: Monthly
Reporters: Sample of insured commercial banks and mutual savings banks
SIC Code: 602, 603
Small businesses are affected.
General description of report:
Respondent's obligation to respond is voluntary [12 U.S.C. § 248(a)]; a

pledge of confidentiality is promised [5 U.S.C. § 552(b)(8)]

These data are used by the Federal Reserve (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of depository institutions. (OMB has been asked to review the request for approval in less than 10 days.)

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2850 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

First Bancorporation of Geraldine, Inc., 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. *First Bancorporation of Geraldine, Inc.*, Geraldine, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Geraldine, Geraldine, Alabama. Comments on this application must be received not later than February 25, 1983.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Pilot Point Bancshares Corporation*, Pilot Point, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Pilot Point National Bank, Pilot Point, Texas.

Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2862 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

Ohio Valley Bancorp, Inc., 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 section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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 St. Louis (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Ohio Valley Bancorp, Inc.*, Henderson, Kentucky (insurance activities; Kentucky): To engage, through its subsidiary, O. V. Insurance Agency, Inc., in the selling of life, accident, and health, and disability insurance directly related to its extensions of credit. These

insurance activities are specifically permitted for bank holding companies pursuant to section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Henderson, Kentucky, serving Henderson County, Kentucky. Comments on this application must be received not later than February 21, 1983.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Midland Bank PLC, Midland California Holding, Ltd.*, both of London, England and Crocker National Corporation, San Francisco, California (lending activities, worldwide): To engage, through Crocker National Corporation, in making or acquiring loans and other extensions of credit to borrowers located worldwide. These activities would be conducted from offices located in San Francisco, California, and will serve customers worldwide. Comments on this application must be received not later than February 22, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 83-2865 Filed 1-31-83; 8:45 am]
BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Bank of Pasadena, Pasadena, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 25, 1983.

2. *Unicorp Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Unitedbank—Northwest, Houston, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 83-2863 Filed 1-31-83; 8:45 am]
BILLING CODE 6210-01-M

United Banks of Wisconsin, Inc.; Merger of Bank Holding Companies

United Banks of Wisconsin, Inc., Madison, Wisconsin, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Independent Bankshares, Inc., Madison, Wisconsin, and thereby indirectly acquire 86 percent or more of the voting shares of Lake City Bank, Madison, Wisconsin. 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)).

United Banks of Wisconsin, Inc., Madison, Wisconsin, is also engaged through its subsidiary, United Mortgage of Wisconsin, Inc., in the following nonbank activities: making or acquiring for its own account or for the account of others, mortgage loans and other related extensions of credit, and servicing such loans or other extensions of credit. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1983. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 83-2864 Filed 1-31-83; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82F-0255]

Lonza, Inc.; Filing of Food Additive Petition

Correction

In FR Doc. 82-24309 appearing on page 38988 in the issue of Friday, September 3, 1982, make the following corrections:

1. In the **SUMMARY**, "di-n-alkyl (C₈-C₁₀) benzyl dimethylammonium chloride, n-alkyl (C₁₂-C₁₈) dimethylammonium chloride and alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide" should have read "di-n-alkyl (C₈-C₁₀) dimethylammonium chloride, n-alkyl (C₁₂-C₁₈) benzyl dimethylammonium chloride and alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide".

2. Under **SUPPLEMENTARY INFORMATION**, "di-n-alkyl (C₈-C₁₀) benzyl dimethylammonium chloride, n-alkyl (C₁₂-C₁₈) dimethylammonium chloride and alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide" should have read "di-n-alkyl (C₈-C₁₀) dimethylammonium chloride, n-alkyl (C₁₂-C₁₈) benzyl dimethylammonium chloride and alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide".

BILLING CODE 1505-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration
ACTION: Notice.

SUMMARY: The food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Tuesday, March 15, 12 m.

ADDRESS: Findlay Street Neighborhood House, Findlay and Baymiller Sts., Cincinnati, OH 45214.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216-522-4844.

Cincinnati District Office, chaired by James C. Simmons District Director.

DATE: Wednesday, March 16, 1 p.m.

ADDRESS: Federal Bldg., 200 W. Second St., Rm. 504, Dayton, OH 45402

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216-522-4844.

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Thursday, March 17, 10 a.m.

ADDRESS: Federal Bldg., 550 Main St., Rm. 5409 Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 25, 1983.

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

[FR Doc. 83-2643 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 75N-0223, 75N-0184; DESI 3265, 9489]

Drugs for Human Use; Drug Efficacy Study Implementation; Certain Anticholinergic Drugs Containing Tridihexethyl Chloride; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11-889) for Pathilon Sequels and those parts of the new drug application (NDA 9-489) pertaining to Pathilon with Phenobarbital Tablets. The basis of the withdrawal is that there is a lack of substantial evidence that these drugs are effective in the treatment of various

gastrointestinal disorders. The drug products are no longer marketed.

EFFECTIVE DATE: March 3, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference numbers DESI 3265 or DESI 9489 (whichever is applicable) and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3850.

SUPPLEMENTARY INFORMATION: In notices published in the Federal Register of November 11, 1975 (40 FR 52651), and January 16, 1981 (46 FR 3977), the Director of the Bureau of Drugs proposed to withdraw approval of the new drug applications for certain anticholinergic drugs used for the treatment of various gastrointestinal disorders. The notices addressed both anticholinergic/sedative combinations and single-entity anticholinergics; however, the November 11, 1975 notice specified controlled-release formulations, while the January 16, 1981 notice referred to conventional dosage forms. Each notice offered an opportunity for a hearing on the proposal. The proposals were based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), 21 CFR 314.111(a)(5), and, for combination products, 21 CFR 300.50.

Lederle Laboratories requested a hearing for Pathilon Sequels (NDA 11-889) in response to the 1975 notice and for Pathilon with Phenobarbital Tablets (NDA 9-489) in response to the 1981 notice. Subsequently, on December 30, 1982, Lederle withdrew its hearing requests as they pertained to these products.

Accordingly, the Director of the National Center for Drugs and Biologics withdraws approval of the new drug applications (or appropriate parts thereof) listed below.

1. NDA 9-489; those parts that provide for Pathilon with Phenobarbital Tablets containing tridihexethyl chloride (25 mg) and phenobarbital (15 mg); Lederle Laboratories, Division of American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470.

This notice does not apply to Pathilon Tablets (NDA 9-489) containing single-entity tridihexethyl chloride, which is classified as effective for the adjunctive

treatment of peptic ulcer. Pathilon Tablets is also the subject of a pending hearing request for certain less-than-effective indications whose efficacy evaluation has not been finalized.

2. NDA 11-889; Pathilon Sequels containing tridihexethyl chloride (75 mg) in controlled release forms; Lederle Laboratories.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1051-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the Federal Register of June 22, 1982), finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 9-489 that provide for the drug product named above, and approval of NDA 11-889, and all amendments and supplements thereto, are withdrawn effective March 3, 1983.

Shipment in interstate commerce of the above products, or any identical, related, or similar product that is not the subject of an approved new drug application, will then be unlawful.

Dated: January 25, 1983.

Harry M. Meyer, Jr.,
*Director, National Center for Drugs and
Biologics.*

[FR Doc. 83-2645 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 77N-0230, 77N-0231, 77N-0316, 77N-0317, and 77N-0318]

Penicillin and Tetracycline (Chlortetracycline and Oxytetracycline) in Animal Feeds; Denial of Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is denying petitions for withdrawal of its notices of opportunity for hearing on its proposed withdrawal of approval of certain uses of penicillin and tetracycline (chlortetracycline and oxytetracycline) in animal feeds; its advanced notice of hearing on the proposed withdrawals; and its proposal to restrict medicated feeds containing such drugs to use by or in the order of a licensed veterinarian.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV-232), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 30, 1977 (42 FR 43772), the Director of the Bureau of Veterinary Medicine (the Director) issued a notice of opportunity for hearing proposing to withdraw approval of new animal drug applications (NADA's) for all penicillin-containing premixes intended for use in animal feeds on the grounds that evidence showed that such products have not been shown to be safe; that the applicants failed to establish and maintain records and make reports as required; and that new evidence has shown that there is a lack of substantial evidence that such products are effective for certain uses. The Director issued a similar notice of opportunity for hearing concerning certain subtherapeutic uses of tetracyclines (chlortetracycline and oxytetracycline) in animal feeds in the Federal Register of October 21, 1977 (42 FR 56264). The Director issued the notices after evaluating data submitted by the sponsors of the NADA's in response to requirements imposed by § 558.15 *Antibiotic, nitrofurans, and sulfonamide drugs in the feed of animals* (21 CFR 558.15).

The Commissioner of Food and Drugs (the Commissioner) subsequently published an advance notice of public hearing on the proposed withdrawal of approvals (43 FR 53827; November 17, 1978). However, the Commissioner did not issue a formal notice of hearing as provided by 21 CFR Part 12.

The Commissioner also published a proposal to restrict the use of penicillin, chlortetracycline, and oxytetracycline in animal feeds to use by or on the order of a licensed veterinarian (43 FR 3032; January 20, 1978). On August 8, 1978 (43 FR 35059), the Commissioner issued a notice postponing final action on that proposal.

Thereafter, Congress directed FDA to contract with the National Academy of Sciences (NAS) to study issues related to the use of antibiotics in animal feeds. Congressional committee report language also stated that FDA should hold in abeyance implementation of its proposed withdrawal actions pending final results of this study.

The NAS committee concluded that it is technically not possible to conduct a single comprehensive epidemiological study which would settle the issues, but suggested several studies that could provide useful information. In view of the NAS report, Congress instructed FDA to conduct the additional studies to collect epidemiological information consistent with the NAS suggestions.

These studies will not be completed before 1984. Congress has continued to state that FDA will, in the meantime, be expected to hold in abeyance any implementation of its proposals to restrict subtherapeutic uses of penicillin, chlortetracycline, and oxytetracycline in animal feeds.

In July 1981, sponsors of the NADA's that are the subject of the notices of opportunity for hearing petitioned the agency to vacate the notices of opportunity for hearing, the advance notice of hearing, and the notice of proposed rulemaking. The sponsors also asked the agency to permit approval of new uses and combinations of previously approved products. The petitions received are as follows:

Citizen petition	Petitioner	Docket No.	Date received
Penicillin-containing premixes	American Cyanamid Co.	77N-0230/CP	July 8, 1981.
Penicillin in animal feeds	American Cyanamid Co.	77N-0231/CP	Do.
Penicillin/tetracycline-containing premixes	American Cyanamid Co.	77N-0316/CP	Do.
Proposal to revise tetracycline regulations	American Cyanamid Co.	77-0317/CP	Do.
Animal feeds containing penicillin and tetracycline	American Cyanamid Co.	77-0318/CP	Do.
Penicillin-containing premixes	Diamond Shamrock Co.	77-0230/CP0002	July 9, 1981.
Penicillin-containing premixes	Rachelle Laboratories, Inc.	77N-0230/CP0003	Do.
Penicillin in animal feeds	Diamond Shamrock Corp.	77N-0231/CP0002	Do.
Penicillin in animal feeds	Rachelle Laboratories, Inc.	77N-0231/CP0003	Do.
Penicillin/tetracycline-containing premixes	Diamond Shamrock Corp.	77N-0316/CP0002	Do.
Penicillin/tetracycline-containing premixes	Rachelle Laboratories, Inc.	77N-0316/CP0003	Do.
Proposal to revise tetracycline regulations	Diamond Shamrock Corp.	77N-0317/CP0002	Do.
Proposal to revise tetracycline regulations	Rachelle Laboratories, Inc.	77N-0317/CP0003	Do.
Animal feeds containing penicillin and tetracycline	Diamond Shamrock Corp.	77N-0318/CP0002	Do.
Animal feeds containing penicillin and tetracycline	Rachelle Laboratories, Inc.	77N-0318/CP0003	Do.
Penicillin-containing premixes	Pfizer, Inc.	77N-0230/CP0004	July 15, 1981.
Penicillin in animal feeds	Pfizer, Inc.	77N-0231/CP0004	Do.
Penicillin/tetracycline-containing premixes	Pfizer, Inc.	77N-0316/CP0004	Do.
Proposal to revise tetracycline regulations	Pfizer, Inc.	77N-0317/CP0004	Do.
Animal feeds containing penicillin and tetracycline	Pfizer, Inc.	77N-0318/CP0004	Do.
Penicillin-containing premixes	Merck & Co., Inc.	77N-0230/CP0005	July 2, 1981.
Penicillin in animal feeds	Merck & Co., Inc.	77N-0231/CP0005	Do.
Penicillin/tetracycline-containing premixes	Merck & Co., Inc.	77N-0316/CP0005	Do.
Proposal to revise tetracycline regulations	Merck & Co., Inc.	77N-0317/CP0005	Do.
Animal feeds containing penicillin and tetracycline	Merck & Co., Inc.	77N-0318/CP0005	Do.

The Commissioner has concluded that approval of new applications and supplements for penicillin, chlortetracycline, and oxytetracycline should be permitted, but that § 558.15 must first be amended. Accordingly, the proposal to amend § 558.15 is published elsewhere in this issue of the Federal Register.

With respect to the pending notices of opportunity for hearing, the petitioners argued that any future agency action to withdraw approvals will occur only after review of the findings of the studies authorized by Congress. The petitioners' implied position is that if, after agency review of the data, FDA concludes that withdrawal is warranted, it would need to substantially revise the notices. Therefore, the agency should

withdraw its notices of opportunity for hearing at this time.

However, the Director¹ does not have any less concern at present about the safety issues that prompted adoption of § 558.15 and publication of the notices of opportunity for hearing. The Director has not changed his earlier conclusion that the available scientific information warrants the proposed actions. In fact, recently published research further substantiates this position. See O'Brien,

¹ The current Director, Dr. Lester M. Crawford, is not participating in this proceeding, having been a consultant during 1981 to American Cyanamid Co., one of the sponsors, and the Natural Resources Defense Council, with respect to issues contained in this proceeding. The responsibilities of "the Director" are assumed in this proceeding by Deputy Director Gerald B. Guest.

T. F., et al., "Molecular Epidemiology of Antibiotic Resistance in Salmonella from Animals and Human Beings in the United States," *The New England Journal of Medicine*, July 1, 1982, Vol. 107, No. 1, p. 1.

The notices of opportunity for hearing represent the Director's formal position that use of the drugs is not shown to be safe. Therefore, the Director has concluded that he does not wish to withdraw the notices of opportunity for hearing. Instead, the Director wishes to place the notices in abeyance pending completion of the studies mandated by Congress.

The Commissioner has reviewed the Director's decision and concurs with it. In addition, for the reasons discussed above, the Commissioner has decided that he will not withdraw the advance notice of hearing or the proposal to restrict therapeutic approvals to prescription use, but will hold them in abeyance.

Dated: January 1, 1983.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 83-2644 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Medical Sciences for March 1983.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in Section 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Diffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301-496-

7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of committee: Cellular and Molecular Basis of Disease Review Committee
Executive secretary: Dr. Helen Sunshine,
Room 950 Westwood Building, Telephone:
301-496-7125

Date of meeting: March 25, 1983

Place of meeting: Linden Hill Hotel, Bethesda, Maryland

Open: March 25, 1983, 8:30 a.m.-9:30 a.m.

Closed: March 25, 1983, 9:30 a.m.-adjournment

Name of committee: Minority Access to Research Careers Review Committee
Executive secretary: Dr. Harriet Gordon,
Room 949 Westwood Building, Telephone:
301-496-7585

Dates of meeting: March 7-8, 1983

Place of meeting: Building 31C, Conference Room 8, National Institutes of Health

Open: March 7, 1983, 9:00 a.m.-10:00 a.m.

Closed: March 7, 1983, 10:30 a.m.-5:00 p.m.;

March 8, 1983, 9:00 a.m.-adjournment

Name of committee: Pharmacological Sciences Review Committee
Executive secretary: Dr. Anthony Demsey,
Room 950 Westwood Building, Telephone:
301-496-7125

Dates of meeting: March 17-18, 1983

Place of meeting: Building 31C, Conference Room 8, National Institutes of Health

Open: March 17, 1983, 8:45 a.m.-10:30 a.m.

Closed: March 17, 1983, 10:30 a.m.-5:00 p.m.;

March 18, 1983, 8:30 a.m.-adjournment

Closure reason for each committee: To review research applications

(Catalog of Federal Domestic Assistance Program No. 13-863, 13-880, 13-859, National Institute of General Medical Sciences, National Institutes of Health)

Dated: January 14, 1983.

Betty J. Beveridge,
Committee Management Officer, National Institutes of Health.

[FR Doc. 83-2654 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development, Population Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 10-11, 1983 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 10 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program

projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code, Sections 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 10 from 10:30 a.m. to adjournment on March 11 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C-08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C-03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1696, will furnish other information.

(Catalog of Federal Domestic Assistance Program No. 13-884, Population Research, National Institutes of Health)

Dated: January 14, 1983.

Betty J. Beveridge,
Committee Management Officer, National Institutes of Health.

[FR Doc. 83-2653 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

Subcommittee on Animal Resources of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources on March 3, 1983 from 1:00 p.m. to recess and on March 4, 1983 from 8:00 a.m. to adjournment in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 4 from approximately 10:00 a.m. to adjournment for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and

552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 3 from 1:00 p.m. to recess and on March 4 from 8:00 a.m. to approximately 10:00 a.m. for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Date: January 14, 1983.

Betty J. Beveridge,
National Institutes of Health Committee,
Management Officer.

[FR Doc. 83-2952 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Availability of Cancer Bioassay Report on Allyl Isothiocyanate

The HHS National Toxicology Program today announces the availability of a Technical Report on a carcinogenesis bioassay of allyl isothiocyanate, the major component in volatile oil of mustard, a flavoring agent prepared from seed of black mustard.

Allyl isothiocyanate may be present in syrups, meats, condiments, baked goods, candy, ice cream and ices, and non-alcoholic beverages. Allyl isothiocyanate is found in cabbage, broccoli, kale, cauliflower and horseradish. It is also used as a denaturant for alcohol and a medicinal counter-irritant.

Under the conditions of this bioassay, allyl isothiocyanate was carcinogenic for male rats, causing transitional-cell papillomas of the urinary bladder.

Evidence for associating allyl isothiocyanate with subcutaneous fibrosarcomas in female rats was equivocal. Allyl isothiocyanate was not carcinogenic for mice of either sex.

Copies of this report—*Carcinogenesis Bioassay of Allyl Isothiocyanate* (T.R. 234)—are available without charge by writing to: NTP Public Information Office, M.D. B2-04, Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541-3991, FTS 629-3991.

Dated: January 19, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-2955 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration (SSA). Notice is given that Part S, as published in the *Federal Register* on August 7, 1979 (44 FR 46348 and 46353) is being amended to reflect:

(1) The removal of the Press Office from the Office of Public Affairs (OPA) and its establishment as a new office reporting directly to the Office of the Commissioner through the Deputy Commissioner of Social Security, Programs, and Policy. Accordingly, the sections of Chapter SX, which describe the mission, organization and functions of OPA, are being changed to remove reference to the Press Office, and an independent Press Office is established in the Immediate Office of the Commissioner.

(2) The addition of the legislative review function to the functions of the Legislative Reference Staff (SRP1).

The revisions and new material are as follows:

1. Chapter SA, Section SA.10, is being amended to add subsection E.2. The Press Office.

2. Section SA.20 is being revised to include the following:

E.2. The Press Office (SAG):

a. The Press Office, under the leadership of the Press Officer, guides and coordinates all SSA press activities and prepares and issues news items for national release and for release through SSA field offices.

b. Initiates and maintains contacts with members of the working press and responds to requests for information and assistance from newspapers, radio and television news departments, news and

general magazines and the specialized press.

c. Prepares news and feature stories for the area press on SSA headquarters' events, programs of community interest, and the accomplishments and activities of SSA employees.

d. Analyzes press coverage of social security programs, prepares responses to press articles when appropriate, assesses public reaction to social security programs and prepares the Daily Press Service for the Executive Staff.

3. Chapter SX, Section SX.00, is being revised so that the first sentence reads as follows: The Office of Public Affairs (OPA) plans, coordinates, implements, and evaluates SSA's nationwide public affairs program, which includes State-administered programs and services, for effective information exchange with the public, other Federal and State agencies, and other organizations concerned with public affairs programs and activities.

4. Section SX.10 is being revised to delete D. The Press Office (SXP). Subsections E and F should be relettered D and E, respectively.

5. Section SX.20 is being revised to delete all of subsection D. Subsections E and F should be relettered D and E, respectively.

6. Paragraph SR.20.D.1 is being revised to include the following function for the Legislative Reference Staff:

c. Reviews legislative proposals for consistency with existing program goals, philosophy and program requirements.

Dated: January 24, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2747 Filed 1-31-83; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1204]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration,
Office of the Secretary HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: T1David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Coinsurance Claims Package Section 223(f).

Office: Administration.

Form No: None.

Frequency of submission: On occasion.

Affected public: Businesses or other institutions (except farms).

Estimated burden hours: 30.

Status: New.

Contact: Betty Belin, HUD, (202) 755-5747; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program and Recordkeeping Requirements (Non-funded).

Office: Housing.

Form Nos. HUD-8900, 9901, 9902, 9903, 9909, and 9914.

Frequency of submission: Semiannually and Annually.

Affected public: State and Local Governments and Businesses or Other Institutions (except farms).

Estimated burden hours: 3,030.

Status: New.

Contact: Robert Warner, HUD, (202) 755-6864; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program and Recordkeeping Requirements (Funded).

Office: Housing.

Form No. SF-424.

Frequency of submission: On Occasion.

Affected public: State or Local Governments and Businesses or Other Institutions (except farms).

Estimated burden hours: 7,579.

Status: New.

Contact: Robert Warner, HUD, (202) 755-6864; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Submission of Proposed Information Collection to OMB

Proposal: Application by Indian Housing Authority for Indian Low-income Housing Program.

Office: Housing.

Form No. HUD-52730.

Frequency of submission: On Occasion.

Affected public: State or Local Governments.

Estimated burden hours: 1,280.

Status: Extension.

Contact: Patricia Arnaudo, HUD, (202) 755-6522; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the

Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-2701 Filed 1-31-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bureau Information Collections Submitted for Review

The proposal of the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis at 202-395-7340.

Title: 25 CFR 15.1; 43 CFR 4.210; 43 CFR 4.260, Indian wills and probate

Bureau Form Number: BIA-5407; 5408;

5463; 5464; 5465; 5466

Frequency: On occasion

Description of Respondents: Indians serviced by the BIA

Annual Responses: 28,500

Annual Burden Hours: 21,268

Bureau clearance officer: Ronald D. Eden; (202) 343-7684

Dated: July 6, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-2629 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Emergency Coal Leasing; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public comment period and public meeting.

SUMMARY: The Bureau of Land Management intends to hold a public meeting concerning an application for coal leasing under the "Emergency Leasing" provisions. The meeting is to provide the opportunity for the public to comment on and discuss the potential effects on mining the proposed lease, including impacts on the environment,

other land uses, other economic activities, and community or regional services. This notice also requests comment on the Fair Market Value and the Maximum Economic Recovery of the coal on the tract under application.

DATES: A public meeting on a draft environmental assessment which addresses the lease application will be held at 7 p.m. on February 9, 1983, in the main building, College of Eastern Utah, Gomer Peacock Room, Price, Utah. Public comments received within 30 days of this Notice will be used to write a final environmental assessment.

SUPPLEMENTARY INFORMATION: The draft environmental assessment has been prepared by the Manti-LaSal National Forest to address the impacts of issuing an emergency coal lease applied for by Getty Mining Company. The 120-acre tract (application U-51948) described below, is located on the Manti-LaSal National Forest in Carbon County approximately 15 miles southwest of Price, Utah. The coal would be mined from the existing underground Star Point Mines of Plateau Mining Company, a subsidiary of Getty Mining Company. The public meeting will be held to obtain comments on the potential impacts from leasing and subsequent mining of the lands under assessment.

T. 15 S., R. 7 E., SLM,
Sec. 1, Lots 7, 9 and 10.

Comments concerning the fair market value of the coal resource and the maximum economic recovery of the coal on the tract are also solicited. Comments should address specific factors including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return and mining method.

Documentation of similar market transactions, including location, terms and conditions, may also be submitted. Public comments will be utilized in establishing fair market value for the coal resources in the described land as prescribed in 30 CFR 211.63 and CFR 3422.1-2. Any proprietary information labeled as such and so stated on the first page of the submission will not be available to the public if it meets exemptions in the Freedom of Information Act. Comments on fair market value or maximum economic recovery should be sent to the Utah State Director, at the second address listed below.

For Further Information (1)
Environmental Assessment—Ira W. Hatch, Price District Ranger, Manti-LaSal National Forest, 10 North Carbon Avenue, Price, Utah 84501; (801) 837-2817. (2) Fair Market Value and Maximum Economic Recovery—R. Max Nielson, Coal Program Leader, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111; (801) 524-5326.

Gene Nodine,

District Manager.

[FR Doc. 83-2621 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-84-M

[M 11512]

Montana; Termination of Classification for Multiple Use Management

January 24, 1983.

1. Pursuant to authority delegated to me, the Bureau of Land Management Multiple Use Classification, published in 35 FR 10040, dated June 18, 1970, and described below is hereby terminated from segregation of the public land laws, generally, and from location and entry under the general mining laws.

Principal Meridian

T. 2 S., R. 2 E.,
Sec. 6, Lots 2, 3, 7, 10 and 13.

Containing 157.18 acres in Gallatin County

2. At 8 a.m. on March 9, 1983, the lands above-described shall be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals and the requirements of applicable law. All valid applications received prior to 8 a.m. on March 9, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. All lands in paragraph 1 will be open to location and entry under the general mining laws at 8 a.m. on March 9, 1983. These lands have been, and continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83-2623 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-84-M

[W-73813]

Wyoming; Conveyance; Exchange of Public Lands for Private Lands in the City of Worland, Washakie County

January 21, 1983.

Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1976), the following described land has been conveyed to Cloud Peak Investments, Inc., Worland, Wyoming:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
Sec. 30, Parcel A.

Containing 7.65 acres.

In exchange for the above land, the United States acquired the following described land from Cloud Peak Investments, Inc. within the City of Worland for the new BLM Worland District Office Site:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
Sec. 30, Parcel C.

Containing .471 acres.

David A. Pomerinke,

Acting Chief, Branch of Land Resources.

[FR Doc. 83-2622 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Lands Suitable for Sale, Public Lands in Shasta County, California

Classification Decision

Notice is hereby given that the I.O.O.F. Lodge #75 has submitted an application to purchase 1.12 acres of public land for expansion of the existing French Gulch Cemetery.

The following described land has been examined and classified as suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.).

Shasta County, California

T. 33 N., R. 7 W., M.D.M.,
Sec. 22, portion of Lot 9 as shown on Exhibit A.

The tract contains 1.12 acres.

This decision/notice is based on the following reasons:

1. The lands have been found to be valuable for public purposes.
2. The land is not of national significance and not essential to any Bureau of Land Management Program.
3. The proposed use is in conformance with existing land use plans.
4. The proposed action will have no significant (including controversial) effects on the human and natural

environment. (Environmental Assessment RE-83-15).

5. The classification and sale of the land to the I.O.O.F. is in conformance with the Secretary of the Interior's "Good Neighbor Program."

Classification of these lands under the provisions of the Recreation and Public Purposes Act will segregate them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Petition for classification CA 12930 is approved as to the land described on Exhibit "A." The petitioner is the I.O.O.F. Lodge #75, through the Recreation and Public Purposes Act, as amended.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: January 17, 1983.

Robert J. Bainbridge,
Redding Area Manager.

Exhibit A

The subject land adjoins the present cemetery and lies directly to the west. Conforming with the present north-south measurement of 163 feet and a westerly extension of 300 feet containing approximately 1.12 acres.

[PR Doc. 83-2686 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-84-M

Las Vegas District, Grazing Advisory Board, Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on March 10, 1983, at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 4765 W. Vegas Drive, Las Vegas, Nevada.

The agenda for the meeting will include: (1) BLM's new range improvement policy and grazing regulations; (2) water policy/implementation; (3) FY83 and FY84 range improvement projects; (4) Clark County EIS-MIC-MFP 3; (5) Wilderness EIS process; (6) Frontier 500 post race analysis; (7) U.S. Fish and Wildlife protest of the Final Clark County EIS; (8) FY83 budget-inability to CRMP Clark County this FY; (9) Forego land decision

mail; (10) Review MIC recommendations for Clark County allotments.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 p.m. and 4:15 p.m. on the date of the meeting or file written statements for the Board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, NV, 89126 (P.O. Box 26569) by March 10, 1983. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per person time limit.

Summary minutes of the Board meeting will be maintained at the District Office. They will be available for public inspection and reproduction (during regular business hours) within thirty days after the meeting.

Date: January 21, 1983.

Kemp Conn,
District Manager.

[PR Doc. 83-2687 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0246 and 0247, Blocks 101 and 102, 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 26, 1983.

John L. Rankin,
Acting Regional Manager, Gulf of Mexico OCS Region.

[PR Doc. 83-2834 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 21, 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 February 16, 1983.

Carol D. Shull,
Chief of Registration, National Register.

CALIFORNIA

Butte County

Chico, Silberstein Park Building, 426, 430, 434 Broadway

Orange County

San Clemente, Easley, Oscar, Block, 101 El Camino Real

GEORGIA

Charlton County

Folkston vicinity, Hopkins, John M., Cabin, SW of Folkston, off GA 121/23

ILLINOIS

Cook County

Chicago, Calumet Plant, R. R. Donnelley & Sons Company, 350 E. 22nd St.
Chicago, Sheffield Historic District (Boundary Increase), Montana, Altgeld Sts. and Southport Ave.
Skokie, Horner Building, 8051 Lincoln Ave.

INDIANA

Elkhart County

Goshen, Goshen Carnegie Public Library, 202 N. 5th St.
Goshen, Goshen Historic District, Bounded by Pike, RR, Cottage, Plymouth, Main, Parl, the Canal, and Second Sts.

Vanderburgh County

Evansville, *Boehne, John W., House*, 1119 Lincoln Ave.

IOWA**Linn County**

Cedar Rapids, *Iowa Building*, 21 Fourth Ave., SE

Cedar Rapids, *Lottner Auditorium Building*, 217 Fourth Ave. SE

Polk County

West Des Moines, *Valley Junction-West Des Moines City Hall and Engine House*, 137 Fifth St.

KENTUCKY**Pendleton County**

Falmouth, *Applegate, Leslie T., House (Falmouth MRA)*, 410 Maple St.

Falmouth, *Bishop House (Falmouth MRA)*, 200 Fourth St.

Falmouth, *Central Falmouth Historic District (Falmouth MRA)*, Roughly bounded by Shelby, 2nd, Montjoy, and Main Sts.

Falmouth, *Charity's House (Falmouth MRA)*, 108 Montjoy St.

Falmouth, *Chipman House (Falmouth MRA)*, 901 Shelby St.

Falmouth, *House at 206 Park Street (Falmouth MRA)*, 206 Park St.

Falmouth, *Hughes, Elzev, House (Falmouth MRA)*, 308 Second St.

Falmouth, *Jameson, George W., House (Falmouth MRA)*, 306 Park St.

Falmouth, *Kellum House (Falmouth MRA)*, 714 Shelby St.

Falmouth, *McBride House (Falmouth MRA)*, 401 Main St.

Falmouth, *Oldham Plantation (Falmouth MRA)*, KY 159

Falmouth, *Pendleton House (Falmouth MRA)*, 506 W. Shelby St.

Falmouth, *Reed, Frederick, House (Falmouth MRA)*, 405 Broad St.

Falmouth, *Seaman Sisters' House (Falmouth MRA)*, 706 Shelby St.

Falmouth, *Sheehan House (Falmouth MRA)*, 206 N. Maple St.

Falmouth, *Southgate House (Falmouth MRA)*, 106 Montjoy St.

Falmouth, *Watson Store (Falmouth MRA)*, 504 W. Shelby St.

LOUISIANA**Ascension Parish**

Burnside vicinity, *Texcuco*, S of Burnside on River Rd.

MICHIGAN**Ionia County**

Muir, *Muir Church of Christ*, 138 Garden St.

Wayne County

Detroit, *Vinton Building*, 600 Woodward Ave.

MISSOURI**Jackson County**

Kansas City, *City Bank Building*, 1801 Grand Ave.

Marion County

Hannibal, *Ebert-Dulany House*, 1000 Center St.

NEW MEXICO**Grant County**

Silver City, *Silver City Historic District North Addition*, Roughly bounded by the San Vicente Arroyo, College Ave., Chloride and 13th Sts.

NORTH CAROLINA**Polk County**

Tryon vicinity, *Mill-Screven Plantation*, NE of Tryon on SR 1509

OHIO**Guernsey County**

Cambridge, *Broom Building*, 701 Wheeling Ave.

Hamilton County

Cincinnati, *Cincinnati Gymnasium and Athletic Club*, 111 Shillito Pl.

Cincinnati, *East Walnut Hills Firehouse*, Madison Rd. and Hackberry St.

TENNESSEE**Giles County**

Waco vicinity, *White, Elisha, House*, W of Waco on Yokley Rd.

VERMONT**Windham County**

Brattleboro, *Brattleboro Downtown Historic District*, Main St. from Vernon to Walnut, Flat, Elliot, High, and Grove Sts.

VIRGINIA**Lynchburg (Independent City)**

Wood, *J. W., Building*, 23-27 Ninth St.

Roanoke (Independent City)

Colonial National Bank, 202-208 Jefferson St.

[FR Doc 83-2581 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., c.s.t., on February 23, 1983, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and

implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

- Coordination of construction schedules with the Jefferson and St. Bernard Parishes, City of New Orleans, and Louisiana State Agencies
- Land Protection Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, c/o Municipal Auditorium, 1201 St. Peter's Street, New Orleans, Louisiana 70116, telephone, area code 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: January 17, 1983.

Robert L. Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-2723 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary**Water Project Cost Sharing; Request for Public Comments**

The Administration is considering a new policy of Federal water project cost sharing. The Interior Department seeks ideas and suggestions from the interested public on this issue. Written ideas and suggestions are invited to be submitted on or before March 18, 1983. Comments should be addressed to the Director, Office of Water Policy, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: January 25, 1983.

James G. Watt,
Secretary.

[FR Doc. 83-2587 Filed 1-31-83; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte 431]

Adoption of the Uniform Railroad Costing System for Determining Variable Costs for Purposes of Surcharge and Jurisdictional Threshold Calculations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of available of decision.

SUMMARY: The Commission is considering the formal adoption of the Uniform Railroad Costing System (URCS) for the specified purposes of determining variable costs in computing surcharges under 49 U.S.C. 10705a and making jurisdictional threshold determinations under 49 U.S.C. 10709. Comments on this proposal and related issues are invited.

DATE: Comments are due 120 days from Federal Register publication.

ADDRESS: An original and 15 copies should be sent to: Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Leslie J. Selzer, (202) 275-7627
or

Harold J. Warren, (202) 275-7735

Copies of the full Commission decision and relevant documents concerning the URCS methodology are available from: Interstate Commerce Commission, Room 2215, Washington, D.C. 20423, (202) 275-7428.

SUPPLEMENTARY INFORMATION: 49 U.S.C. 10705a(m)(1) instructs the Commission to use Rail Form A (RFA), or an alternative methodology adopted by the Commission, to make variable cost determinations in computing surcharges under Section 10705a and making jurisdictional threshold determinations under Section 10709. See Section 10709(d)(3).

A standardized approach ensures that the required cost determinations are made in a consistent manner, with a minimum expenditure of time and money.

The purpose of this notice is to obtain comments on the adoption of the Commission's new Uniform Railroad Costing System (URCS) as the exclusive cost method for determining variable costs under Section 10705a (surcharges) and Section 10709 (jurisdictional threshold determinations). URCS data for 1980 will also be published. Both its use and Rail Form A will be permitted for all regulatory functions other than surcharges and jurisdictional threshold determinations during the rulemaking process. This will give rail cost users

and the Commission an opportunity to evaluate URCS in practice. The Commission does not intend to adopt URCS as the exclusive costing methodology for any other purpose. In all other proceedings, parties would be given the opportunity to submit any documented cost evidence.

A full discussion of the issues is contained in the Commission decision, which is available from the Commission.

It does not appear that this action will significantly affect the quality of the human environment or the conservation of energy resources. However, comments on these issues are invited. We also certify that this action will not have a significant effect on a significant number of small entities; the number of small entities participating in these cases is not significant.

(49 U.S.C. 10321, 10705a, 10709, and 5 U.S.C. 553)

Dated: January 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-0046 Filed 1-31-83; 8:45 am]
BILLING CODE 7305-01-M

[OP4FC-045]

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Eash 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 transferee 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.

Note.—Please direct status inquiries to Team 4 at (202) 275-7669.

MC-FC-81067. By decision of January 25, 1983, under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to ATLANTIC MOTOR EXPRESS, INC., Glen Burnie, MD, of all the authority in Certificate No. MC-123997 and subs thereto, authorizing the transportation of such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, materials, equipment and supplies, between points in WV, except those within 10 miles of Oakland, MD, over regular and irregular routes, general commodities (with exceptions) and specific commodities, over named routes and between points in DE, MD, PA, VA, WV and DC, glass containers, closures, boxes, and materials, equipment and supplies, between named facilities at or near Keyser, WV, and Baltimore, MD, on the one hand, and, on the other, points in CT, GA, DE, IL, IN, KY, MD, MI, MS, OH, NJ, NY, NC, PA, SC, TN, VA, WV, WI and DC, specific commodities, between the facilities of the Clorox Co. at or near Frederick and Baltimore, MD, on the one hand, and, on the other, points in DE, NJ, PA, NY, VA, NC, OH and KY, and general commodities (with exceptions), for the U.S. Government, between points in the U.S. Representative: Maxwell A. Howell, 1511 K St., NW, Washington, DC 20005.

Note.—Transferee has filed a directly-related application for an initial grant of motor common carrier authority in MC-165717, published elsewhere in this same FR issue.

MC-FC-81075, filed December 2, 1982. By decision of January 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board

Number 3 approved the transfer to DEMCO TRANSPORT, INC., of Wheeling, WV, of Certificate No. MC-40456 (Sub-No. 16), issued January 19, 1981, to JOHN BENKART & SONS CO., of Pittsburgh, PA, authorizing the transportation of *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), for the United States Government, between points in the U.S.; MC-40456 (Sub-No. 17)X, issued August 12, 1982, authorizing the transportation of (A) *machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment*, (1) between specified points in PA, and (2) between specified points in PA, on the one hand, and, on the other, points in MD, WV, and OH, and named points in NJ, and NY, (B) *those commodities requiring the use of special handling or equipment*, (1) between named points in PA, on the one hand, and, on the other, points in the Southern Peninsula of MI, points in OH, WV, DE, NJ, and named points in NY, (2) between points in OH, on the one hand, and, on the other, points in WV, and (3) between points in the Southern Peninsula of MI, on the one hand, and, on the other, named points in NJ and NY, and points in WV and MD; and MC-40456 E-letter notices (Sub-Nos. E2 through E14), published in the Federal Register issue of October 31, 1974, as pertinent, authorizing the transportation of *commodities which because of size or weight require special handling or equipment*, between points in OH, NJ, DE, MD, WV, NY, and MI.

Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, for transferor. Condition: The authority under No. MC-40456 and No. MC-40456 (Sub-No. E1) will be cancelled as requested by transferor.

MC-FC-81105, by decision of January 24, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to HARRY PHILLIP JAMES, d.b.a. P. J. TRANSPORTATION, San Leandro, CA, of Certificate No. MC-159876, issued July 8, 1982, and Permit No. MC-159876 (Sub-No. 1), issued August 30, 1982, to K-K JR. TRUCKING, A DIVISION OF K-K JR. ENTERPRISES, INC., San Leandro, CA, authorizing the transportation in certificate of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between San Francisco, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY; and in permit of *magazines, scrap or waste*

paper for recycling, and such commodities as are manufactured, dealt in or used by printing and publishing plants and houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Pacific Press, Inc., Division of Arcata Graphics, of Vernon, CA. Representative: Clayton W. Brunsell, 500 Financial Center Bldg., Oakland, CA 94612, for both transferee and transferor.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2646 Filed 1-31-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of 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 becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922 (c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OPI-37

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1540 (Sub-18), Filed January 14, 1983. Applicant: P & J FURNITURE DELIVERY, INC., R.D. 10, Box 468; York, PA 17404. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *furniture and fixtures and appliances*, between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 117940 (Sub-374), filed January 18, 1983. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479-1984. 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 Montgomery Ward & Company, of Chicago, IL.

MC 124951 (Sub-46), filed January 30, 1982. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101, (502) 781-6595. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 143501 (Sub-15), filed January 14, 1983. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Road, S. Holland, IL 60473. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ITT Continental Baking Company, Inc., of Rye, NY.

MC 146891 (Sub-6), filed January 7, 1983. Applicant: A & G EXPRESS, INC., 2700 Palmyra Road, P.O. Box 1974, Albany, GA 31702. Representative:

Norman L. Underwood, 1400 Candler Bldg., 127 Peachtree Street, NE, Atlanta, GA 30043, (404) 658-8108. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except OR, WA, ID, MT, WY, SD, ND, AK and HI).

MC 165250, filed January 14, 1983. Applicant: B A R TRANSPORTATION, INC., P.O. Box 863, Calhoun, GA 30701. Representative: Mark S. Gray, 1006 South Tower, 225 Peachtree St., N.E., Atlanta, GA 30303, (404) 523-1717. Transporting *such commodities* as are dealt in by automobile supply stores, *textile mill products*, and *metal products*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-639

Decided: January 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 52793 (Sub-118), filed December 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312-547-2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Research Cottrell, of Sommerville, NJ.

MC 89734 (Sub-76) (correction), filed November 18, 1982, published in the *Federal Register* issue of December 2, 1982, and republished, as corrected, this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, MO 63103. Representative: Michael Thompson (same address as applicant); (314) 622-2011. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in CA, CT, DE, FL, GA, ID, ME, MD, MA, MI, MN, MT, NV, NH, NJ, NY, NC, ND, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY, and DC, on the one hand, and on the other, points in AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OH, OK, TN, and TX, and (2) between points in AL, AZ, CA, CT, DE, FL, GA, IN, ID, IA, KY, ME, MD, MA, MT, MI, MN, NV, NH, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY, and DC.

Note—The purpose of this correction is to reflect "DC" in part (1) of the territorial description before "on the one hand, and, on the other," instead of at the end of part (1).

MC 126253 (Sub-7), filed January 4, 1983. Applicant: WESTERN MASS. BUS LINES, INC., SERVICE CENTER, Northampton, MA 01060.

Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103; 413-732-1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

Volume OP2-042

Decided: January 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 8933 (Sub-4), filed January 13, 1982. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 52793 (Sub-120), filed January 11, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547-2184. Transporting *exhibits and displays*, between points in the U.S. (except AK and HI), under continuing contract(s) with Society of Manufacturing Engineers, of Dearborn, MI.

MC 58902 (Sub-24), filed January 10, 1983. Applicant: MANLEY TRUCK LINE, INC., 9300 West 110th St., Suite 560, Overland Park, KS 66210. Representative: A. J. Whisler, P.O. Box 25428, Overland Park, KS 66225, (913) 642-2331. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY.

MC 81133 (Sub-8), filed January 7, 1983. Applicant: CORKERY FUEL & MATERIALS COMPANY, 1017 Mary Candace Lane, St. Louis, MO 63125. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *coal*, between points in IL and MO.

MC 118612 (Sub-19), filed January 3, 1983. Applicant: COLUMBIA TRUCKING, INC., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle St., Suite 3520, Chicago, IL 60601, (312) 332-5106. Transporting *petroleum products*, between points in Lake County, IN, on the one hand, and, on the other, points in IL.

MC 123793 (Sub-1), filed January 18, 1983. Applicant: JAMES H. CLARK &

SON, INC., 4100 S. 500 W., Salt Lake City, UT 84115. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300.

Transporting (1) *flour and grain products*, between points in UT, on the one hand, and, on the other, points in CA, CO, ID, IL, NV, TX, AZ, OR, and WA, and (2) *bananas*, between points in Los Angeles County, CA, and Galveston County, TX, on the one hand, and, on the other, points in CA, AR, NM, NE, OR, WA, ID, MT, WY, UT, CO, ND, SD, KS, OK, TX, MN, WI, IA, MO, AZ, LA, IL, and NV.

MC 125973 (Sub-11), filed January 11, 1983. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Ave., P.O. Box M799A, Gary, IN 46401. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312) 580-2210. 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) Wickman Traffic Service, Inc., of Western Springs, IL, (b) Specialty Paper Company, of Dayton, OH, (c) G. Pierce Toy Manufacturing Co., of Chicago, IL, (d) United Coatings, Inc., of Chicago, IL, and (e) Hardy Salt Company, of St. Louis, MO.

MC 146102 (Sub-5), filed January 5, 1983. Applicant: TAMWAY CORPORATION, P.O. Box 771, Simpsonville, SC 29681. Representative: Tammy Hill, 401 Poinsettia Dr., Simpsonville, SC 29681, 803-963-4644. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, NC, and SC, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 147873 (Sub-5), filed January 17, 1983. Applicant: G. BAKER EXPRESS, INC., 1250 Executive Place, Suite 402, Geneva, IL 60134. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, 312-236-9375. Transporting *metal products, machinery, and rubber and plastic products*, between points in AZ, CA, CO, IL, IN, MA, MI, MO, NC, OH, OR, PA, TX, and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150273 (Sub-3), filed January 6, 1983. Applicant: TRANSIT SERVICING, INC., 8121-C East 34 Rd., Cadillac, MI 49601. Representative: Burton A. Hines, Sr., 121 North Mitchell St., Cadillac, MI 49601, (616) 775-8513. Transporting *general commodities* (except classes A

and B explosives, household goods, and commodities in bulk), between Grand Rapids, MI, on the one hand, and, on the other, points in the Upper Peninsula of MI and those points in the Lower Peninsula of MI north of U.S. Hwy. 21.

MC 150682 (Sub-3), filed January 10, 1983. Applicant: KEDASHAW, INC., P.O. Box 246, Kensington, KS 66951. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, 913-232-0601. Transporting *food and related products*, between points in Cloud, Mitchell, Phillips, and Russell Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151642 (Sub-2), filed January 6, 1983. Applicant: AUBREY L. JONES, d.b.a. JONES TRUCKING SERVICE, Stewardson, IL 62463. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *fertilizer*, between points in IL and KY.

MC 155022 (Sub-6), filed January 13, 1983. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *chemicals and related products*, between points in Williams County, ND, and Manistee County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158583 (Sub-2), filed January 17, 1983. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Fort Atkinson, WI 53538. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Cambeck Petroleum Corporation, of Janesville, WI (b) Edgerton Oasis, Inc., of Edgerton, WI, and (c) Johnson Lions, Inc., of Janesville, WI.

MC 164313, filed January 10, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. 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 points in NC and SC, on the one hand, and, on the other, points in AL, AR, AZ, CA, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NM, NY, OH, OR, PA, RI, SC, TN, TX, UT, VA, VT, WA, WI, and WV.

MC 165392, filed December 22, 1982. Applicant: SKYWAY TRANSPORTATION, INC., 390 St. Paul Ave., Jersey City, NJ 07306. Representative: Ken Wilson, 167 Sylvan Rd. Bloomfield, NJ 07003, 201-338-5753. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY and Philadelphia, PA, on the one hand, and, on the other, points in NJ, NY, and those in Fairfield and New Haven, CT.

MC 165443, filed December 27, 1982. Applicant: VINCENT TRUCKING, INC., P.O. Box 68, Alpine, AL 35014. Representative: Larry Vincent (same address as applicant), 205-268-2884. Transporting *farm equipment*, between points in AL, GA, TN, FL, MS, NC, SC, KY, OH, and IN.

MC 165493, filed January 5, 1983. Applicant: DAKOTA WOOD TRUSS, INC., 1321 South 12th St., Bismarck, ND 58501. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *lumber and wood products*, between points in ID, MT, OR, and WA, on the one hand, and, on the other, points in IL, IA, MN, NE, ND, SD, and WI.

MC 165522, filed January 3, 1983. Applicant: BETTER COIL & TRANSFORMER CORP., P.O. Box 470, Goodland, IN 47948. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638-1301. Transporting (1) *metal products*, between points in the U.S., under continuing contract(s) with Capitol Products Corporation, of Mechanicsburg, PA, and (2) *electronic equipment and toys*, between points in the U.S., under continuing contract(s) with Dejay Corporation, of Holbrook, MA, and Klenatron Company, Inc., of Ipswich, MA.

MC 165633, filed January 11, 1983. Applicant: THOMPSON TRUCKING, INC., 3741 Ashley Phosphate Rd., Charleston, SC 29410. Representative: William Thompson, (same address as applicant), (803) 552-5400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Charleston and Greenville, SC, and Atlanta and Savannah, GA, on the one hand, and, on the other, points in FL, TX, LA, GA, NC, SC, TN, AL, CA, OH, MA, VA, PA, IL, NJ, MO, and KS.

MC 165712, filed January 14, 1983. Applicant: ENCINAL TRUCKING, INC., 1521 Buena Vista Ave., Alameda, CA 94501. Representative: Mr. Chengben (Peter) Wang (same address as applicant), (415) 523-8800. Transporting

general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, on the one hand, and, on the other, points in CA, OR, WA, ID, MT, UT, WY, CO, NM, AZ, and NV.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-27

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163985, filed January 8, 1983. Applicant: DOTT'S TRUCKING, Rt. 2, Box 172, Colville, WA 99114. Representative: Grant A. Dotts, Sr. (same address as applicant), (509) 684-3142. Transporting (1) *beer and wine*, between points in CA, on the one hand, and, on the other, points in WA, under continuing contract(s) with North Columbia Distributors of Colville, WA, and (2) *machines*, between points in OR, NV and CA, under continuing contract(s) with Colmac Industries, Inc. of Colville, WA.

MC 165515, filed January 4, 1983. Applicant: D J TRANSPORT, INC., 4931 Myra Ave., Cypress, CA 90630. Representative: Donald W. Eldridge (same address as applicant), (714) 827-8541. 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 D & N Enterprises, of Hawaiian Gardens, CA, A & E Products Group, A & E Plastik Pak Co., and Tepper Ind., d.b.a. Romanezue Spas, all of Santa Ana, CA, INPAC, Pacific Expanded Metals, and Berglund Perforated Metals, all of Santa Fe Springs, CA, Arrow Machine Products, of Terrell, TX, Com-Pak International Inc., of Garden Grove, CA, Holley Carburetor, of Goodlettsville, TN, Roll A Flex Doors, Inc., and E. G. M. Financial Planners, both of Anaheim, CA, State Industries, Inc., of Ashland City, TN, Patterson Lift Trucks Inc., of Oakland, CA, Rickert International Trading Co., of Richmond, CA, R & W Lift Trucks, Inc., of La Mirada, CA, and Orchid Paper Products Concel, Inc., of La Palma, CA.

MC 165584, filed January 10, 1983. Applicant: MICHAEL F. MANN, d.b.a., CHEMTRANS, 2099 W. 3950 S., Roy, UT 84067. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Van Waters & Rogers, division of Univar Corporation, of Salt Lake City, UT.

MC 165605, filed January 10, 1983. Applicant: GODFREY EXPRESS, INC., 1600 Washington Ave., P.O. Box 1051, Alton, IL 62002. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421-0845. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MO and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *commodities in bulk*, between points in Greene County, IL, on the one hand, and, on the other, points in IL, IN, IA, and MO.

MC 165614, filed January 10, 1983. Applicant: BIG STATE FREIGHT LINES, INC., 2451 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TX.

MC 165615, filed January 11, 1983. Applicant: GRUNTHANER TOWING, INC., 2916 Union Rd., Cheektowaga, NY 14227. Representative: Michael A. Wargula, 128 Sherburn Dr., Hamburg, NY 14075, (716) 648-0481. Transporting *disabled, repossessed, stolen, and abandoned motor vehicles, and replacement vehicles*, between points in NY, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA.

MC 165645, filed January 11, 1983. Applicant: DANIEL D. KADERABEK, d.b.a. KADERABEK TRUCKING, 2110 David Ave., Sheboygan, WI 53081. Representative: Harold O. Orlofske, 145 West Wisconsin Ave., P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting *food and related products*, between points in Brown, Calumet, Door, Manitowoc, Ozaukee, and Sheboygan Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-041

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 152117 (Sub-3), filed January 17, 1983. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 1112 29th Ave., S.W., Cedar Rapids, IA 52408. Representative: Virginia A. Wilson (same address as applicant). Transporting (1) *such commodities as are dealt in or used by manufacturers and distributors of grocery and food*

business houses, *metal products*, and *machinery*, between points in Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *pulp, paper and related products, printed matter, rubber and plastic products, petroleum, natural gas and their products*, between points in AL, AR, IL, IA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) *metal products*, between Cedar Rapids, IA, and Minneapolis, MN, and points in Jasper and Poweshiek Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152257 (Sub-4), filed January 17, 1983. Applicant: LORDCO TRUCKING, INC., 535-F Tollgate Rd., Elgin, IL 60120. Representative: Paul J. Maton, 27 East Monroe St., Suite 1000, Chicago, IL 60603, (312) 332-9095. 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 Z & Z Distributing Company, of Toledo, OH.

MC 156707 (Sub-2), filed January 17, 1983. Applicant: MWK TRANSPORT CO., INC., 5401 West Donges Bay Rd., Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256-7444. 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 Carson, Pirie, Scott & Company, of Chicago, IL.

MC 162006, filed January 17, 1983. Applicant: T & M CONSTRUCTION CO., INC., Box 589, Watonga, OK 73772. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424-3301. Transporting *oil field commodities*, between points in AR, CO, KS, LA, MS, NM, OK, TX, and WY.

MC 165647, filed January 11, 1983. Applicant: Ronald E. Wray, d.b.a. WRAY TRUCKING CO., Route 1, Box 3, Rocky Mount, VA 24151. Representative: Betty Jo Christian, 1250 Connecticut Ave., Washington, DC 20036, (202) 882-2158. Transporting *general commodities* (except classes A and B explosives and household goods), between points in VA, MD, NC, SC, and GA, on the one hand, and, on the other, points in Sullivan, Knox, and Hamilton Counties, TN, and those in VA, MD, NC, SC, GA, AL, WV, OH, PA, NJ, DE, and DC.

MC 165727, filed January 17, 1983. Applicant: WESTERN NEW YORK TRANSPORTATION & RIGGING CO., 189 McGinnis Rd., Scottsville, NY 14546.

Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580, (716) 671-1021. Transporting *metals and metal products, and machinery, equipment and supplies*, between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Sabin Metal, Inc., of Scottsville, NY.

MC 165736, filed January 17, 1983. Applicant: MIDWEST CAR CARRIERS, 303 W. 6th St., Fremont, NE 68025. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (412) 392-1220. Transporting *automobile and trucks*, between points in NE, IA, MO, MN, ND, SD, CO, KS, OK, TX, IL, IN, AZ, NM, MI, WI, WY, OH, and AR.

MC 165786, filed January 17, 1983. Applicant: DAWN TRANSPORTATION, INC., P.O. Box 1885, Glendale, AZ 85311. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264-4891. Transporting *textile mill products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wayn-Tex, Inc., of Waynesboro, VA.

Volume No. OP4-043

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 153456, (Sub-1) filed January 21, 1983. Applicant: FRANK KOSAR, d.b.a. RITE WAY TRUCK RENTAL, 2606 Cartwright St., Dallas, TX 75212. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255-6279. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, AZ, CO, CA, GA, ID, LA, MS, NM, OH, OK, OR, TN, TX, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *machinery and equipment*, between points in the U.S. (except AK and HI).

MC 161046 (Sub-2), filed January 20, 1983. Applicant: S & B ENTERPRISES, 273 South 1375 East, Bountiful, UT 84010. Representative: Steve Facer, P.O. Box 639, Bountiful, UT 84010, (801) 292-2984. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162196 (Sub-1), filed January 21, 1983. Applicant: SUPERIOR INSTALLATION SERVICES, INC., 2034 South Clayton, Denver, CO 80210. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421-0845. Transporting *general commodities* (except classes A

and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, of Boise, ID. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 162406 (Sub-2), filed January 20, 1983. Applicant: SFZ TRANSPORTATION, INC., 14600 Detroit Ave., P.O. Box 2675, Lakewood, OH 44107. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. 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 164576, filed January 21, 1983. Applicant: DANIEL L. VANDERHOFF, d.b.a. ALDAN TRUCKING, Fairview Rt., Box 360, Coquille, OR 97423. Representative: Sherril Vanderhoef (same address as applicant), (503) 396-2885. Transporting *carpet, vinyl, and tile floor covering*, between points in GA and AL, on the one hand, and, on the other, points in WA, OR, CA, MT, ID, NV, WY, UT, CO, and AZ.

MC 165717, filed January 14, 1983. Applicant: ATLANTIC MOTOR EXPRESS, INC., 7926 E. Starwood Court, Glen Burnie, MD 21061. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., NW., Washington, DC 20008, (202) 483-8633. 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).

Note.—This application is directly related to MC-FC-81067, published elsewhere in this same Federal Register issue.

MC 165757, filed January 18, 1983. Applicant: FOUR WINDS INTERNATIONAL, INC., 7035 Convoy Court, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785-0024. As a broker to arrange for the transportation of *household goods*, between points in the U.S.

Agatha L. Margenovich,
Secretary.

[FR Doc. 83-2649 Filed 1-31-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of 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.

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. OP2-043

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 24643 (Sub-3), filed January 4, 1983. Applicant: OAK TREE BUS SERVICE, INC., 2091 Oak Tree Rd. Oak Tree, Edison, NJ 08820. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532-5100. Transporting *Passengers*, in charter and special operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter, and special transportation.

MC 76022 (Sub-3), filed January 7, 1983. Applicant: COMMUNITY COACH, INC., 315 Howe Ave., Passaic, NJ 07055. Representative: J. G. Dail, Jr., P.O. Box 11, McLean, VA 22101, 703-893-3050. 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 109312 (Sub-43), filed January 10, 1983. Applicant: DECAMP BUS LINES, 101 Greenwood Ave., P.O. Box 581, Montclair, NJ 07042. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532-5181. 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 158452 (Sub-1), filed January 6, 1983. Applicant: BIRNIE BUS SERVICE, INC., 7944 Upper West Thomas St., P.O. Box 630, Rome, NY 13440. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, 212-532-5181. 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 159652 (Sub-1), filed January 3, 1983. Applicant: BELL'S BUS SERVICE, 218 Burns Crossing Rd., Severn, MD 21144. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162053 (Sub-1), filed January 5, 1983. Applicant: ADVENTURE CHARTERS AND TOURS, INC., 4328 South Seville St., Las Vegas, NV 89121. Representative: Gary E. Mohler, (same address as applicant), (702) 382-5575. 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 163942 (Sub-1), filed January 3, 1983. Applicant: EVERETT MILLER, d.b.a. SHERIDAN READY MIX & HAULING, INC., P.O. Box 205, Sheridan, AR 72150. Representative: Everett Miller (same address as applicant), (501) 942-3656. Transporting *general commodities*, between Sheridan, Carthage, Leola, Poyen, and Fordyce, AR, on the one hand, and, on the other, points in the U.S. Conditions: The certificate to be issued, to the extent it authorizes the transportation of explosives, will be conditioned to expire 5 years from its date of issuance, subject to extension upon appropriate petition. Applicant must certify to the Commission, prior to

initiating operations, that all rail service has actually terminated at the involved points. Applicants must send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Section of Motor, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 165513, filed January 3, 1983. Applicant: BAST CHARTER COACHES, LTD., W. 201, N. 13900 Fond Du Lac Ave., Richfield, WI 53076. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge, No. 832, Portage, WI 53901, (608) 742-3579. 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 165533, filed January 6, 1983. Applicant: YELLOW BUS COMPANY, INC., P.O. Box 3810, San Clemente, CA 92672. 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 Los Angeles, Orange, Riverside, San Bernardino, San Diego, Imperial, and Kern Counties, CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165573, filed January 7, 1983. Applicant: INDEPENDENT COACH CORP., 25 Wanser Ave., Inwood, NY 11696. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212-466-0220. 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 165622, filed January 11, 1983. Applicant: TAYLOR BUS SERVICE, 917 E. Pacifico, Anaheim, CA 92805. 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, OR, WA, and NV, 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. OP2-049

Decided: January 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 94742 (Sub-44), filed January 4, 1983. Applicant: MICHAUD BUS LINES, INC., 61-63 Jefferson Ave., Salem, MA 01970. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617-235-5571. 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 165502, filed January 4, 1983. Applicant: SUPERCOACH, INC., 419 Poplar St., Huntington, IN 46750. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414-722-2848. Transporting passengers, in charter operations, beginning and ending at points in Adams, Allen, Grant, Huntington, Wabash, Wells, and Whitley Counties, IN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165543, filed January 4, 1983. Applicant: SUDDATH TRANSPORTATION SERVICES, INC., P.O. Box 60069, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036; (202) 785-0024. As a broker of general commodities (except household goods), between points in the U.S.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-26

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 148955 (Sub-3), filed January 3, 1983. Applicant: LAMERS BUS LINES, INC., 2407 So. Point Rd., Green Bay, WI 54303. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8555. 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 165064, filed December 6, 1983. Applicant: D & L MACHINE WORKS, P.O. Box 925, Hwy. 59 So., Siloam Springs, AR 72761. Representative: Luther G. Piley (same address as applicant), (501) 524-9479. Transporting (1) machinery and chemicals and related products, between points in Benton County, AR, on the one hand, and, on the other, points in CA, (2)

transporting, for or on behalf of the United States Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (3) transporting food and other edible products and by products 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) and (4) as a broker of general commodities (except household goods), between points in the U.S.

MC 165635, filed January 11, 1983. Applicant: BUS TOURS, INC., 101 E. Albert Dr., Manitowoc, WI 54220. Representative: Robert Brandt (same address as applicant), (414) 682-8823. Transporting passengers, in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Volume No. OP3-32

Decided: January 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150354 (Sub-2), filed January 11, 1983. Applicant: BIRDSALL & SERBIN, INC., d.b.a. RSB COACHES, 2021 NW 32 Ave., Box 7037, Rochester, MN 55903. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. 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 125765 (Sub-4), filed January 10, 1983. Applicant: HUBERS BUS SERVICE, INC., 103 Wells Ave., Ferndale, Glen Burnie, MD 21061. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005, (202) 783-3525. Transporting passengers, in charter and special operations, beginning and ending at points in DE, MD, PA, VA, WV and DC and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160554 (Sub-1), filed January 7, 1983. Applicant: M. C. J. COACH LINES, INC., 62 Bouton St., South Norwalk, CT 06854. Representative: John J. Logan (same address as applicant), (203) 228-0458. 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 164644, filed January 11, 1983. Applicant: WHARRY ENTERPRISES, INC., d.b.a. ADVENTURE SOME COACHES, R.R. #2, P.O. Box 724X, Mulvane, KS 67110. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110-L Topeka, KS 66612, (913) 233-8629. 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 165595, filed January 10, 1983. Applicant: RED ARROW TRANSPORTATION, INC., 2390 Mill Rd., Alexandria, VA 22314. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave, Suite 1203; Alexandria, VA 22304; (703) 751-2441. 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 165604, filed January 10, 1983. Applicant: THOMAS D. COLLINS, 904 W. Morgan St., Kokomo, IN 46901. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. As a broker of general commodities, (except household goods), between points in the U.S. (except AK and HI).

MC 165624, filed January 11, 1983. Applicant: LEE COACHES, INC., Route 4, Box 259-S, Fredericksburg, VA 22401. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting Passengers, in charter operations, beginning and ending at points in VA, MD, and DC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter operations.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-042

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165737, filed January 17, 1983. Applicant: MITSUI-SOKO (USA), INCORPORATED, One World Trade Center, Suite 1807, New York, NY 10048. Representative: Kenichi Kawanishi (same address as applicant), (212) 432-3451. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 165756, filed January 18, 1983.
Applicant: ROBERT SALLEE, d.b.a.
NORTH VALLEY TRAVEL CLUB, P.O.
Box 2891, Marysville, CA 95901.
Representative: Robert G. Harrison, 4299
James Dr., Carson City, NV 89701, (702)
882-5649. Transporting *passengers*, in
special and charter operations, between
points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

MC 165766, filed January 19, 1983.
Applicant: TRANS-AMERICA
CHARTER COACHES, INC., R.R. 7, Box
433, Marion, IL 62959. Representative: B.
W. LaTourette, Jr., 11 South Meramec,
Suite 1400, St. Louis, MO 63105, (314)
727-0777. 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.

Volume No. OP4-044

Decided: January 26, 1983.

By the Commission, Review Board No. 1,
Members Parker, Chandler, and Fortier.

MC 165796, filed January 17, 1983.
Applicant: HOWARD WILLIAMS, 1230
2nd St., Eaton, CO 80615.
Representative: Charles J. Kimball, 1600
Sherman St., No. 665, Denver, CO 80203,
(303) 839-5856. 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 165806, filed January 20, 1983.
Applicant: EXCO, INC., 24645 State Rd.
23, P.O. Box 2853, South Bend, IN 46880.
Representative: Thomas J. Gast (same
address as applicant), (219) 289-9211. As
a *broker of general commodities* (except
household goods), between points in the
U.S.

MC 165816, filed January 21, 1983.
Applicant: NICHOLAS COMANICI, 221
Thompson Run Rd., Pittsburgh, PA
15235. Representative: William A. Gray,
2310 Grant Bldg., Pittsburgh, PA 15219,
(412) 471-1800. Transporting *passengers*,
in charter and special operations,
between points in the U.S.

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2650 Filed 1-31-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15066; OP4F-040]

Motor Carriers; Bradley Freight Lines, Inc.—Merger Exemption—C & C 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 for Handling Exemptions
Filed By Motor Carriers of Property
Under 49 U.S.C. 11343*, 367 I.C.C. 113
(1982), Bradley Freight Lines, Inc. (No.
MC-28803) and C & C Transport, Inc.
(No. MC-140614), both motor common
carriers, seek an exemption from the
requirement under section 11343 of prior
regulatory approval for the merger of C
& C Transport into Bradley Freight
Lines.

DATE: Comment 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: Henry E.
Seaton, 929 Pennsylvania Bldg., 13th
and Pennsylvania Ave., NW.,
Washington, D.C. 20004

Comments should refer to No. MC-F-
15066.

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 petitioners' representative. In
the alternative, the petition for
exemption may be inspected at the
offices of the Interstate Commerce
Commission during usual business
hours.

Decided: January 26, 1983.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2651 Filed 1-31-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387]

Rail Carriers; Exemptions for Contract Tariffs

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.

DATE: 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)
nor 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
662	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0029, Supplement 3 (wheat) via the Port of Los An- geles	2	Jan. 25, 1983.
671	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0187 (grain) via TX Ports.	1	Do.
675	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0146 (copper products).	2	Do.
689	Burlington Northern Rail- road Co., ICC-BN-C- 0090 (soda ash).	3	Do.
690	Burlington Northern Rail- road Co., ICC-BN-C- 0023-A (soda ash).	3	Do.
691	Burlington Northern Rail- road Co., ICC-BN-C- 0261 (coal).	1	Do.
692	Southern Pacific Transpor- tation Co., ICC-SP-C- 0120, Supplement 1 (cotton lint).	2	Do.
693	The Baltimore and Ohio Railroad Co., ICC-BO- C-0117 (soda ash).	3	Do.
703	Richard B. Ogilvie, Trust- ee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, ICC-MILW-C-0213 (sodium carbonate).	3	Do.

Sub-No.	Name of railroad, contract No., and specifics	Review Board ¹	Decided date
704	Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, ICC-MILW-C-0330 (iron and/or steel articles).	1	Do.
705	Baltimore and Ohio Railroad Co., ICC-BO-C-0119 (bituminous steam coal).	2	Do.
706	Union Pacific Railroad Co., ICC-UP-C-0249 (empty privately-owned covered hopper cars).	3	Do.
707	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0191 (copper rods).	1	Do.
708	Consolidated Rail Corp., ICC-CR-C-0271 (grain, viz: barley, rye or wheat).	2	Do.
709	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0053-A (canned goods).	3	Do.
710	Trans Kentucky Transportation Railroad, Inc., ICC-TTIS-C-0001 (unmanufactured tobacco).	1	Do.
711	Missouri Pacific Railroad Co., ICC-MP-C-0232 (wheat flour).	1	Do.
712	Soo Line Railroad Co., ICC-SOO-C-0157 (barley and wheat).	2	Do.
713	Missouri Pacific Railroad Co., ICC-MP-C-0231 (soybeans).	3	Do.
714	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0076 (any commodity).	1	Do.

Sub-No.	Name of railroad, contract No., and specifics	Review Board ¹	Decided date
715	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0070-A (canned goods).	2	Do.

¹ Review Board No. 1, Members Parker, Chaudier, 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. 83-2552 Filed 1-31-83; 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

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 February 11, 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 February 11, 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, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 24th day of January 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 Number	Articles Produced
General Motors Corp., Buick Motor Div. (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,231	Assemble Buick, engines, transmissions components, trailing axle, plastic parts, metals, hood panels, PIM engine cradles, front & rear coil spring.
General Motors Corp., Cadillac Motor Car (UAW)	Livonia, MI	1/14/83	1/11/83	TA-W-14,232	Engines.
General Motors Corp., Chevrolet Adrian P/L (UAW)	Adrian, MI	1/14/83	1/11/83	TA-W-14,233	Plastic automotive components.
General Motors Corp., Chevrolet Motor Div. (UAW)	Bay City, MI	1/14/83	1/11/83	TA-W-14,234	Carburetor assemblies, heaters, engine, transmission components, parts and steering.
General Motors Corp., Guide-Monroe (UAW)	Monroe, GA	1/14/83	1/11/83	TA-W-14,235	Auto lighting.
General Motors Corp., Guide-Anderson (UAW)	Anderson, IN	1/14/83	1/11/83	TA-W-14,236	Auto lighting, plastic molding.
General Motors Corp., Oldsmobile Div. (UAW)	Lansing, MI	1/14/83	1/11/83	TA-W-14,237	Gear assembly, V-8, V-6, V-8 diesel engine, pressed metal, plastic, tanks, etc.
General Motors Corp., Oldsmobile Div. (UAW)	Lansing, MI	1/14/83	1/11/83	TA-W-14,238	Forging, axle, differential machinery and assembly tools.
General Motors Corp., (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,239	Automotive products.
General Motors Corp., Truck & Bus Group (UAW)	St. Louis, MO	1/14/83	1/11/83	TA-W-14,240	Chevrolet & GMC medium truck.
General Motors Corp., Truck & Bus Group (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,241	Inter-city coaches, school buses, heavy duty trucks, medium duty trucks & light duty trucks.
General Motors Corp., Truck & Bus Group (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,242	Commercial pick-up, commercial blazers and suburbans.
General Motors Corp., Delco Electronics (UAW)	Kokomo, IN	1/14/83	1/11/83	TA-W-14,243	Automotive products-receivers, speakers, air controls, voltage regulators, engine & ignition controls.
General Motors Corp., Delco Electronics (UAW)	Milwaukee, WI	1/14/83	1/11/83	TA-W-14,244	Engine controls, carousel programs, flight management systems, military programs.
General Motors Corp., Delco Div. (UAW)	Anderson, IN	1/14/83	1/11/83	TA-W-14,245	Starting, lighting & ignition equipment.
General Motors Corp., Delco Division (UAW)	Muncie, IN	1/14/83	1/11/83	TA-W-14,246	Batteries.
General Motors Corp., Delco Division (UAW)	Olathe, KS	1/14/83	1/11/83	TA-W-14,247	Batteries.
General Motors Corp., Delco Division (UAW)	Fitzgerald, GA	1/14/83	1/11/83	TA-W-14,248	Batteries.
General Motors Corp., Delco Div. (UAW)	Albany, GA	1/14/83	1/11/83	TA-W-14,249	Delco-trons.
General Motors Corp., Delco Div. (UAW)	Meridian, MS	1/14/83	1/11/83	TA-W-14,250	Starting motors.
General Motors Corp., Rochester Products Division (UAW)	Rochester, NY	1/14/83	1/11/83	TA-W-14,251	Fuel systems.
General Motors Corp., Rochester Products (UAW)	Tuscaloosa, AL	1/14/83	1/11/83	TA-W-14,252	Carburetor assembly.
General Motors Corp., Rochester Products Division (UAW)	Grand Rapids, MI	1/14/83	1/11/83	TA-W-14,253	Automotive parts, diesel fuel injectors, throttle body injectors.
General Motors Corp., Central Foundry Div., Danville PL (UAW)	Tilton, IL	1/14/83	1/11/83	TA-W-14,254	Malleable & grey iron castings.
General Motors Corp., Central Foundry Division (UAW)	Messers, NY	1/14/83	1/11/83	TA-W-14,255	Aluminum castings.
General Motors Corp., Central Foundry Division (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,256	Malleable castings.

APPENDIX—Continued

Petitioner (Union/workers or former workers of)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
General Motors Corp., Central Foundry Division (UAW)	Defiance, OH	1/14/83	1/11/83	TA-W-14,257	Grey iron and modular castings.
General Motors Corp., Central Foundry Division (UAW)	Bedford, IN	1/14/83	1/11/83	TA-W-14,258	Aluminum castings.
General Motors Corp., Central Foundry Div. (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,259	Grey iron castings.
General Motors Corp., Delco Moraine Div. (UAW)	Fredricksburg, OH	1/14/83	1/11/83	TA-W-14,260	Automotive components, principally for transmissions.
General Motors Corp., Delco Moraine Div. (UAW)	Dayton, OH	1/14/83	1/11/83	TA-W-14,261	Automotive components, brake systems, engine bearing & transmission parts.
General Motors Corp., Harrison Radiator Div. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,262	Radiators—car/truck A/C—car/truck, thermostats, oil coolers.
General Motors Corp., Harrison Radiator Division (UAW)	Lockport, NY	1/14/83	1/11/83	TA-W-14,263	Radiators—car/truck; A/C thermostats—car/truck; oil coolers—car/truck.
General Motors Corp., Hydra-matic (UAW)	Ypsilanti, MI	1/14/83	1/11/83	TA-W-14,264	Automatic transmissions.
General Motors Corp., Hydra-matic (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,265	Control arms, wheels, T car front suspensions.
General Motors Corp., Hydra-matic (UAW)	Three Rivers, MI	1/14/83	1/11/83	TA-W-14,266	Automatic transmissions.
General Motors Corp., New Departure-Hyatt (UAW)	Sanduskey, OH	1/14/83	1/11/83	TA-W-14,267	Ball bearings, including pumps, shaft bearings, cylindrical roller bearings, integral wheel-spindle bearings, gas caps.
General Motors Corp., New Departure-Hyatt (UAW)	Bristol, CT	1/14/83	1/11/83	TA-W-14,268	Standard ball bearings, roller clutch, precision ball and roller bearings, integral wheel spindle bearings.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,269	Power steering hoses—instrument panel brackets actuators.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,270	Power steering gears.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,271	Power steering pumps, manual steering gears, odd model gears, drive vacuum pumps.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,272	Propeller shafts—lower control arm shafts—front wheel drive axle.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,273	Air pumps, front wheel axles, idler arm assemblies.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,274	Standard steering columns, adjustable steering columns, immediate shafts.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,275	Rack and pinion manual gears, rack and pinion power gears, immediate shafts.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,276	Power steering gears, power steering pumps, rack and pinion power gears.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,277	Air pumps, intermediate shafts.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,278	Front wheel drive axles.
General Motors Corp., Detroit Diesel Allison Div. (UAW)	Indianapolis, IN	1/14/83	1/11/83	TA-W-14,279	Diesel engines, gas turbine engines, transmission and service parts.
General Motors Corp., Detroit Diesel Allison Div. (UAW)	Detroit, MI	1/14/83	1/11/83	TA-W-14,280	Diesel engines service parts.
General Motors Corp., Electro-Motive Div. (UAW)	Harsham, IN	1/14/83	1/11/83	TA-W-14,281	Parts warehouse.
General Motors Corp., Electro-Motive Div. (UAW)	Halethorpe, MD	1/14/83	1/11/83	TA-W-14,282	Rebuild branch.
General Motors Corp., Electro-Motive Div. (UAW)	St. Paul, MN	1/14/83	1/11/83	TA-W-14,283	Parts warehouse.
General Motors Corp., Electro-Motive Div. (UAW)	Hazelwood, MO	1/14/83	1/11/83	TA-W-14,284	Rebuild branch.
General Motors Corp., Electro-Motive Div. (UAW)	Fort Worth, TX	1/14/83	1/11/83	TA-W-14,285	Parts warehouse.
General Motors Corp., Electro-Motive Div. (UAW)	Omaha, NE	1/14/83	1/11/83	TA-W-14,286	Parts warehouse.
General Motors Corp., AC Spark Plug (UAW)	Wichita Falls, TX	1/14/83	1/11/83	TA-W-14,287	Exhaust oxygen sensor.
General Motors Corp., AC Spark Plug Div. (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,288	Spark plugs, fuel pumps, air, oil, gas filters, clusters, gages, switches, other misc. components.
General Motors Corp., Chevrolet Motor Div., Parma Plant (UAW)	Cleveland, OH	1/14/83	1/11/83	TA-W-14,289	Pressed metal hoods, fenders, etc., transmission components, propeller shafts.
General Motors Corp., Chevrolet Tonawanda Motor Div. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,290	Castings for engines and brake drums.
General Motors Corp., Electro-Motive Div. (UAW)	La Grange, IL	1/14/83	1/11/83	TA-W-14,291	Diesel electric locomotives.
General Motors Corp., Electro-Motive Div. (UAW)	La Grange, IL	1/14/83	1/11/83	TA-W-14,292	Diesel electric locomotives.
General Motors Corp., Electro-Motive Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,293	Parts warehouse.
General Motors Corp., Electro-Motive Div. (UAW)	Jacksonville, FL	1/14/83	1/11/83	TA-W-14,294	Rebuild branch.
General Motors Corp., Electro-Motive Div. (UAW)	Commerce, CA	1/14/83	1/11/83	TA-W-14,295	Parts warehouse & rebuild branch.
General Motors Corp., Detroit Diesel Allison Div. Detroit Operations Mfg. Plant (UAW)	Romulus, MI	1/14/83	1/11/83	TA-W-14,296	Diesel engines/service parts.
General Motors Corp., Detroit Diesel Allison Div. Detroit Operations Parts Dist. (UAW)	Romulus, MI	1/14/83	1/11/83	TA-W-14,297	Service parts warehouse and shipment.
General Motors Corp., Chevrolet Tonawanda Motor Div. Forge Plt. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,298	Forged component parts.
General Motors Corp., Chevrolet Tonawanda Motor Div. Motor Plt. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,299	Engines.
General Motors Corp., Chevrolet Motor Div. GMC Transmission Plt. (UAW)	Toledo, OH	1/14/83	1/11/83	TA-W-14,300	700R—4 speed transmission 350-3 Speed trans. component parts only.
General Motors Corp., Chevrolet-Muncie (UAW)	Muncie, IN	1/14/83	1/11/83	TA-W-14,301	Manual transmissions 4 & 3 speed.
General Motors Corp., Chevrolet-Motor Div. Livonia Plant (UAW)	Livonia, MI	1/14/83	1/11/83	TA-W-14,302	Bumpers, coil springs, leaf springs, miscellaneous stampings.
General Motors Corp., Chevrolet-Indianapolis Plant (UAW)	Indianapolis, IN	1/14/83	1/11/83	TA-W-14,303	Automotive metal stampings.
General Motors Corp., Chevrolet Motor Div., Metal Fabricating Plant (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,304	Hoods & fenders for (A-mailbu, B-Reg. pass T-Chevette, F-Camaro, ck 10-30 comm) (2) frames for A-Spec-Pont, buick, olds & X-chev, Pont, buick, olds.
General Motors Corp., Chevrolet Flint Manufacturing (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,305	Manufacture of engines & pressed metal & plastic automotive components.
General Motors Corp., Flint Engine Plant Chevrolet Motor (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,306	4 cyl & 8 cyl gasoline-engines used in passenger areas and trucks.
General Motors Corp., Chevrolet Detroit Plants (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,307	Gears, axles, forgings, truck assembly.
General Motors Corp., Chevrolet Center Office (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,308	None—non-productive maintenance employees.
General Motors Corp., Chevrolet Engineering Center (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,309	None—non-productive employees working on engineering changes.
General Motors Corp., Chevrolet-Buffalo	Buffalo, NY	1/14/83	1/11/83	TA-W-14,310	Rear axle asm. steering linkage asm t-car steering knuckle.
General Motors Corp., Assembly Div.	Nonwood, OH	1/14/83	1/11/83	TA-W-14,311	Chevrolet—Camaro, Pontiac—Firebird.
General Motors Corp., Assembly Plant (UAW)	Oklahoma City, OK	1/14/83	1/11/83	TA-W-14,312	Chev, X, Chev A, Buick A.
General Motors Corp., Assembly Div. (UAW)	Shreveport, LA	1/14/83	1/11/83	TA-W-14,313	Chev, GMC S. S. Truck.
General Motors Corp., Assembly Div. (UAW)	S. Gate, CA	1/14/83	1/11/83	TA-W-14,314	Chev, Olds, Buicks, Cadillacs.
General Motors Corp., Assembly Div. (UAW)	Van Nuys, CA	1/14/83	1/11/83	TA-W-14,315	Chev, Pontiac J.
General Motors Corp., Assembly Div. (UAW)	Wilmington, DE	1/14/83	1/11/83	TA-W-14,316	Chevette.
General Motors Corp., Assembly Div. (UAW)	Arlington, TX	1/14/83	1/11/83	TA-W-14,317	Buick, Chevrolet, GMC.
General Motors Corp., Assembly Div. (UAW)	Baltimore, MD	1/14/83	1/11/83	TA-W-14,318	Chevrolet, Pontiac.
General Motors Corp., Assembly Div. (UAW)	Bowling Green, KY	1/14/83	1/11/83	TA-W-14,319	Corvette.

APPENDIX—Continued

Petitioner (Union/workers or former workers of)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
General Motors Corp., Assembly Div. (UAW)	Doraville, GA	1/14/83	1/11/83	TA-W-14,320	Olds, Buick.
General Motors Corp., Assembly Div. (UAW)	Kansas City, KS	1/14/83	1/11/83	TA-W-14,321	Buick, Olds, Chev.
General Motors Corp., Assembly Div. (UAW)	Framingham MA	1/14/83	1/11/83	TA-W-14,322	Buicks, Olds, Chev., Pontiac.
General Motors Corp., Assembly Div. (UAW)	Janesville, WI	1/14/83	1/11/83	TA-W-14,323	Chevrolet, Chevrolet & GMC Trucks, Cadillac.
General Motors Corp., Leeds Plant (UAW)	Kansas City, KS	1/14/83	1/11/83	TA-W-14,324	Buick & Chev A special, Pontiac J Body Olds.
General Motors Corp., Assembly Div. (UAW)	Linden, NJ	1/14/83	1/11/83	TA-W-14,325	Cadillac "E", "K", Olds "E", Buicks "E".
General Motors Corp., Assembly Div. (UAW)	Warren, OH	1/14/83	1/11/83	TA-W-14,326	J-Cavellier & Pontiac 2000 G. Van Chev & GMC.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Jacksonville, FL	1/14/83	1/11/83	TA-W-14,327	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Santa Fe Springs, CA	1/14/83	1/11/83	TA-W-14,328	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Portland, OR	1/14/83	1/11/83	TA-W-14,329	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Baltimore, MD	1/14/83	1/11/83	TA-W-14,330	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,331	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Broadview, IL	1/14/83	1/11/83	TA-W-14,332	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Denver, CO	1/14/83	1/11/83	TA-W-14,333	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Sharonville, OH	1/14/83	1/11/83	TA-W-14,334	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,335	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Dallas, TX	1/14/83	1/11/83	TA-W-14,336	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Lenexa, KS	1/14/83	1/11/83	TA-W-14,337	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Minneapolis, MN	1/14/83	1/11/83	TA-W-14,338	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	St. Louis, MO	1/14/83	1/11/83	TA-W-14,339	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,340	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Bethpage, NY	1/14/83	1/11/83	TA-W-14,341	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Cleveland, OH	1/14/83	1/11/83	TA-W-14,342	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Houston, TX	1/14/83	1/11/83	TA-W-14,343	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Boston, MA	1/14/83	1/11/83	TA-W-14,344	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Memphis, TN	1/14/83	1/11/83	TA-W-14,345	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Richmond, VA	1/14/83	1/11/83	TA-W-14,346	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Philadelphia, PA	1/14/83	1/11/83	TA-W-14,347	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Sparks, NV	1/14/83	1/11/83	TA-W-14,348	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Livonia, MI	1/14/83	1/11/83	TA-W-14,349	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Newark, NJ	1/14/83	1/11/83	TA-W-14,350	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,351	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Martinsburg, WV	1/14/83	1/11/83	TA-W-14,352	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	No. Brunswick, NJ	1/14/83	1/11/83	TA-W-14,353	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Dallas, TX	1/14/83	1/11/83	TA-W-14,354	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Columbus, OH	1/14/83	1/11/83	TA-W-14,355	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Pittsburgh, PA	1/14/83	1/11/83	TA-W-14,356	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Chicago, IL	1/14/83	1/11/83	TA-W-14,357	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Dallas, TX	1/14/83	1/11/83	TA-W-14,358	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Denver, CO	1/14/83	1/11/83	TA-W-14,359	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,360	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Kansas City, KS	1/14/83	1/11/83	TA-W-14,361	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,362	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Lansing, MI	1/14/83	1/11/83	TA-W-14,363	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Drayton Plains, MI	1/14/83	1/11/83	TA-W-14,364	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Belleville, MI	1/14/83	1/11/83	TA-W-14,365	Auto hardware parts, accy.
Campbell Industries, Inc. (IAM & AW)	San Diego, CA	1/20/83	1/17/83	TA-W-14,366	Boats—luna.
Kitt Energy Corp. (Workers)	Meadow Lands, PA	1/16/83	1/17/83	TA-W-14,367	Coal—mining.
Migo Corp. (company)	So. Lake Worth, FL	1/17/83	1/08/83	TA-W-14,368	Clothing—ladies.
Hoover Universal, Inc., Ball & Roller Div. (USWA)	Erwin, TN	1/14/83	1/10/83	TA-W-14,369	Balls & rollers—industrial.
Midway Mfg. & Supply Inc. (workers)	Odessa, TX	1/17/83	12/31/82	TA-W-14,370	Equipment, drilling, oil, mining.

APPENDIX—Continued

Petitioner (Union/workers or former workers of)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Jeffrey Chain Operations, Dresser Industries, Inc. (workers)	Monistown, TN	1/07/83	1/04/83	TA-W-14,371	Chains all types.
Electronic Interconnect Systems, Inc. (workers)	S. Hadley, MA	1/19/83	1/10/83	TA-W-14,372	Cables, wire & systems interconnect.
Uniroyal Tire Co., Uniroyal Distribution Center (workers)	Troy, MI	11/16/82	11/06/82	TA-W-14,373	Tires & distribution.
General Motors Corp., Cadillac Motor Car (UAW)	Detroit, MI	1/14/83	1/11/83	TA-W-14,374	Auto assembly.
General Motors Corp., Saginaw Chevrolet Plants (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,375	Auto & truck components.

[FR Doc. 83-2714 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-20-M

Mine Safety and Health Administration

[Docket No. M-82-102-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania, and its Buchanan No. 1 Mine (I.D. No. 44-04856) and Buchanan No. 2 Mine (I.D. No. 44-04857), both located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one sprinkler be installed above each belt drive, belt take-up, electrical control, and gear reducing unit, and that individual sprinklers be installed at intervals of no more than 8 feet along all conveyor branch lines.

2. As an alternative method, petitioner proposes the use of a single line of automatic sprinklers for its fire protection system at main and secondary belt-conveyor drives. Automatic sprinklers on the proposed single line will be maintained at a distance of not more than 10 feet apart, so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. During operation of the system, water pressure will not be less than 10 psi. Petitioner believes that since the orifice opening of the automatic sprinklers is one-half inch, a strainer is not necessary.

3. Petitioner further states that the proposed alternative method will be more reliable. The second branch line required by the standard is vulnerable to damage from material which may fall

off the belt, thereby reducing the system reliability and operability.

4. The proposed alternative method would reduce the amount of piping needed, making it practical to fully fill the system with antifreeze, which is critical since winter air temperatures can fall below freezing in these mines. A test to ensure proper operation will be conducted during the installation of each new system and during repair or replacement of any critical part.

5. Petitioner states that the proposed alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2719 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-113-C]

Imperial Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Imperial Colliery Company, P.O. Box 8, Burnwell, Virginia 25034 has filed a petition to modify the application of 30 CFR 75.1714-2 (self-rescue devices; use and location requirements) to its No. 14 Mine (I.D. No. 46-01344) located in Kanawha County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescue (SCSR) devices be carried by miners on all mantrips into and out of the mine.

2. Neither methane nor areas of oxygen deficiency have been encountered in the mine over the past 20 years; no record of any mine fires exists. Miners are transported to the working sections by track-mounted and rubber-tired vehicles. These trips usually take less than 30 minutes.

3. Petitioner states that requiring miners to carry SCSRs on mantrips would result in a diminution of safety because:

a. The SCSRs are big, bulky and awkward, creating additional hazards for the miners who will have to carry and/or move them to and from mantrips. The use of the SCSRs would expose these workers to additional work around moving vehicles and force them to perform additional pulling, pushing, lifting, and handling;

b. The increased physical stress caused by carrying and moving SCSRs will increase employee fatigue and increase the chances of an accident;

c. Due to the design of the mine, with track or roadway and belt in the same entry for much of the mine, the SCSRs will be carried in low seam and narrow clearance areas. This could cause injury if the SCSRs get caught in moving machinery or if employees carrying them are forced against various pieces of moving machinery; and

d. There is little or no room on the mantrips for carrying or securing the SCSRs, increasing the potential for overcrowded mantrips and the hazard of flying objects should the mantrip come to a sudden stop.

4. As an alternative method, petitioner proposes to store the SCSRs on each section in accordance with a specified storage plan while miners are on mantrips. Filter-type rescuers will be worn by miners at all times.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners

affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2718 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-114-C]

Milburn Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Milburn Colliery Company, P.O. Box 8, Burnwell, West Virginia 25034 has filed a petition to modify the application 30 CFR 75.1714-2 (self-rescue devices; use and location requirements) to its No. 4 Mine (I.D. No. 46-01296) located in Fayette County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescue (SCSR) devices be carried by miners on all mantrips into and out of the mine.

2. Neither methane nor areas of oxygen deficiency have been encountered in the mine over the past 20 years; no record of any mine fires exists. Miners are transported to the working sections by tract-mounted and rubber-tired vehicles. These trips usually take less than 30 minutes.

3. Petitioner states that requiring miners to carry SCSRs on mantrips would result in a diminution of safety because:

a. The SCSRs are big, bulky and awkward, creating additional hazards for the miners who will have to carry and/or move them to and from mantrips. The use of the SCSR's would expose these workers to additional work around moving vehicles and force them to perform additional pulling, pushing, lifting, and handling;

b. The increased physical stress caused by carrying and moving SCSRs

will increase employee fatigue and increase the chances of an accident;

c. Due to the design of the mine, with track or roadway and belt in the same entry for much of the mine, the SCSRs will be carried in low seam and narrow clearance areas. This could cause injury if the SCSR's get caught in moving machinery, or if employees carrying them are forced against various pieces of moving machinery; and

d. There is little or no room on the mantrips for carrying or securing the SCSRs, increasing the potential for overcrowded mantrips and the hazard of flying objects should the mantrip come to a sudden stop.

4. As an alternative method, petitioner proposes to store the SCSRs on each section in accordance with a specified storage plan while miners are on mantrips. Filter-type rescuers will be worn by miners at all times.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 30, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2718 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-125-C]

Morgan Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morgan Mining Company, Inc., P.O. Drawer W, Haysi, Virginia 24256 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 4 Mine (I.D. No. 44-05480) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be

installed on the mine's electric face equipment.

2. The average height of the coal seam is 47 inches, with uneven floor conditions.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof support system. Further, canopies restrict the equipment operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2717 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-33-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Corporation, LaSalle route, Moab, Utah 84532 has filed a petition to modify the application of 30 CFR 57.21-97 (blasts in gassy mines) to its Lisbon Mine (I.D. No. 42-00677) located in Grand County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that blasts in gassy mines be initiated electrically and multiple-shot blasts be initiated only with millisecond-delay detonators.

2. As an alternative method, petitioner proposes to use regular electric blasting detonators in lieu of millisecond-delay detonators.

3. Petitioner states that due to the physical characteristics of a blast using millisecond-delay detonators, broken rock is being thrown much further back from the face. Timber supports are damaged and the ventilation tubing that directs fresh air to the face has to be

removed to a point beyond reach of the broken rock. Miners are then exposed to less clean air than they would be if the tubing could be left installed closer to the face, as can be done when using standard delay electric blasting detonators. In addition, millisecond-delay detonators cause extensive damage to ventilation ducts and bulkheads. The use of the standard delay detonator will allow a safer and healthier work environment after a blast.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 24, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2715 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-34-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Corporation, LaSal Route, Moab, Utah 84532 has filed a petition to modify the application of 30 CFR 57.21-58 (overcasts and undercasts) to its Lisbon Mine (I.D. No. 42-00677) located in Grand County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that overcasts and undercasts be constructed tightly of incombustible material.

2. The mine's ore body is situated on the northeastern flank of the faulted

Lisbon Valley anticline at an approximate depth of 2,500 feet. The depth of the ore and the location near the fault create more ground movement than a mine nearer the surface. With this ground movement, the use of cinderblocks, concrete or steel would not only create undue problems with installation, but would prove unsatisfactory from the crushing effect of ground movement.

3. Solid, substantial material has been used for stoppings in crosscuts and other installations that control ventilation airflows. The exposed surfaces are treated to be fire-resistant; those stoppings are not constructed of incombustible material because the material mined is not combustible.

4. Petitioner states that using incombustible materials to maintain ventilation control would result in a diminution of safety because these materials would crack, break, or fall down due to the closure experienced with the openings at the depth mined.

5. As an alternative method, petitioner proposes to maintain the present overcasts, constructed for 8 by 8 inch timber with headboards or squeeze blocks as a framework to absorb the ground movement, and 2 by 12 inch lagging with all exposed surfaces rendered incombustible.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at the address.

Dated: January 24, 1983. 06Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2721 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under Section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternative method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-81-152-C	47 FR 6504	R.C. & R. Coal Co.	30 CFR 75.1400	Proposed operation of man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connection device considered acceptable alternative method of compliance. Granted with conditions.
M-81-191-C	47 FR 65021	Old Ben Coal Co.	30 CFR 75.503	Proposed use of a hinged metal locking device in lieu of padlocks for the purpose of locking battery plugs to battery-tray receptacle on permissible, mobile, battery-powered machines considered acceptable alternative method of compliance. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FEDERAL REGISTER no. & date	Petitioner	Regulations affected	Summary of findings
M-81-246-C	47 FR 7897	Sewell Coal Co.	30 CFR 75.1105	Petitioner's proposal to ventilate a rectifier and a transformer directly by intake air in lieu of coursing the air directly into the return airway with specified safeguards considered acceptable alternative method. Granted with conditions.
M-81-266-C	47 FR 8097	New Way Coal Co.	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-81-269-C	47 FR 13434	Peabody Coal Co.	30 CFR 75.1710	When truss bolts are installed at 45 degree angle, the ATRS does not fit firmly against the roof; petitioner's proposal to install rail bars instead of truss bolts or wait until the area to be trussed is no longer in by the last open crosscut considered acceptable alternative method. Granted with conditions.
M-81-273-C	47 FR 6503	Amherst Coal Co.	30 CFR 75.305	Due to numerous roof falls, petitioner's proposal to establish and maintain three specified air measuring stations considered acceptable alternative method. Granted with conditions.
M-82-2-C	47 FR 13435	Valley Camp Coal Co.	30 CFR 75.305	Due to roof falls, petitioner's proposal to monitor oxygen deficiency, methane accumulation and the rate of air flow in the return air course from two evaluation points at both edges of the fall area considered acceptable alternative method. Granted with conditions.
M-82-5-C	47 FR 44896	BCNR Mining Corp.	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish and maintain specified ventilation monitoring stations considered acceptable alternative method. Granted in part with conditions.
M-82-10-C	47 FR 14238	South Hopkins Coal Co.	30 CFR 75.803	Petitioner's proposal to install a ground field bed of less than 4 ohms to earth at the site of the oil circuit breaker for the mine and to visually inspect the full length of this line on a weekly basis considered acceptable alternative method of compliance. Granted with conditions.
M-82-12-C	47 FR 15932	South Hopkins Coal Co.	30 CFR 75.1710	Use of cabs or canopies on certain mining equipment in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-82-13-C	47 FR 12402	Alabama By-Products Corp.	30 CFR 49.6(a)(2)	Petitioner's proposed alternative to ensure that liquid oxygen be available to all operations within two hours ground travel time in lieu of storing it onsite considered acceptable alternative method of compliance. Granted with conditions.
M-82-15-C	47 FR 13434	Raven Coal Co.	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-82-19-C	47 FR 13062	Consolidation Coal Co.	30 CFR 75.1105	Enclosing pumps in fireproof housing structures with automatic fire suppression devices considered acceptable alternative method of compliance. Granted with conditions.
M-82-29-C	47 FR 16912	Levent Run Mining Co.	30 CFR 49.6(a)(1)	Equipping the mine rescue station with six self-contained oxygen breathing apparatus and maintaining an agreement with a fully equipped backup team located 15 minutes ground travel time from the mine considered acceptable alternative method. Granted with conditions.
M-82-30-C	47 FR 13432	Kanawha Coal Co.	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-82-32-C	47 FR 18078	Cimarron Coal Corp.	30 CFR 77.803	In lieu of monitoring continuously the grounding circuit to assure continuity, petitioner's proposal to place an oil circuit breaker and ground check monitor on the trail cable at the end of the overland circuit with specified safeguards considered acceptable alternative method of compliance. Granted with conditions.
M-82-34-C	47 FR 19252	Old Ben Coal Co.	30 CFR 75.902	Proposal to distribute power in an underground shop through the use of a standard panel box with specified safeguards and precautions considered acceptable alternative method of compliance. Granted upon compliance with conditions.
M-82-38-C	47 FR 22240	Angela Mining Co.	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-82-42-C	47 FR 24482	Island Creek Coal Co.	30 CFR 75.507-1(a)	Proposed use of nonpermissible 20 h.p. 460 V Franklin Electric submersible pump to drain water from the sump beneath the No. 1 return air shaft considered acceptable alternative method. Granted with conditions.
M-82-45-C	47 FR 21323	Quarto Mining Co.	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish and maintain specified ventilation monitoring stations considered acceptable alternative method. Granted in part with conditions.
M-82-50-C	47 FR 24486	Youghiogheny and Ohio Coal Co.	30 CFR 75.1101-8	Petitioner's proposal to use a single overhead pipe sprinkler system with specified safeguards and conditions considered acceptable alternative method of compliance. Granted with conditions.
M-82-55-C	47 FR 27640	Sahara Coal Co., Inc.	30 CFR 75.503	Proposed use of a threaded bolt device in lieu of a padlock to secure screw caps in place on plugs of a battery-operated scoop tractor considered acceptable alternative method. Granted with conditions.
M-82-67-C	47 FR 33566	Old Ben Coal Co.	30 CFR 75.1700	Proposed plan to plug and mine through abandoned oil and gas wells considered acceptable alternative method to leaving coal barriers around the wells. Granted with conditions.
M-79-21-M	44 FR 45789	Sunshine Mining Co.	30 CFR 57.12-82	Use of armored cables with external conductive sheath considered acceptable alternative method of compliance. Granted with conditions.
M-79-23-M	44 FR 48801	Hedco Mining Co.	30 CFR 57.19-71	Allowing workers to ride in skips or buckets with supplies, materials or tools during shaft sinking and repair operations to prevent unattended materials from falling down the shaft on top of workers below, with specified safeguards, considered acceptable alternative method. Granted with conditions.
M-80-27-M	45 FR 14965	Cominco American, Inc.	30 CFR 57.4-61B	Petitioner's proposal to adjust the main fan so that any smoke generated by a fire, should one occur, would be removed directly from the mine considered acceptable alternative method. Granted with conditions.
M-80-33-M	45 FR 17265	Cominco American, Inc.	30 CFR 57.4-61A	Petitioner's proposal to adjust the main fan so that any smoke generated by a fire, should one occur, would be removed directly from the mine in lieu of installing fire doors considered acceptable alternative method of compliance. Granted with conditions.
M-80-94-M	45 FR 61399	Rio Blanco Oil Shale Co.	30 CFR 57.19-54	Petitioner's proposal to use plane steel guide ropes on manrope to transport miners into and out of the mine considered acceptable alternative method. Granted with conditions.
M-81-27-M	46 FR 34861	United States Steel Corp.	30 CFR 55.16-2(c)	Proposed maintenance and inspection of bins in compliance with specified job procedures considered acceptable alternative method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	Federal Register notice	Petitioner	Regulations affected	Summary of findings
M-81-72-M	47 FR 8898	Ziegler Chemical and Mineral Corp.	30 CFR 57.19-3	Use of a seven belt pulley drive mechanism on a personnel hoist with specified safeguards considered acceptable alternative method. Granted with conditions.
M-82-20-M	47 FR 24485	Union Oil Co. of California	30 CFR 57.15-31(a)	Allowing employees to enter and exit underground change rooms and office complex through a specially constructed and illuminated adit without carrying or wearing a self-rescue device considered acceptable alternative method. Granted with conditions.
M-82-21-M	47 FR 24485	Union Oil Co. of California	30 CFR 57.17-10	Allowing employees to enter and exit underground change rooms and office complex through a specially constructed and illuminated adit without carrying individual electric lamps considered acceptable alternative method. Granted with conditions.

[FR Doc. 83-2720 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs**Alaska Teamsters Employer Pension Trust et al.; Proposed Exemptions****AGENCY:** Pension and Welfare Benefit Programs Office, Labor.**ACTION:** Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Within 30 days of the publication of the proposed exemptions in the Federal Register, notice of the proposed exemptions will be provided to all interested persons as agreed upon by the applicant and the Department. The notice to interested persons will include a copy of each applicable notice of pendency and a statement informing interested persons of their right to comment.

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Plans Involved

a. *The Alaska Teamsters Employer Pension Trust* is a multi-employer pension plan which covers participants who are employed in over-the-road and local transportation as well as related industries in Alaska. It has approximately 15,500 participants and had assets of \$224,409,000 as of February 28, 1981.

b. *The Alaska Laborers Employer Pension Trust* is a multi-employer pension plan which covers participants who are employed in construction and

related industries in Alaska. It has approximately 1,929 participants and had assets of \$109,000,000 as of December 31, 1980.

c. *The Alaska Hotel and Restaurant Employees Pension Trust* is a multi-employer pension plan covering participants who are employed in Alaska in restaurant, hotel and cabaret operations and related activities. It has approximately 2,656 participants and had assets of \$31,240,631 as of April 30, 1979.

Alaska Teamsters Employer Pension Trust (the Plan) and the Alaska Hotel and Restaurant Employees Pension Trust (the Hotel Plan) Located in Anchorage, Alaska

[Application No. D-2812]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Carr-Gottstein Properties, Inc. (CGP) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to CGP for the period from February 5, 1976 to August 9, 1978, and by reason of the Hotel Plan's participation in the loan beginning August 9, 1978.

Effective Date: If the proposed exemption is granted, it will be effective February 5, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to CGP. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services Agreement between the Plan and the Bank.

2. In September 1975, CGP arranged construction financing in the amount of \$550,000 for construction of a neighborhood shopping center in Anchorage, Alaska. The construction loan was arranged through the Bank with the funds provided by the Bank. Permanent financing in the amount of \$875,000 was also arranged by the Bank on the basis of a commitment from the Plan to acquire the loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding CGP. The Bank also obtained a complete appraisal of the shopping center property showing a value of \$900,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been completed.

4. The permanent financing was closed on February 5, 1976, after completion of construction, and was secured by a promissory note and a first lien deed of trust. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. CGP on February 5, 1976 was a wholly-owned subsidiary of Carr-Gottstein Co., Inc. (then known as J. B. Gottstein and Company, Inc.) which was a contributing employer to the Plan at the time of the transaction.

6. Upon becoming aware of the possible prohibited nature of the original transaction, the Bank sold the CGP loan to Capital Consultants, Inc., (Capital) on August 9, 1978. Capital, an investment adviser in Portland, Oregon, acquired the loan on behalf of the Hotel Plan. However, a third-tier subsidiary of CGP, Alaska Catering Company (ACC) was a contributing employer at that time to the Hotel Plan. On May 8, 1979, CGP's second-tier subsidiary sold its interest in

ACC to a third party. Thus, after May 8, 1979, no affiliate of CGP had any direct or indirect interest in ACC. Another affiliate of CGP, Carr's Quality Centers, Inc. has also been a contributing employer to the Hotel Plan from the early 1960's to the present.

7. CGP and its affiliates, officers and directors are not and have never been a trustee of the Plan or the Hotel Plan nor have they occupied any other fiduciary relationship with respect to either Plan. CGP was totally unaware of the Plans' interest in the loan.

8. In summary, the applicants represent that the subject transactions meet the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; (2) the applicants had no influence or control over either Plan's involvement in the transactions; and (3) the applicants were unaware of the Plans participation.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2813]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-28, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to L.J. Carr (Carr), B.J. Gottstein (Gottstein), Carr-Gottstein Co., Inc. (C-G), and Carr-Gottstein Properties, Inc. (CGP) by reason of the Plan's participation beginning October 24, 1975, in a mortgage loan originated by the Alaska Mutual Savings Bank (the Bank) the Carr and Gottstein and in the refinancing of the loan to CGP on December 21, 1977.

Effective Date: If the proposed exemption is granted, it will be effective October 24, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Carr, Gottstein, C-G and CGP. The Department is not proposing exemptive relief for any other aspects of the

transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest mutual savings bank and is regulated by the State of Alaska and the FDIC. The Plan periodically informs the Bank of the availability of Plan funds for investing in permanent mortgages on commercial property located in Alaska. The Bank then selects mortgages from its mortgage pool and submits a package to the Plan. If the purchase is approved by the Plan, it acquires the mortgage or a participating interest therein.

2. On July 12, 1973, the Bank issued a \$1,280,000 loan commitment to Carr, Gottstein and 7 L Investors, Inc. (an unrelated corporation) to finance construction of a four story office building at 3rd and K Streets in Anchorage, Alaska. The Property upon which the building was to be constructed was owned 25% by Carr, by Gottstein and 50% by 7 L Investors, Inc. The Bank prior to the issuance of the loan commitment obtained substantial credit and other information regarding the borrowers. A 1976 appraisal of the property shows a value of \$2,550,000.

3. The loan was closed on August 2, 1973 to the borrowers as tenants in common and was secured by a promissory note, Deed of Trust and Assignment of Rents. The promissory note bore interest at the rate of 9.5% per annum and called for equal monthly installments over a period of 25 years. Loan payments were current throughout the history of the loan.

4. On October 24, 1975, without the knowledge or consent of the borrowers, the Bank sold a 90% participating interest in the loan to the Plan. The sale occurred at par without a commission or finder's fee. On October 10, 1977, the undivided interests of Carr and Gottstein in the property were sold to CGP.

5. On December 21, 1977, the Bank refinanced the loan. Pursuant to the refinancing, the August 2, 1973 loan was paid in full and a new loan in the amount of \$1,785,000 was made. At the time of the refinancing the nine owners of the property were CGP and former shareholders of 7 L Investors, Inc. which had previously dissolved and liquidated its properties.

6. The Note for \$1,785,000 was executed by CGP as Maker and C-G as Guarantor. The Deed of Trust was executed by the nine owners as Mortgagor. The loan proceeds were disbursed by the Bank to the nine owners per their ownership percentages.

CGP and C-G were indemnified by the other owners for their pro rata share of the loan. Limited personal guarantees were also given to the Bank by the other owners. The form of the loan was dictated by the Bank's desire for purposes of convenience to look solely to CGP and C-G as the primary obligors. The promissory note bore interest at 10% per annum and calls for equal monthly installments over a period of 25 years. Loan payments are current. The Plan has participated in the refinancing to the extent of a 90% interest evidenced by a participation certificate dated December 27, 1977. As in the original loan transaction, the borrowers were completely unaware of the Plan's participation in the refinancing.

7. CGP was on October 24, 1975, a wholly-owned subsidiary of a contributing employer, J. B. Gottstein and Company, Inc. (an entity organized in 1958 and now known as C-G). On December 21, 1977, CGP was a wholly-owned subsidiary of a contributing employer, J. B. Gottstein and Company, Inc. (an entity newly organized on June 29, 1976 under the old name). Carr and Gottstein were the sole owners of all of the voting stock of J. B. Gottstein and Co., Inc. on October 24, 1975, and of C-G on December 21, 1977. The applicants and their affiliates, officers and directors are not and have never been a trustee of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

8. The sales of participation interests in the original loan and the refinancing were transactions over which the applicants had no control and to which they did not consent. The applicants were not aware of the Plan's possible participation until an Internal Revenue Service audit in the fall of 1980, which revealed the role played by the Plan.

9. In summary, the applicants represent that the subject transactions meet the criteria of section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) the applicants did not know nor had any reason to know of the Plan's involvement in the participations.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2815]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is

considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-28, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to James and Daris Lundgren (the Lundgrens) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to the Lundgrens for the period beginning April 16, 1976 through December 30, 1980.

Effective date: If the exemption is granted, it will be effective from April 16, 1976 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to the Lundgrens. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it as custodian in permanent mortgage loans which meet the written criteria of an agreement between the Plan and the Bank.

2. In 1975, the applicants arranged both construction and permanent financing with the Bank for construction of an industrial and warehouse building located in Fairbanks, Alaska. The interim financing was concluded on February 20, 1976, and is evidenced by a promissory note in the amount of \$530,000 to the Bank. Permanent financing was also arranged by the Bank at the same time as the construction loan was closed. Since the loan met all applicable criteria, the Bank as Plan investment manager committed Plan assets to fund the permanent loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding the borrowers. The Bank also obtained a complete appraisal of the property showing a value of \$730,000. The appraisal was an "as-built appraisal and assumed that the improvements for

which the loan was granted had been constructed.

4. The permanent financing was closed on April 16, 1976, after completion of construction, and was secured by a Promissory Note and a Deed of Trust. The Plan was the sole source of the loan funding. The Promissory Note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 20 years. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, the Lundgrens owned 10% of the stock of Lundgren Pacific Construction Company, Inc. (LPCC). Mr Lundgren was also an officer of LPCC. LPCC was a contributing employer to the Plan at the time of the transaction. In 1977, Mr. Lundgren sold his stock interest in LPCC to unrelated persons. Also, since October, 1977, LPCC has not been a contributing employer to the Plan. Mr. Lundgren is not and has never been a trustee of the Plan, nor has he ever occupied any other fiduciary relationship with respect to the Plan.

6. At the time of the transaction, the Lundgrens were unaware of the possible prohibited nature of the transaction. The Bank, when it became aware of the possible prohibited nature of the transaction, repurchased the Lundgren loan from the Plan at par for cash on December 30, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c) (2) of the Code because: (1) All loan payments have been made in full and on schedule; (2) the applicants had no influence or control over the Plan's involvement in the transaction; and (3) the applicants were unaware of the possible prohibited nature of the transaction.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Teamsters Plan) and the Alaska Laborers Employer Pension Trust (the Laborers Plan; collectively, the Plans) Located in Anchorage, Alaska

[Application No. D-2818]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c) (2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26,

1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (D) of the Code shall not apply to Anchorage Sand & Gravel Company, Inc. (Anchorage) by reason of the participation by the Teamsters Plan in a loan originated by the First Federal Savings and Loan Association (the Association) to Anchorage, effective December 27, 1976, nor to the participation by the Laborers Plan in the loan for the period from December 27, 1976 through May 4, 1979.

Effective Date: If the proposed exemption is granted, it will be effective December 27, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Anchorage. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Association, Alaska's largest savings and loan association, entered an agreement with the Teamsters Plan in 1969 for the purchasing and servicing of mortgage loans and in 1976, the Association entered an agreement with the Laborers Plan for the purchasing and servicing of mortgage loans (the Agreements).

2. Pursuant to the terms of the Agreements, the Plans agreed to maintain funds on account with the Association. The Association was in turn authorized to sell mortgage loans from its portfolio to the Plans which met the written loan criteria of the Plans as set out in the Agreements. In the case of the Teamsters Plan, the National Bank of Alaska, as custodian of the Teamsters Plan, reviewed the appropriateness of the mortgage loans. In the case of the Laborers Plan, the review of the appropriateness of the mortgage loans was undertaken by the Association.

3. On December 27, 1976, the Association closed a loan of \$4,000,000 to Anchorage (the Loan). The Loan was secured by a promissory note, a Deed of Trust and Assignment of Rents, and by a UCC Security Agreement on certain property used as collateral for the Loan. The promissory note bears interest at 10.5% per annum and calls for equal monthly installments with a final balloon payment in 12 years. In connection with the Deed of Trust and

Assignment of Rents, the Association obtained an appraisal of the real property to be used as security for the Loan. The appraisal, performed by William Wakeland, MAI, SREA, established the fair market value of the real property to be \$5,510,000 as of August 2, 1976. With regard to the UCC Security Agreement, the property which is the subject of this agreement was valued at \$1,690,000, as estimated by the owner. Thus the total collateral for the Loan was represented to be \$7,200,000. Loan payments have been current throughout the history of the Loan.

4. After the Association's letter of commitment to Anchorage, but prior to the closing of the Loan, the Association, relying upon the undertaking of the Plans to purchase mortgage loans, determined to assign a major participating interest in the Loan to the Plans. The Teamsters Plan purchased a 62.50% interest in the Loan and the Laborers Plan purchased a 31.25% interest in the Loan.

5. Anchorage was a contributing employer to the Plans at the time of the closing of the Loan. It had no other relationship to the Plans. Anchorage was not aware of the participation of the Plans in the Loan. All closing documents for the Loan were executed by and in the name of the Association. At no time did the Association disclose to Anchorage the fact that an interest in the Loan had been assigned to the Plans. In fact, the Agreements specifically expressed the intent of the parties that the Plans be isolated from the dealings between the Association and the borrowers insofar as possible.

6. Upon becoming aware of the possible prohibited nature of the Loan, the Association repurchased the Loan from the Laborers Plan on May 4, 1979. The Association has also offered to repurchase the interest of the Teamsters Plan in the Loan. Anchorage did not become aware of the participation by the Plans in the Loan until September 5, 1980, when it was contacted by the Internal Revenue Service.

7. In summary, the applicant represents that the subject transaction satisfies the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) Anchorage did not know, nor did it have reason to know, of the involvement of the Plans in the Loan.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2819]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Gavora, Inc. and Mr. and Mrs. V. Paul Gavora by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Gavora, Inc. for the period beginning May 4, 1977 through August 15, 1978.

Effective dates: If the proposed exemption is granted, it will be effective from May 4, 1977 until August 15, 1978.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Gavora, Inc. and Mr. and Mrs. Gavora. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan which authorizes the Bank to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria agreed on by the Bank and the Plan.

2. In early 1976, Gavora, Inc. arranged construction financing in the amount of \$8,000,000 for construction of a regional shopping center in Fairbanks, Alaska. The construction was arranged through the Bank with the funds provided by the Bank to the extent of \$2.5 million and by Peoples Mortgage Company to the extent of \$3.5 million. Permanent financing was also arranged by the Bank at the same time the construction loan was closed. Permanent financing was granted on the basis of commitments from a number of long-term lenders each of whom agreed to acquire a participating interest in the loan. The

Plan committed for a 58% participating interest in the loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding Gavora, Inc. The Bank also obtained a complete appraisal of the property showing a value of \$9,250,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on May 4, 1977 after completion of construction, and was secured by a promissory note, Deed of Trust and Assignment of Rents, and by a UCC Security Agreement and Financing Statement. Mr. and Mrs. Gavora also personally signed the note. The promissory note bears interest at the rate of 10% per annum and calls for equal monthly installments over a period of 25 years, but the Plan has the right to accelerate the remaining principal and interest in June 1982. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, Mr. Gavora owned 100% of Gavora, Inc. Mr. Gavora also owned 100% of the stock of Market Basket, Inc. (MB) and 79% of the stock of Northland Hub, Inc. (NH). MB and NH were contributing employers to the Plan at the time of the transaction. Mr. Gavora is not and has never been a trustee of the Plan, nor does he occupy any other fiduciary relationship with respect to the Plan.

6. The applicant was unaware at the time of the transaction of its possible prohibited nature. The Bank required Gavora, Inc. to execute a document entitled "Statement Regarding Parties-In-Interest and Disqualified Persons Under ERISA" prior to the closing of the construction and permanent loans. In both instances, the document did not refer to the Plan, but rather to "Nabalaska-180," the Bank's custodial name for the account maintained in the name of the Plan. That fact was not disclosed to Gavora, Inc. or Mr. Gavora. The document did list the names of other pension plans which were participating in the loan.

7. Upon becoming aware of the possible prohibited nature of the transaction, the Bank sold the Gavora loan to an unrelated party at par for cash on August 15, 1978.

8. In summary, the applicant represents that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; (2) the applicant had no influence or control over the Plan's

involvement in the transaction; and (3) the applicant was unaware that a party participating in the loan was in fact the Plan.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2820]

Proposed exemption

Based on the facts and representatives set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, effective October 24, 1975 through December 30, 1980, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to Spenard Builders Supply, Inc. (Spenard) by reason of the participation by the Plan in a loan originated by the National Bank of Alaska (the Bank) to Spenard.

Effective dates: If the proposed exemption is granted, it will be effective from October 24, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Spenard. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest financial institution, entered into a custodial agreement (the Agreement) with the Plan in 1967. Pursuant to the Agreement, the Bank is authorized to invest a portion of the Plan's funds held by it in fixed income investments, including permanent mortgage loans which meet certain criteria contained in the Agreement.

2. On August 14, 1974, Spenard obtained a loan of \$500,000 (the Loan) from the Bank. The Bank, prior to closing, obtained substantial credit and other information from Spenard. The Bank also obtained a complete appraisal of the real property to be mortgaged as

security for the Loan. The appraisal, performed by Simmons & Associates, Inc., established the fair market value of the property to be \$1,488,000, as of May 28, 1974. The Loan was secured by a promissory note bearing interest at 10.25% per annum and calling for equal monthly installments over a 15 year period. Loan payments have been current throughout the history of the Loan.

3. On October 24, 1975, the Bank, relying upon the undertaking of the Plan to purchase loans which met the criteria of the Agreement, sold a 25% interest in the Loan at par to itself as custodian for the Plan.

4. Spenard was a contributing employer to the Plan at the time of the closing of the Loan and when the Plan purchased a 25% participation in the Loan. It had no other relationship to the Plan. Spenard was not aware of the participation of the Plan. All closing documents involved in the Loan were issued in the name of the "National Bank of Alaska as Trustee under Common Trust Fund A." At no time did the Bank disclose to Spenard the fact that an interest in the Loan had been assigned to the Plan. Spenard was not made aware of the Plan's participation in the Loan until an Internal Revenue Service audit in 1980 revealed the role of the Plan.

5. On December 30, 1980, the Bank repurchased the Loan participation from the Plan at par for cash.

6. In summary, the applicant represents that the participation in the Loan satisfies the criteria of section 4975(c)(2) of the Code because: (1) All Loan payments have been made in full and on schedule; and (2) Spenard did not know, nor did it have reason to know, of the involvement of the Plan in the Loan.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2821]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code,

by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the Massart Investment Company (MIC), and Keith G. and James E. Massart (the Massarts), by reason of the participation of the Plan in a loan originated by the National Bank of Alaska (the Bank) to MIC for the period beginning May 21, 1975 through December 30, 1980.

Effective date: If the proposed exemption is granted, it will be effective from May 21, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to MIC and the Massarts. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest financial institution, entered a custodial agreement (the Agreement) with the Plan in 1967. Pursuant to this Agreement, the Bank is authorized to invest a portion of the Plan's funds held by it in fixed income investments, including permanent mortgage loans which meet certain criteria contained in the Agreement.

2. In March 1975, MIC applied to the Bank for long-term financing of a warehouse and official building then under construction. On April 4, 1975, the Bank approved a loan in the amount of \$350,000 (the Loan). The Loan was granted on the basis of the Plan's undertaking to purchase the Loan at closing. The financing was closed on May 21, 1975, after completion of construction and was secured by a promissory note and a deed of trust on certain real property to be used as collateral for the Loan.

3. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 25 years. The promissory note was signed by MIC, as a co-partnership, and the Massarts, as co-partners. A complete appraisal was made on the property to be mortgaged. The appraisal, performed by Roger N. Bonnett, M.A.I., established the fair market value of the property to be \$500,000 as of January 8, 1975. Loan payments have been current throughout the history of the Loan.

4. MIC and the Massarts are the disqualified persons for whom the exemption is sought. The Massarts were

50% equal co-partners in MIC. James E. Massart also owned 51% of the Massart Company, and Keith G. Massart owned 45% of the Massart Company. At the time of the transaction, the Massart Company was a contributing employer to the Plan. Since June 1977, the Massart Company has ceased to be a contributing employer. The Massarts are not and have never been trustees of the Plan, nor do they occupy any other fiduciary relationship with respect to the Plan.

5. Neither MIC nor the Massarts were aware of the Plan's participation in the Loan until an Internal Revenue Service audit in 1980 revealed the role of the Plan. Neither the Bank nor the Plan disclosed the interest of the Plan. MIC assumed throughout that the source of funds for the Loan was the Bank.

6. On December 30, 1980, the Bank repurchased the Loan at par, for cash, from the Plan.

7. In summary, the applicants represent that the subject transaction satisfies the criteria of section 4975(c)(2) of the Code because: (1) all Loan payments have been made in full and on schedule; and (2) MIC and the Massarts did not know, nor did they have reason to know, of the involvement of the Plan in the Loan.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

The Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2824]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, effective December 22, 1976, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the OAR Company (OAR), Donald E. May (May), James D. Moore (Moore) and Letha D. Zuberger (Zuberger) by reason of the Plan's participation in a loan originated by the Alaska Mutual Savings Bank (the Bank) to OAR.

Effective Date: If the proposed exemption is granted, it will be effective December 22, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption

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, with respect to OAR, May, Moore and Zuberger. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest mutual savings bank, entered a written loan participation agreement (the Agreement) with the Plan in 1977. Pursuant to the terms of the Agreement, the Bank selects certain mortgages from its mortgage pool and assembles a package for submission to the Plan. Included in the mortgage package are credit information, appraisals and property and security information. If the purchase of the loan is approved by the Plan, it acquires the mortgage or a participating interest therein.

2. On December 7, 1976, the Bank loaned \$328,000 (the Loan) to OAR, a co-partnership comprised of May, Zuberger and Moore. The Loan was secured by a promissory note, deed of trust and assignment of rents executed on behalf of OAR by its partners. The promissory note bore interest at the rate of 10.5% per annum and called for equal monthly payments over a period of 25 years.

3. On December 22, 1976, the Bank sold a 90% interest in the Loan to the Plan. The sale occurred at par without a commission or finder's fee and the interest of the Plan was evidenced by a participation certificate. On August 29, 1977, the amount of the Loan was increased by \$80,000, which also bore interest at 10.5% per annum. The Plan also acquired an interest in 90% of the increased loan. Loan payments are current and the Bank is continuing to service the Loan under a servicing contract.

4. OAR is a partnership owned in equal 33 1/3% interests by May, Moore and Zuberger. At the time of the Loan transaction, May owned 89.6% of May Contracting, Inc. (May, Inc.). Also, Moore and Zuberger were officers of May, Inc. at that time. May, Inc. was a contributing employer to the Plan at the time of the Loan. The applicants and their affiliates, officers and directors are not, and have never been, trustees of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

5. The applicants were not aware of the Plan's participation in the Loan until March 1978, when they received a letter from the Bank which revealed the role of

the Plan. Prior to March 1978, neither the Bank nor the Plan disclosed the interest of the Plan. The applicants assumed throughout that the source of funds for the Loan was the Bank.

6. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments are current; and (2) the applicants had no knowledge of the Plan's involvement in the participation until after the Loan was consummated.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2852]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to D&M Rentals (D&M) and James Martin and Don Madsen (the Partners) by reason of the Plan's participation in a mortgage originated by the National Bank of Alaska (the Bank) to D&M, for the period beginning September 1, 1977 through December 31, 1980.

Effective dates: If the proposed exemption is granted, it will be effective from September 1, 1977 through December 31, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to D&M and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as an investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent

mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In early 1977, D&M arranged construction financing in the amount of \$650,000 for construction of a group of six-plexes in Sitka, Alaska. The construction financing was arranged through the Bank with the funds provided by the Bank. Permanent financing was granted on the basis of commitments from two long-term lenders, each of whom agreed to acquire a participating interest in the loan. The Bank, acting for the Plan, committed for a 25% participating interest, and the state of Alaska Pension Plan committed for a 75% participating interest.

3. The Bank, prior to the issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding D&M. The Bank also obtained a complete appraisal of the property showing a value of \$900,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on September 1, 1977, after completion of construction, and was secured by a promissory note, Deed of Trust, and by a UCC Security Agreement and Financing Statement. The promissory note bears interest at a rate of 10.25% per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. D&M is a co-partnership owned by the Partners. The Partners were also owners of Madsen Development Corp. (Madsen). Madsen's predecessor, Madsen Construction Co., Inc., was a contributing employer to the Plan at the time of the subject transaction. Madsen Construction Co., Inc. was dissolved on March 26, 1981. None of the Partners are, or have ever been, trustees of the Plan nor have they occupied any other fiduciary relationship with respect to the Plan.

6. D&M and Madsen Construction Co., Inc. were assured by the Bank that the transaction was entirely legal and proper. They were not aware of the possible prohibited nature of the transaction until it was brought to their attention by an Internal Revenue Service audit in 1980. The Bank, upon becoming aware of the possible prohibited nature of the transaction and acting as Plan fiduciary, sold the D&M loan at par for cash to an unrelated party on December 31, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) the loan met all applicable criteria contained in the agreement between the Bank and the Plan; (2) all loan payments were made in full and on schedule; and (3) the applicants were assured by the Bank, a Plan fiduciary, that the transaction was legal and were unaware of the possible prohibited nature of the transaction.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

The Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2855]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to James R. Clinton and Enterprise Co. (Clinton-Enterprise), and the partners of Enterprise Co. (the Partners) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) which was assumed by Clinton-Enterprise for the period beginning March 23, 1978 through December 30, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from March 23, 1978 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Clinton-Enterprise and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The

Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In early 1976, Mr. and Mrs. Lawrence Curry and Ms. Jane T. Gowan, parties unrelated to the Plan and the applicants, arranged construction and permanent financing with the Bank for construction of a small office building in Anchorage, Alaska. The amount of the loan was \$300,000. Since the loan met the plan's criteria, the Bank as Plan investment manager committed Plan assets to fund the permanent loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding the borrowers. The Bank also obtained a complete appraisal of the property showing a value of \$508,000. The appraisal was an "as-built" appraisal and assumed that the improvement for which the loan was granted had been constructed.

4. The permanent financing was closed on August 12, 1976, after completion of construction, and was secured by a Promissory Note, Deed of Trust, Assignment of Rents and UCC Security Agreement and Financing Statement. Closing documents were executed in the name of "Nabalaska & Co.-182", the Bank's custodial name for the account in which Plan assets were deposited. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over 25 years. Loan payments have been current throughout the history of the loan.

5. On March 23, 1978, the property which was the subject of the Deed of Trust was sold to the applicants. As an element of the transaction, the applicants assumed the loan funded with Plan assets. The Bank as Plan custodian approved the assumption. On the date of the assumption, the outstanding principal balance of the loan was \$295,925.

6. Enterprise Co. is a co-partnership owned in equal interests by James R. Clinton, N. F. Kaelber, Marvin E. Smith and Louis A. Wheeler. Enterprise Co. and James R. Clinton conduct business under the business name Clinton-Enterprise. At the time of the sale of the property to Clinton-Enterprise, the Partners were officers, directors and shareholders of SKW-Clinton, a general contractor which was a contributing employer to the Plan.

7. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the loan from

the Plan at par for cash on December 30, 1980. Clinton-Enterprise was not aware of the Plan's participation in the assumed loan until May, 1981, when an Internal Revenue Service audit revealed the role played by the Plan.

8. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) Clinton-Enterprise did not know nor had any reason to know of the Plan's involvement in the participation until May, 1981, months after the Bank had already repurchased the loan from the Plan.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-3065]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Enterprise Company (Enterprise), and the partners of Enterprise, J. R. Clinton, N. F. Kaelber, L. A. Wheeler, and M. E. Smith (the Partners), by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Enterprise for the period beginning April 1, 1976 through December 31, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from April 1, 1976 through December 31, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Enterprise and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In late 1975, Enterprise arranged permanent financing in the amount of \$255,000 for construction of an office building in Anchorage, Alaska. The permanent financing was granted on the basis of a commitment from the Plan which agreed to acquire an 80 percent participating interest in the loan.

3. The Bank, prior to issuance of the permanent financing commitment, obtained substantial credit and other information regarding Enterprise and the Partners. The Bank also obtained a complete appraisal of the property showing a value of \$340,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on April 1, 1976, after completion of construction, and was secured by a promissory note, Deed of Trust, and by a UCC Security Agreement and Financing Statement. The promissory note bears interest at the rate of 10 percent per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. Enterprise was a co-partnership owned by the Partners. The same persons were also 86.4 percent owners of SKW Contractors, Inc. (SKW). At the time of the subject transaction, SKW was a contributing employer to the Plan. None of the Partners are, or have ever been, trustees for the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

6. The Bank, upon becoming aware of the possible prohibited nature of the transaction, sold the Enterprise loan at par for cash to an unrelated party on December 31, 1980. The applicants were totally unaware of the Plan's participation in the loan until it was brought to their attention by an Internal Revenue Service audit in 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria contained in section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) the applicants

did not know nor had any reason to know of the Plan's involvement in the participation until several years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-3084]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Ocean Technology, Ltd. (OTL) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to OTL for the period beginning May 23, 1975 through December 30, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from May 23, 1975 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to OTL. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services Agreement between the Plan and the Bank.

2. In early 1975, OTL applied to the Bank for a long-term working capital loan. The Bank approved a loan in the amount of \$277,500 to be secured by a promissory note and a first deed of trust on OTL's Anchorage, Alaska office building. A complete appraisal on the

building was provided and shows a value of \$370,000. The loan was granted on the basis of the Plan's undertaking to purchase the loan at closing.

3. The financing was closed on May 22, 1975, and was secured by the required promissory note and Deed of Trust from OTL. The promissory note bears interest at the rate of 10.5 percent per annum and calls for equal monthly installments over a period of 180 months. On May 23, 1975, the loan was assigned to Trust No. 50-180 #4, a custodial name for the Banks account maintained for the Plan. Loan payments have been current throughout the history of the loan.

4. At the time of the transaction, OTL was a contributing employer to the Plan. OTL, its officers and directors are not and have never been a trustee of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

5. The applicant was not aware of the Plan's possible participation in the loan transaction until an audit by the Internal Revenue Service in 1980. Neither the Bank nor the Plan disclosed the Plan's interest to OTL. The applicant assumed throughout that the source of funds for the loan was from the Bank. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the OTL loan at par for cash on December 30, 1980.

6. In summary, the applicant represents that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) the applicant had no knowledge of the Plan's involvement in the participation until years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Teamsters Plan) and the Alaska Laborers Employer Pension Trust (the Laborers Plan; collectively, the Plans) Located in Anchorage, Alaska

[Application Nos. D-3108 and 3109]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A)

through (D) of the Code shall not apply to Winship Air Service (Winship), S&G Construction, Inc. (S&G), and National Enterprise, Inc. (National) by reason of the Plans' participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Winship for the period beginning August 29, 1975 through December 30, 1980.

Effective dates: If the proposed exemption is granted, it will be effective from August 29, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption 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, with respect to Winship, S&G and National. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into a custodial agreement with the Teamsters Plan, and an agreement with the Laborers Plan pursuant to which it agreed to act as investment manager of the Laborers Plan's assets. Pursuant to the terms of the agreements with both Plans, the Bank is authorized to invest a portion of the Plans' funds held by it in permanent mortgage loans which meet certain written criteria.

2. In mid 1975, Winship, an Alaska partnership, applied to the Bank for long-term financing of an office building and hangar facility in Anchorage, Alaska. The Bank approved a loan in the amount of \$500,000 to be secured by a promissory note and first deed of trust on the hangar and office building. The loan was granted on the basis of the respective undertakings of the Teamsters Plan and the Laborers Plan to purchase 60% and 40% participating interests in the loan at or shortly after closing.

3. Substantial credit information regarding the borrowers was required by the Bank, as well as a complete appraisal of the property to be mortgaged as collateral. The appraisal was provided and shows a value of \$650,000.

4. The financing was closed on July 10, 1975, after completion of the office building and hangar, and was secured by the required promissory note and Deed of Trust from Winship signed by all of Winship's partners including S&G and National. The note bears interest at

the rate of 10.5% per annum, and calls for equal monthly installments over a period of 180 months. On August 29, 1975, the loan was assigned to Nabalaska & Co. 180 and Nabalaska & Co. 182, custodial names for the Bank's accounts maintained for the Plans. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, S&G Construction-North Slope Enterprises (SGC-NS) was a contributing employer to the Plans. SGC-NS is a partnership, 100% of which was owned equally by S&G and National. S&G and National each owned $\frac{1}{2}$ of Winship, but sold their ownership interest in Winship in 1977 to an unrelated party. The applicants and their respective officers and directors are not and have never been trustees of either Plan, nor have they occupied any other fiduciary relationship with respect to either Plan.

6. The applicants were not aware of the Plans' possible participation in the loan transactions until an Internal Revenue Service audit in 1980 which revealed the role played by the Plans. Neither the Bank nor the Plans disclosed the interest of the Plans. The applicants assumed throughout that the source of funds for the loan was from the Bank. All loan documents were executed in the name of the Bank, and the interest of the Plans was not reflected in any documentation provided to the applicants. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the Winship loan at par for cash on December 30, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) the applicants did not know nor had any reason to know of the Plans' involvement in the participations until years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory 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.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-2722 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Radioactive Waste Disposal

January 27, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the Radioactive Waste Disposal Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Wednesday, February 16, 1983. The meeting will be held in Room B-100, Page Building #1, 2001 Wisconsin Avenue, NW.,

Washington, D.C. The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 4:00 p.m. The meeting will be a work session to draft guidelines for the panel report.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Radioactive Waste Disposal Panel, Dr. John Knauss. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or the Staff Member for the Radioactive Waste Disposal Panel, Mr. William Lounsbury. The mailing address is NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, D.C. 20235.

Dated: January 27, 1983.

Steven N. Anastasion,
Executive Director.

[FR Doc. 83-2723 Filed 1-31-83; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-12]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Effective Shuttle Utilization.

DATE AND TIME: February 17, 1983, 8:30 a.m. to 5 p.m.

ADDRESS: NASA Langley Research Center, Room 225, Building 1219, Hampton, Virginia 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for Effective Shuttle Utilization was established under the NASA Advisory Council to conduct a study of the directions NASA should take to ensure the most effective use of the

Shuttle capability and to report its findings and recommendations to the Council. The Task Force is chaired by Edgar M. Cortright, and has a total of 10 members.

At this meeting the members will develop a workplan through a day-long discussion of their task. Visitors will be admitted to the meeting room up to its capacity, which is approximately 50 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open

Dated: January 25, 1983.

Richard L. Daniels,
Director, Management Support Office, Office
of Management.

[FR Doc. 83-2637 Filed 1-31-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-13]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and
Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Rotorcraft Technology.

DATE AND TIME: March 2, 1983, 8 a.m. to 5 p.m.; March 3, 1983, 8 a.m. to 5 p.m.; March 4, 1983, 8 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Room 225, Building 1219, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Ward, National Aeronautics and Space Administration, Code R/L-2, Washington, DC 20546 (202/755-2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established to assist the NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The Subcommittee, chaired by Mr. Edward S. Carter, Jr., is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 60

persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

March 2, 1983

8 a.m.—Report of Chairperson and Executive Secretary.

8:30 a.m.—Update of Ongoing Rotorcraft Programs—Status since October 1982 Subcommittee Meeting—NASA Ames Research Center, NASA Langley Research Center, NASA Lewis Research Center.

12:30 p.m.—Special Topics from October 1982 Subcommittee Meeting.

3:30 p.m.—Planning for FY 1985 Augmentation Candidates.

5 p.m.—Adjourn.

March 3, 1983

8 a.m.—Subcommittee Working Session.

5 p.m.—Adjourn.

March 4, 1983

8 a.m.—Tour NASA Langley Facilities.

10 a.m.—Subcommittee Draft Summary Report Presentation.

12 Noon—Adjourn.

Dated: January 25, 1983.

Richard L. Daniels,
Director, Management Support Office, Office
of Management.

[FR Doc. 83-2638 Filed 1-31-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and Humanities; Meeting

Notice is hereby given of Plenary Meeting II of the President's Committee on the Arts and Humanities. The purpose of the meeting is to consider ways in which to increase private sector support for the arts and humanities, to consider appropriate Federal involvement in the arts and humanities, and to make recommendations to the President thereon.

Plenary Meeting II will convene at 9:00 a.m. on Friday, February 11, 1983 at the times Mirror Co., Harry Chandler Auditorium, 202 West First Street, Los Angeles, California. The meeting will adjourn at approximately 1:30 p.m.

This meeting, open to the public, is by reservation on a space available basis (room capacity 125 persons). Individuals wishing to attend must request reservations not later than February 7 by calling 202-456-6200 or 212-883-6764. Reservations may be made by sending a postcard with your full name and business telephone (so that you can be notified in the event of rescheduling) to the President's Committee on the Arts and Humanities, New Executive Office

Building, Room 2230, 726 Jackson Place, NW., Washington, D.C. 20503.

January 21, 1983.

John H. Clark,
Director, Office of Council & Panel
Operations National Endowment for the Arts.

[FR Doc. 83-2668 Filed 1-31-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its next meeting at 9:30 a.m., February 25, 1983. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M St., NW., Washington, D.C. and will be open for public observation.

At this meeting, the committee will continue its review of administrative proposals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

Further information on the meeting may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (Telephone 202/634-1465).

Dated at Washington, D.C. this 27th day of January 1983.

John C. Hoyle,
Federal Advisory Committee Management
Officer.

[FR Doc. 83-2740 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN-50-529-OL, STN-50-530-OL; ASLBP No. 80-447-01 OL]

Arizona Public Service Co., et al., (Palo Verde Nuclear Generating Station, Units 2 and 3 Operating License Proceeding); Order Scheduling Prehearing Conference

January 26, 1982.

Please take notice that the Atomic Safety and Licensing Board has scheduled a prehearing conference in the above identified proceeding for February 24, 1983, commencing at 10:00 a.m., in Courtroom No. 2 (7th Floor) of

the Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

The purposes of the prehearing shall be to:

(1) Permit identification of the key issues in the proceeding; and

(2) Establish a schedule for further actions in the proceeding.

It is ordered that:

(1) Attorneys in attendance must have full authority to stipulate for their clients.

(2) Counsel shall meet or confer before the prehearing conference so that they will have an opportunity to reach agreement on the items which will be discussed at the conference.

It is further ordered that at the conference, counsel shall be prepared to discuss the following:

(1) Simplification of the issues.

(2) The date and place of the evidentiary hearing.

(3) Lists of exhibits to be offered in evidence.

(4) Identification of expert witnesses.

(5) Scheduling advance filing of direct testimony.

(6) Any requests for discovery.

(7) Any prehearing motions.

(8) Stipulations concerning admission of facts, documentary evidence, and procedural matters.

(9) Order of presentation of case.

(10) Estimated length of hearing.

(11) Scheduling trial briefs and cross-examination plans, if necessary.

(12) Such other matters as may aid in the orderly disposition of this matter.

For the Atomic Safety and Licensing Board.
Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 83-2741 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co.; Enrico Fermi Atomic Power Plant Unit 2; Request for Action

By a petition to intervene submitted to the Atomic Safety and Licensing Board in the Fermi 2 operating licensing proceeding, Monroe County, Michigan, raised a number of issues concerning the adequacy of offsite emergency planning for the Fermi 2 facility. Both the Licensing Board and the Atomic Safety and Licensing Appeal Board denied the County's untimely petition to intervene in the operating license proceeding; however, the Appeal Board forwarded the issues raised by the County to the Staff for its consideration. The County's petition to intervene is therefore being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The issues

raised by the County will be resolved prior to the Commission's decision on whether to authorize a full power license. Copies of the petition are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the Fermi Plant located at the Monroe County Library System, Reference Department, 3700 S. Custer Road Monroe, Michigan 48161.

Dated at Bethesda, Maryland this 24th day of January, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-2742 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-267]

Public Service Company of Colorado; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License DPR-34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment was authorized by telephone on January 3, 1983, and confirmed by letter dated January 4, 1983.

The amendment revises the Technical Specifications to allow the Plant Protective System moisture monitors to be disabled during the period of January 3, 1983, through January 13, 1983, provided certain compensating measures are implemented.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 3, 1983; (2) Amendment No. 31 to Facility Operating License DPR-34; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC 20555, and at the Greeley Public Library, City Complex Building, Greeley, Colorado. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, Attention: Director, Division of Resident, Reactor Project and Engineering Programs.

Dated at Arlington, Texas, this 20th day of January 1983.

For the Nuclear Regulatory Commission.

Glen L. Madsen,

Chief, Reactor Project Branch 1, Division of Resident, Reactor Project and Engineering Programs, Region IV.

[FR Doc. 83-2743 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Revision to OMB Circular No. A-76, "Performance of Commercial Activities"; Announcement of Public Hearings

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Announcement of public hearings.

SUMMARY: On January 12, 1983, the Office of Federal Procurement Policy published the proposed revision to OMB Circular No. A-76, "Performance of Commercial Activities" in the *Federal Register* (48 FR 1376). The notice announced the commencement of a 60-day public comment period, availability of the proposed revision and its Supplement, and that public hearings would be held.

DATE, TIME AND LOCATION OF HEARING: Hearings will be held March 3, 1983, from 9:30 a.m. until 4:30 p.m. with a one hour adjournment from 12:00 to 1:00 p.m. The location will be the New Executive Office Building, Room 2008, 726 Jackson Place, N.W., Washington, D.C. 20503.

ATTENDANCE AT HEARINGS: Persons wishing to attend the hearings must notify the Office of Federal Procurement Policy at (202) 395-6810 at least two

days before the hearings in order to be cleared for admission to the New Executive Office Building.

PRESENTATION OF VIEWS AT HEARINGS: Persons may appear on their own behalf or as representatives of any entity or of any interested group, whether public or private, to make oral presentations. Persons who wish to make oral presentations should notify the information contact below at the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW., Room 9013, New Executive Office Building, Washington, D.C. 20503, at least one week in advance of the hearing date. Notification may be made by phone. (Telephone 202/395-6810.) Oral presentations shall be limited to 15 minutes. A written summary of the oral presentation must be provided to the hearing officer on the day of the hearing.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Miller or Mr. Curt Holland, Office of Federal Procurement Policy, at 202/395-6810.

Donald E. Sowle,
Administrator.

(FR Doc. 83-2746 Filed 1-31-83; 8:45 am)

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22835; 70-6828]

Consolidated Gas Supply Corp., et al.; Proposed Sale and Acquisition of Pipeline Segment and Related Facilities, Rights and Land by Affiliates

January 25, 1983.

In the matter of, Consolidated Gas Supply Corporation, 445 West Main Street, Clarksburg, West Virginia 26301; East Ohio Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44114, (70-6828).

Consolidated Gas Supply Corporation ("Supply Corporation") and The East Ohio Gas Company ("East Ohio"), wholly-owned subsidiaries of Consolidated Natural Gas Company, a registered holding company, have filed a declaration and an amendment thereto with this Commission pursuant to Sections 12(d) and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 86, 87, 90 and 91 promulgated thereunder.

Supply Corporation proposes to purchase from East Ohio, and East Ohio proposes to sell to Supply Corporation, (1) a 4.12 mile segment of East Ohio's 30-inch Line No. TPL-3 used for the wholesale sale of natural gas in interstate commerce by Supply Corporation to East Ohio, with related

equipment and appurtenant facilities, located between the Ohio River at Clarrington in Salem Township, Monroe County, Ohio, and Consolidated's Mullett No. 2 Measuring Station in Switzerland Township, Monroe County, Ohio; (2) rights of way related to this pipeline which East Ohio holds; and (3) three related parcels of land.

Supply Corporation and East Ohio have entered into an Agreement, dated September 10, 1982, specifying the terms of the proposed transactions. The transfer will be accomplished by a bill of sale for the pipeline, an assignment of the rights of way, and three quitclaim deeds for the fee properties. All of these documents are attached as exhibits to the Agreement, which will be executed and delivered by East Ohio to Supply Corporation on a mutually convenient date within sixty days of all regulatory approvals.

Supply Corporation will pay East Ohio in cash its "net book value" for the facilities; that is, East Ohio's original cost less accumulated depreciation, as recorded in East Ohio's books of account on the date of delivery of the transfer instruments. If the closing had been held on December 31, 1982, the estimated cost to Supply Corporation of the facilities would be \$2,183,158.

The reason for the sale is that there has been a relocation of a major gas delivery point on line TPL-3 that would require Supply Corporation to deliver gas to East Ohio through a 4.12 segment of East Ohio pipeline. This would cause East Ohio to transport Supply Corporation's gas and to be responsible for necessary repairs. In addition to resolving these problems, the transfer gives Supply Corporation control over the line and greater routing flexibility in case of repairs or emergencies.

The Federal Energy Regulatory Commission has jurisdiction over the acquisition of the properties being sold to Supply Corporation. The Public Utilities Commission of Ohio has jurisdiction over the abandonment and sale of those properties by East Ohio. It is stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 17, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an

attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

(FR Doc. 83-2657 filed 1-31-83; 8:45 am)

BILLING CODE 8010-01-M

[Release No., 22834; 70-6816]

Mississippi Power & Light Co.; Supplemental Notice of Proposal To Issue and Sell at Competitive Bidding Preferred Stock With an Adjustable Dividend Rate

January 25, 1983.

In the matter of; Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi, (70-6815).

The Mississippi Power & Light Company ("MP&L"), an electric utility subsidiary of Middle South Services, Inc., a registered holding company, has filed with this Commission an amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

By prior release dated December 17, 1982 (HCAR No. 22785), this Commission provided notice to the public of a proposal by MP&L to issue and sell at competitive bidding up to 100,000 shares of preferred stock, \$100 par value, in one or more series and sales during the period ending December 31, 1983. By amendment to its declaration, MP&L has now requested authority to sell these shares with an adjustable dividend rate, as hereinafter derived.

The dividend rate of each series of preferred stock (other than series with provisions for an adjustable dividend rate, as described below) will be a multiple of 1/25th of 1% and the price to be paid to MP&L for each series of the stock will not be less than \$100 nor more than \$102.75 per share, plus accumulated dividends, if any.

The terms of each series of the preferred stock (other than series with provisions for an adjustable dividend rate, as described below) will include a

prohibition for five years after the first day of the month of issuance of the respective series against redeeming such series, directly or indirectly, with funds derived from issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost.

MP&L may include provisions for an adjustable dividend rate for one or more series of the preferred stock. The dividend rate for the initial dividend payment period will be a fixed percentage (which will be a multiple of 1/25th of 1%), to be determined by competitive bidding. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage (to be determined by competitive bidding) above or below, generally, the highest of: (1) The average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period; (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period; or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period; provided, however, that in no event will the effective annual dividend rate, as adjusted in any quarter, be less than 6% per annum or greater than 15% per annum. The maximum and minimum dividend rate for a series of preferred stock will either be set by MP&L prior to a bidding on the basis of then market conditions or will be established by competitive bidding. In the event that provisions for an adjustable dividend rate are included for any series of the preferred stock, the terms of such series will include a prohibition for five years after the first day of the month of issuance of such series against redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost, than the

effective annual dividend cost to MP&L based upon the initial dividend rate for the preferred stock of such series.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above and 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 declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-2736 Filed 1-31-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 16]

Equitable General Insurance Co.; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Equitable General Insurance Company, Fort Worth, Texas, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on federal bonds is hereby terminated, effective today.

The company was last listed as an acceptable surety on federal bonds at 47 FR 28874, July 1, 1982.

With respect to any bonds currently in force with Equitable General Insurance Company, bond-approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may

be directed to the Operations Staff (Surety), Banking and Cash Management, Department of the Treasury, Washington, D.C. 20226, Telephone 202-634-5752.

Dated: January 24, 1983.

W. E. Douglas,

Commissioner, Bureau of Government
Financial Operations.

[FR Doc. 83-2736 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1982 Rev., Supp. No. 15]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. Section 6 to 13). An underwriting limitation of \$964,000 has been established for the company.

Name of Company:

The Travelers Indemnity Company of
Illinois

Business Address:

175 West Jackson Boulevard
Chicago, Illinois 60604

State of Incorporation:

Illinois

Certificates of authority expire on June 30 each year, unless renewal prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28883 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 24, 1983.

W. E. Douglas,

Commissioner, Bureau of Government
Financial Operations.

[FR Doc. 83-2737 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF THE TREASURY**Internal Revenue Service****DEPARTMENT OF LABOR****Pension and Welfare Benefit Programs Office**

[Exemption Application No. D-4064]

Proposed Class Exemption for Certain Transactions Involving Persons Establishing Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals

AGENCIES: Internal Revenue Service, Treasury; and Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of a proposed class exemption from certain prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed class exemption would exempt the receipt of certain premiums, gifts, or other consideration paid to an individual in connection with a transaction involving an Individual Retirement Account (IRA) or a retirement plan for a self-employed individual (Keogh Plan) provided the conditions of the proposed exemption are met. If granted, the proposed exemption would affect individuals who receive such payments.

DATES: Written comments and requests for a public hearing must be received by the Service on or before March 18, 1983. If adopted, it is proposed that this class exemption will be effective for transactions entered into on or after January 1, 1975.

ADDRESSES: All written comments and requests for a hearing (preferably three copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: OP:E:EP:T:7. The comments received will be available for public inspection in the Internal Revenue Service National Office

Reading Room, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Richard Eggers, Employee Plans Technical Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: OP:E:EP:T:7), (202) 566-3733, or Ivan Strasfeld, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, United States Department of Labor, 200 Constitution Avenue, NW., Room C-4526, Washington, D.C. 20216, (202) 523-7901. The telephone numbers are not toll-free.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Service and the Department of a proposed class exemption from the sanctions resulting from the application of sections 4975(a) and (b), 4975(c)(3), and 408(e)(2) of the Code by reason of section 4975(c)(1) of the Code. This exemption is proposed pursuant to section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

1. The Employee Retirement Income Security Act of 1974 (the Act) granted discretionary authority to the Secretaries of Labor and Treasury to issue administrative exemptions from the prohibited transactions provisions contained in Title I and Title II of the Act. In explaining these procedures, the Conference Report [H.R. Report No. 93-1280, 93rd Cong., 2d Sess. (1974) at p. 311] provides that the Secretary of Labor may refuse to grant an exemption if the transaction would constitute an abuse of the labor laws. Similarly, the Secretary of the Treasury may refuse to grant an exemption if the transaction would involve a tax abuse. 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 administrative exemptions under section 4975(c)(2) of the Code of the Secretary of Labor subject to certain narrow exceptions. Because the scope of the proposed exemption is limited to transactions involving IRAs and Keogh Plans which are not subject to Title I of the Act, the particular concern of the

Service and the Department is to assure that the transactions do not conflict with the basic purpose for which such plans are established and afforded special tax benefits, that is, to provide retirement savings for participants and their beneficiaries. The Service and the Department also recognize the business practice of providing incentives to encourage individuals to establish accounts with a particular institution. Accordingly, the Service and the Department have decided to jointly propose a class exemption more fully described below from the prohibited transaction restrictions of section 4975(c)(1) of the Code.

2. Many financial institutions now offer, or plan to offer, premiums to IRA owners, Keogh Plan participants, members of their families, or other individuals in connection with the establishment of, or additional contribution to, an IRA or Keogh Plan. A premium may be in the form of a cash bonus or a gift item. It may also take the form of a high interest rate retail purchase agreement (repo) available to depositors who actually establish or make additional contributions to an IRA.

3. The receipt by, or on behalf of, an individual establishing an IRA of property, cash, or other consideration from the institution sponsoring the IRA may be prohibited under section 4975(c)(1) of the Code, which describes certain types of transactions involving retirement plans that are prohibited. Under such circumstances, an individual for whose benefit an IRA is established and his or her beneficiaries may be exempt from the tax imposed by section 4975(a) and (b) of the Code but the account would cease to be an IRA by reason of section 408(e)(2)(A) of the Code. As a result, the contributions to such an account would not be deductible under section 219(a) of the Code and the account would not be exempt from taxation under section 408(e) of the Code.

4. Similarly, the receipt by, or on behalf of, an individual establishing a Keogh Plan of some personal consideration from the institution sponsoring the Keogh Plan may be prohibited under section 4975(c)(1) of the Code.

5. Although there have been many questions concerning this issue, neither the Service nor the Department has yet received formal applications for individual exemptions or applications for a class exemption for transactions of this type. However, because of the apparent prevalence of this type of transaction and the possible consequences to a large number of individuals establishing IRAs and Keogh Plans, the Service and the Department propose to deal with these transactions as a class on their own motion pursuant to Rev. Proc. 75-26 and ERISA Procedure 75-1. The Service and the Department believe that treating the transactions as a class is likely to be administratively feasible and protective of the interests and rights of IRA and Keogh Plan participants and their beneficiaries.

6. In addressing these transactions as a class, the Service and Department must insure that adequate protections for IRA and Keogh Plan participants and their beneficiaries are common features in all transactions subject to the exemption and that the transactions do not conflict with the basic purpose of such plans which is to provide retirement savings for participants and their beneficiaries. As a result, the proposed exemption contains specific conditions to protect the interests of the participants, their spouses, and beneficiaries. However, in order to insure that, consistent with their tax exempt purposes, IRAs and Keogh Plans provide a maximum deferred return at retirement, the IRA or Keogh Plan must be established solely to benefit the person receiving the property, cash, or other consideration, his or her spouse and their beneficiaries. The fair market value of the property, which may be measured by its cost to the financial institution, or the cash received must not exceed \$10 for a deposit of less than \$5,000 and \$20 for deposits of \$5,000 or more. The conditions of the proposed exemption do not specifically limit the form that the premiums may take.

7. The exemption will not be available to exempt individuals establishing Keogh Plans that are subject to Title I of the Act, nor will the exemption be available to exempt the receipt of cash, property or other consideration by third persons other than those described in the exemption.

Notice to Interested Persons

Because many participants in IRAs and Keogh Plans and financial

institutions sponsoring IRAs and Keogh Plans could conceivably be considered interested persons, the only practical form of notice is publication in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the exemption affect the requirement of section 408(a) of the Code that the IRA must operate for the exclusive benefit of the individual for whose benefit the IRA is maintained and his or her beneficiaries or 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) Before any exemption may be granted under section 4975(c)(2) of the Code, the Service and the Department must find that the exemption is administratively feasible, in the interest of the individual for whose benefit the IRA and Keogh Plan is maintained and protective of the rights of that individual and his or her beneficiaries;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Written Comments and Hearing Request

All persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the address set forth above.

Proposed Exemption

The Service and the Department are considering granting the exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective January 1, 1975, the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an IRA pursuant to section 408(e)(2)(A) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the payment of cash, property, or other consideration by an organization authorized to sponsor IRAs or Keogh Plans, to an individual establishing or contributing to an IRA or Keogh Plan or to members of his or her family as defined by section 4975(e)(6) of the Code, provided that:

(a) The IRA or Keogh Plan in connection with which cash, property or other consideration is given, is established solely to benefit the participant, his or her spouse and their beneficiaries; and

(b) The fair market value to the financial institutions of the property or other consideration or the cash received, is not more than \$10 for deposits to the IRA or Keogh Plan or less than \$5,000 and \$20 for deposits to the IRA or Keogh Plan of \$5,000 or more.

Signed at Washington, D.C., this 3d day of January 1983.

S. Allen Winborne,

Assistant Commissioner for Employee Plans and Exempt Organizations, Internal Revenue Service.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, United States Department of Labor.

[FR Doc. 83-2674 Filed 1-31-83; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Availability of Annual Report

Pursuant to the provisions of section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Advisory Committee on Health-Related Effects of Herbicides for calendar year 1982 has been issued.

The report summarizes activities of the Committee on matters related to possible health effects of Agent Orange and other herbicides used during the Vietnam conflict on U.S. military personnel. It is available for public inspection at two locations;

Library of Congress, Serial and Government Publications, Reading Room, LM 133, Madison Building, Washington, DC. 20540
and

Mr. Donald J. Rosenblum, Agent Orange Projects Office (10A7), Room 848, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC. 20420

Dated: January 24, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-2735 Filed 1-31-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1-3
Federal Communications Commission	4
Federal Home Loan Bank Board	5
Federal Maritime Commission	6
Federal Reserve System (Board of Governors)	7
International Trade Commission	8-9
National Transportation Safety Board	10
Securities and Exchange Commission	11

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Friday, February 4, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public:

1. Phthalates: Status

The staff will brief the Commission on the status of the D: 12-ethylhexyl phthalate in consumer products project.

2. Pharmacy/Medical Community Awareness: Status

The staff will brief the Commission on this project which is to make pharmacists and physicians aware of the PPPA and of their obligations and options.

3. Dual Purpose Closures: Status

The staff will brief the Commission on the status of the dual purpose packaging project.

4. Space Heaters: Exemption Applications (1-23)

The staff will brief the Commission on Petitions SW 82-1 through SH 82-23 from state/local jurisdictions which request exemption from the preemption effect of the safety standard for unvented gas-fired space heaters.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Rutts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301-492-6800.

[S-142-83 Filed 1-28-83; 3:44]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 3, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public:

Toy Chests

The Commission will meet with representatives of the toy chest industry to discuss a draft proposed rule which addresses the risk of strangulation to children from falling toy chest lids.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Rutts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301-492-6800.

[S-143-82 Filed 1-28-83; 3:44 pm]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2 p.m., Monday, January 31, 1983.

LOCATION: Eighth Floor Conference Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Closed to the public:

Statutory Review

The Commissioners and staff will discuss matters related to statutory review.

The Commission voted that the public interest required holding this meeting without the normal notice.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Rutts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301-492-6800.

[S-144-83 Filed 1-28-83; 3:44 pm]

BILLING CODE 6355-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, January 27, 1983

January 19, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 27, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

The Commission will be briefed about the January 27, 1983, Meeting of the Long-Range Planning Committee of the National Industry Advisory Committee. (No item will be considered in connection with this briefing.)

General—1—Title: Notice of Proposed Rule Making to provide additional channels for the Offshore Radio Telecommunications

Service (ORTS). Summary: The Commission will consider the merits of a proposal to reallocate UHF-TV Channels 15 (476-482 MHz) and UHF-TV Channel 16 (482-488 MHz) for the Offshore Radio Telecommunication Service. This is to provide new channels for radio communication in an area not presently served by ORTS and to expand the number of radio communication channels in the existing area. Due to the continuing growth of offshore oil and gas operations, these new needs have arisen.

Private Radio—1—Title: Use of the digital radioteleprinter code "AMTOR" by amateur radio stations. **Summary:** The Commission will consider whether or not to adopt rules to allow use of the digital radioteleprinter code "AMTOR" by amateur radio stations.

Private Radio—2—Title: Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies. **Summary:** The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97 of the Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies.

Common Carrier—1—Title: Application of David R. Williams d.b.a. Industrial Communications for review of denial of reconsideration of previous action returning DPLMRS application as defective under Section 22.20. **Summary:** The Commission will consider the Application for Review filed by David R. Williams d.b.a. Industrial Communications (Industrial) challenging the Common Carrier Bureau's return of Industrial's mutually exclusive application as defective under Section 22.20 of the Commission's Rules.

Common Carrier—2—Title: Third Report and Order and Further Notice of Proposed Rulemaking in Docket No. 20870; Regulatory Policies and Procedures for the Domestic Public Land Mobile Radio Service. **Summary:** The Commission will consider the adoption of final policies and procedures concerning objective need showings for applications requesting multiple new or additional two-way channels in the DPLMRS. Policies and procedures concerning objective need showings for applications requesting an additional one-way frequency for one-way signaling stations in the DPLMRS are being proposed.

Common Carrier—3—Title: Memorandum Opinion and Order in Docket No. 21499 relating to the offer of 48 kHz and 240 kHz analog channels of communication to the public by the American Telephone and Telegraph Company. **Summary:** The

Commission will consider whether AT&T's tariff restrictions limiting the availability of these high capacity analog channels are reasonable.

Common Carrier—4—Title: AT&T and the BSOs (Resale and Sharing of Intrastate WATS Used for Completion and Interstate Communications). **Summary:** Satellite Business Systems (SBS) has filed a petition for a declaratory ruling by the Commission that the Bell System Operating Companies (BSOs) should not refuse WATS connections within a State to carriers which intend to resell the service to endusers as a link to complete interstate communications—despite any resale restrictions in the BSOs' intrastate WATS tariffs. Other non-Bell interstate carriers, including Western Union, MCI, ARINC, and several certificated interstate resale carriers, have filed comments in support of SBS's petition; ARINC and the resellers advocate that the ruling be framed so as to encompass restrictions on shared use—as well as resale—of WATS for intrastate distribution of interstate communications, whether by other common carriers or by private entities. AT&T (on behalf of the BSOs), NARUC, and several State utilities commissions have filed in opposition. AT&T and NARUC urge the Commission to permit the BSOs to continue to enforce resale and sharing restrictions on intrastate WATS used in interstate communications, until such time as the BSOs shall have revised their intrastate WATS rates to be more usage-sensitive.

Common Carrier—5—Title: Comsat application File No. 1-P-C-83-008 requesting authority to provide basic transmission capacity directly to non-carriers; Application for Review filed by RCA of a Bureau grant of special temporary authority to Comsat in application File No. 1-P-C-83-008; Motions for Stay filed by RCA and WUI of a Bureau grant of special temporary authority in application File No. 1-P-C-83-008; and Application for Review filed by RCA of a Bureau order denying its petition to reject or suspend and investigate revisions by Comsat to its Tariff FCC No. 101. **Summary:** The Commission will consider the Comsat application, three filings by RCA relating to the Bureau's implementation of the Commission's Authorized User decision and one filing by WUI.

Audio—1—Title: In re application of Ettlinger Broadcasting Corporation, File No. BPH-10,075, for a new FM station in Westmoreland, California. **Summary:** The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Audio—2—Title: Petitions filed by Loyola University seeking review of actions of the Chief Broadcast Facilities Division denying its petitions to specify issues against proposed new facilities on U.S. Class I-A clear channels. **Summary:** The Commission considers the above matters.

Audio—3—Title: In re application of Davison Communications Corporation (File No.

BPH-800428AH) for a construction permit for a new FM station in Sturgeon Bay, Wisconsin. **Summary:** The Commission considers an application for review of its action, by delegated authority, granting the construction permit, filed by Door County Broadcasting Co., licensee of Stations WDOR (AM & FM), Sturgeon Bay, Wisconsin.

Policy—1—Title: In the Matter of Reexamination of the Commission's Rules and Policies Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities. **Summary:** The FCC will consider whether to adopt a Notice of Proposed Rule Making aimed at comprehensively reviewing the ownership attribution rules and revising them upward to more realistic levels.

Enforcement—1—Title: Petition requesting adoption of an overall renewal/revocation approach to implementation of 47 U.S.C. 312(a)(7) (reasonable access). **Summary:** The Commission will consider petition requesting that it change its present case-by-case implementation of statutory provision requiring reasonable access for Federal candidates. Petitioner seeks an overall review at renewal or upon institution of revocation proceedings.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674. William J. Tricarico, Secretary, Federal Communications Commission.

[S-137-83 Filed 1-28-83; 10:54 am]

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3695, January 26, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Wednesday, February 2, 1983, at 10:30 a.m.:

Data Processing Activities of Federal Associations; Home Banking Services Net Worth Certificates; Regulatory Net Worth

[No. 6, January 28, 1983]

[S-141-83 Filed 1-28-83; 3:18 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3906, January 27, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., February 2, 1983.

CHANGES IN THE MEETING: The time of the meeting is changed from 9:00 a.m. on February 2, 1983 to 2:00 p.m. on February 2, 1983. Addition of the following item to the open session:

4. Sea-Land Service, Inc.—Application for special permission to establish new or initial intermodal rates on less than statutory notice.

Addition of the following item to the closed session:

2. Docket No. 82-47; Agreement No. 10266—Agreement Between Intercontinental Transport, B.V. and Compagnie Generale Maritime—Consideration of the record.

[S-136-83 Filed 1-28-83; 11:15 am]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, February 7, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

James McAfee,

Associate Secretary of the Board.

[S-146-83 Filed 1-28-83; 3:44 pm]

BILLING CODE 6210-01-M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-06A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Telecopied to FR on January 25, 1983 at 4:20 p.m.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, February 8, 1983.

CHANGES IN THE MEETING: Notice of change in time for the meeting:

By unanimous consent, the United States International Trade Commission voted, on January 27, 1983, to reschedule the time for the meeting of Tuesday, February 8, 1983, from 2:30 p.m., to 11:30 a.m. There are no other changes to the agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-136-83 Filed 1-28-83; 9:28 am]

BILLING CODE 7020-02-M

9

INTERNATIONAL TRADE COMMISSION

[USITC ERB-83-01A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3695.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Thursday, February 10, 1983.

CHANGES IN THE MEETING: Notice of change of date and time of the meeting:

By memorandum dated January 28, 1983, Commissioners Stern and Haggart voted to reschedule the ERB meeting previously announced for February 10, 1983, at 11:00 a.m. to February 7, 1983, at 12:30 p.m. There are no other changes to the notice.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-140-83 Filed 1-28-83; 3:17 pm]

BILLING CODE 7020-02-M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-4]

TIME AND DATE: 9 a.m., Tuesday, February 8, 1983.

PLACE: NTSB Board Room, 800

Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the last two will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Letter to the Federal Aviation Administration* regarding the Safety Board's reconsideration of the Pacific Southwest Airlines B-727 accident in San Diego, California, on September 25, 1978, and Safety Board policy regarding reconsiderations of probable cause.

2. *Letter to Air Line Pilots Association* regarding the reopening of the investigation of the Pacific Southwest Airlines B-727 accident in San Diego, California, on September 25, 1978.

3. *Marine Accident Report:* Capsizing and Sinking of the U.S. Mobile Offshore Drilling Unit *Ocean Ranger* Off the East Coast of Canada, 188 Nautical Miles East of St. John's, Newfoundland, February 15, 1982, and Recommendations to the U.S. Coast Guard, Ocean Drilling and Exploration Company, Mobil Oil of Canada, Ltd., American Bureau of Shipping, and International Association of Drilling Contractors.

4. *Railroad Accident Report:* Deraillment of Amtrak Train No. 5 (The San Francisco Zephyr) on the Burlington Northern Railroad, Emerson, Iowa, June 15, 1982, and Recommendations to Burlington Northern Railroad, National Railroad Passenger Corporation (Amtrak), and Association of American Railroads.

5. *Opinion and Order:* Administrator v. Pollauf, Dkt. SE-5497; disposition of respondent's appeal.

6. *Opinion and Order on Interlocking Appeal:* Administrator v. Aerospace

Maintenance Co., Dkt. SE-4928; disposition of respondent's interlocking appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

January 28, 1983.

[S-145-83 Filed 1-28-83; 3:44 pm]

BILLING CODE 4910-58-M

11

SECURITIES AND EXCHANGE COMMISSION "FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2889,

January 21, 1983.

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 18, 1983.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting scheduled for Tuesday, January 25, 1983, at 10:00 a.m.:

Regulatory matters bearing enforcement implications.

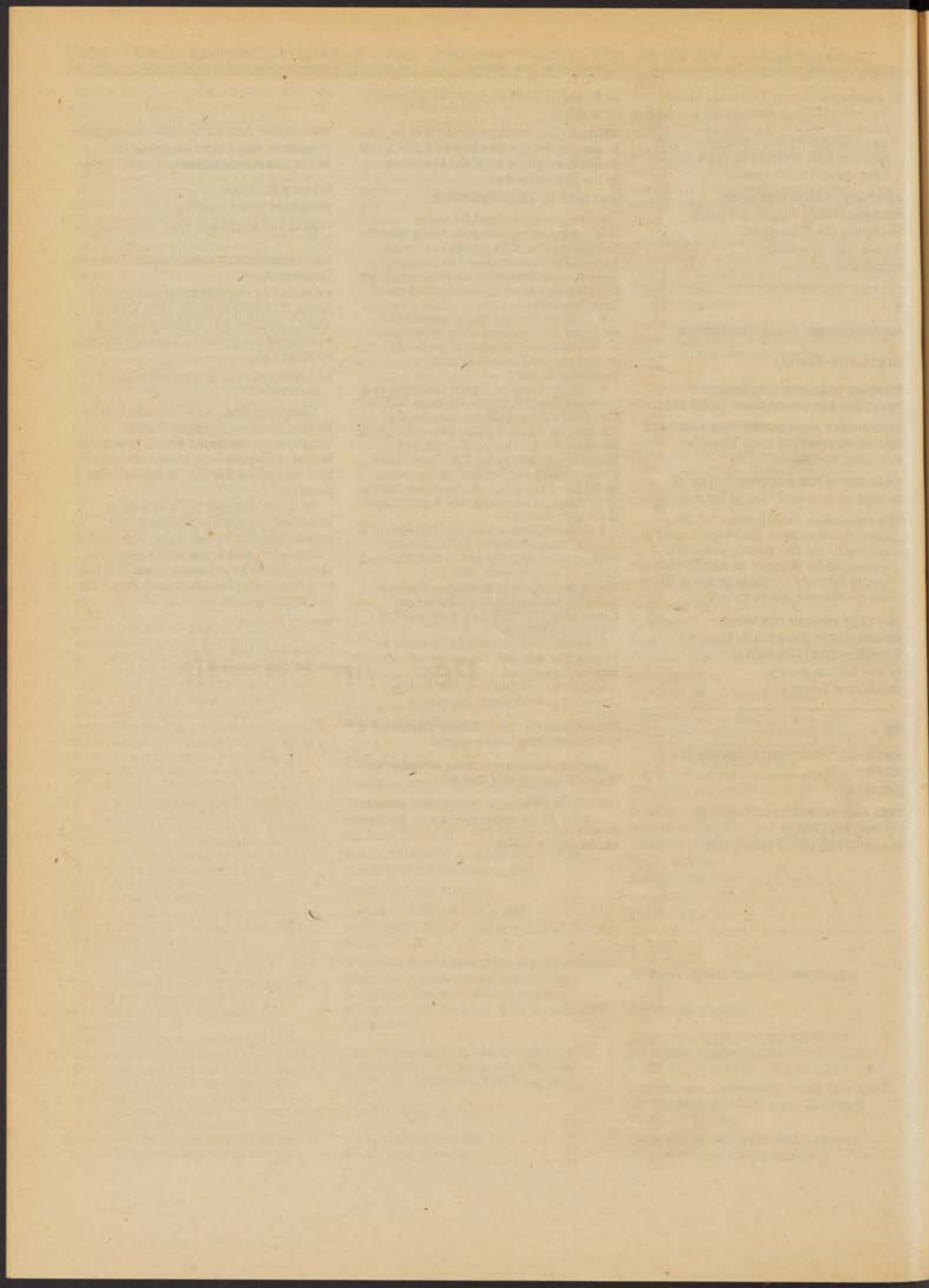
Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

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: Bob Zutz at (202) 272-2091.

January 27, 1983.

[S-139-82 Filed 1-28-83; 11:15 am]

BILLING CODE 8010-01-M



Federal Register

Tuesday
February 1, 1983

Part II

Pension Benefit Guaranty Corporation

**Supplemental Guarantee Program;
Proposed Rule**

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2690 through 2695

Supplemental Guarantee Program

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation if adopted would establish a supplemental program to guarantee benefits under multiemployer plans that would otherwise be guaranteed but for the dollar or percentage limitations on guaranteed benefits in the Employee Retirement Income Security Act of 1974, as amended. That law requires the Pension Benefit Guaranty Corporation to establish a supplemental guarantee program, coverage under which must be available by January 1, 1983. Participation by plans in this supplemental program is optional. The regulation is needed to establish a supplemental guarantee program, as required by law, in order to afford participants in multiemployer plans and their beneficiaries the fullest feasible benefit guarantee. The effect of this regulation would be to provide multiemployer plans with the opportunity to obtain a greater benefit guarantee for participants.

DATE: Comments must be received on or before April 4, 1983.

ADDRESSES: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; 202-254-4862. [This is not a toll-free number].

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 ("Multiemployer Act"), became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"). (As used herein, "ERISA" means the Act as amended, unless the context requires otherwise.) The Multiemployer Act revised the rules under which the Pension Benefit Guaranty Corporation

(the "PBGC") guarantees benefits under a multiemployer plan.

Under section 4022A(a) of ERISA, the PBGC guarantees the payment of certain nonforfeitable benefits ("basic benefits" or "guaranteed benefits") under a multiemployer plan that is insolvent. A plan is insolvent if it is unable to pay benefits when due for the plan year. A plan terminated by a mass withdrawal is not insolvent until it has first been amended to eliminate all benefits that are not eligible for the PBGC's guarantee under section 4022A(b).

Under section 4022A(b), only nonforfeitable benefits or benefit increases that have been in effect for 60 months or more are eligible for PBGC's guarantee ("guaranteeable benefits"). Section 4022A(c) limits the maximum monthly guaranteed benefit to the product of (a) 100 percent of the first \$5 of a participant's benefit accrual rate and 75 percent of the next \$15 of a participant's benefit accrual rate, and (b) the participant's number of years of credited service. A participant's benefit accrual rate is computed by dividing a participant's monthly guaranteeable benefit by the participant's number of years of credited service under the plan for benefit accrual purposes. In this fraction, the guaranteeable benefit may not exceed the plan benefit payable at normal retirement age as a life annuity and is determined without regard to past service benefit reductions permitted to be made on account of the cessation of contributions by the participant's employer. The 75 percent guarantee is reduced to 65 percent under plans that did not satisfy pre-ERISA funding requirements.¹

These rules for determining guaranteed benefits are applied without regard to past service benefit reductions permitted to be made on account of the cessation of contributions by an employer (section 4022A(c)(3)). Under section 4022A(d), if a past-service benefit is reduced because of the cessation of contributions by an employer, the guaranteed benefit is the lesser of the benefit determined under section 4022A(c) or the benefit determined under the plan's past service disregard rule. Section 4022A(h) contains a special rule for participants or beneficiaries under a multiemployer plan who, on July 29, 1980, were in pay status or were within 36 months of the plan's normal retirement age and had a nonforfeitable right to a pension. The PBGC will guarantee those individuals'

¹The insurance limits in section 4022(b) of the Act (other than the limits in section 4022(b)(6), relating to benefit accruals under a plan that ceases to meet the requirements of Internal Revenue Code section 401(a)) apply only to single-employer plans.

nonforfeitable accrued benefits as of that date under the single-employer rules in section 4022 of the Act, except for plan years following a plan year in which substantially all employers withdrew pursuant to an agreement to withdraw or the plan terminates by mass withdrawal under section 4041A(a)(2).

Section 4022A(g)(2) requires the PBGC to establish a supplemental program to guarantee benefits that would otherwise be guaranteed but for the limitations in section 4022A(c) ("supplemental benefits"). The supplemental benefits of a participant that are guaranteed by the PBGC under section 4022A(g)(2) are nonbasic benefits under Title IV.

The PBGC is required under section 4022A(g)(2) to establish a program to guarantee supplemental benefits, coverage under which must be available by January 1, 1983. Under the Act, participation by plans in this program is voluntary. Supplemental benefits under a plan are guaranteed only if and to the extent the plan elects coverage under the supplemental program. A plan's election to participate in the program can be made only within the time specified by PBGC regulations and cannot be made unless plan assets as of the end of the plan year preceding the election are at least 15 times benefit payments made for that year. Section 4022A(g)(2) also provides that the PBGC regulations, in addition to prescribing exceptions, if any, to the latter rule, shall provide "such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of [Title IV]."

The supplemental guarantee program is a self-financing program. To this end, a separate revolving fund on the books of the United States Treasury is established by section 4005(e). This fund is one of six revolving funds established on the books of the United States Treasury to be used by PBGC in carrying out its duties under Title IV. Monies in this fund are to be used exclusively for the purpose of making payments under the supplemental guarantee program. These monies are not available to make loans to or on behalf of any other fund. Similarly, monies in other funds are not available for the supplemental guarantee program. In addition, no money borrowed by PBGC from the United States Treasury pursuant to section 4005(c) is available

for the supplemental guarantee program (section 4005(f)(2)).

Under section 4006(a)(5)(B), the PBGC is authorized to prescribe premium rates for multiemployer plans for supplemental coverage that "reflect any reasonable considerations which the corporation determines to be appropriate." No revised schedule of premiums may go into effect without Congressional approval.

Finally, section 4022A(g)(5) authorizes the PBGC regulation to include rules that supersede the requirements of section 4245 (relating to insolvent plans), section 4261 (relating to financial assistance) and section 4281 (relating to multiemployer plans terminated by mass withdrawal), but only with respect to nonbasic benefits guaranteed under section 4022A(g).

The Regulation

Overview

In designing the supplemental guarantee program, the PBGC attempted to achieve the following goals:

- (1) To minimize premiums and the PBGC's administrative expenses, especially in the early years of the program;
- (2) To minimize the potential for anti-selection by a plan;
- (3) To structure a program that is simple to understand and administer; and
- (4) To afford plans flexibility, e.g., the ability to choose the desired amount of coverage.

The proposed regulation sets forth rules under six parts in Subchapter I—Supplemental Guarantee Program for Multiemployer Plans, of the PBGC's regulations. Part 2690 contains all the definitions for Subchapter I. Part 2691 establishes the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program. Part 2692 prescribes rules for determining the amount of coverage for a participant and for a multiemployer plan under the supplemental guarantee program. Part 2693 prescribes the premiums for coverage under the supplemental guarantee program. Part 2694 also establishes a late entry fee for a plan that applies for its initial coverage after the plan year in which it is first eligible for coverage under the supplemental program. Part 2694 prescribes the requirements for PBGC financial assistance under the supplemental guarantee program. Finally, Part 2695 prescribes special rules for multiemployer plans covered by the program that experience a mass withdrawal.

Part 2690—Definitions

Part 2690 contains all the definitions for Subchapter I. Section 2690.2 contains definitions of terms of general applicability. The subsequent sections contain definitions of terms specific to each part within the subchapter.

Two of the definitions in § 2690.2 are fundamental to an understanding of the supplemental guarantee program: "supplemental benefit" and "guaranteed supplemental benefit". These benefits may vary from one plan participant to another and may be different amounts for any individual participant.

"Supplemental benefit" is "the monthly benefit under the plan, except for the nonforfeitable benefit accrued prior to July 30, 1980 by participants and beneficiaries to whom section 4022A(h) of the Act applies, that would be guaranteed under section 4022A of the Act, determined without regard to section 4022A(c), reduced by the benefit guaranteed under section 4022A(c) of the Act." As discussed earlier, under section 4022A(c) of the Act, the maximum monthly guaranteed benefit is limited to the product of a) 100 percent of the first \$5 of a participant's benefit accrual rate and, generally, 75 percent of the next \$15 of a participant's benefit accrual rate, and b) a participant's number of years of credited service. Supplemental benefits are benefits in excess of the section 4022A(c) limits, i.e., 25 percent of a participant's benefit accrual rate between \$5.01 and \$20, and 100 percent of a participant's benefit accrual rate above \$20. The following examples illustrate how to determine a participant's supplemental benefit:

Participant A has 20 years of credited service under a multiemployer plan and a monthly benefit of \$300 (based on the benefit in effect for at least five years). The benefit has not been reduced under section 411(a)(3)(E) of the Code. Participant A has a guaranteed monthly benefit of \$250. This is based on an accrual rate for purposes of section 4022A, without regard to the section 4022A(c) limits, of \$15; i.e., \$300, the benefit in effect for five years or more, divided by 20, the number of years of credited service. This \$15 rate is reduced by the limits in section 4022A(c) to a guaranteed accrual rate of \$12.50; i.e., 100 percent of the first \$5 = \$5, plus 75 percent of the remaining \$10 = \$7.50. The \$12.50 accrual rate is then multiplied by 20, the number of years of credited service, to determine Participant A's guaranteed benefit. Participant A's supplemental benefit is \$50 per month; i.e., \$2.50, the excess of his or her accrual rate under section 4022A without regard to the section 4022A(c)

limits (\$15), over his or her accrual rate taking into account the section 4022A(c) limits (\$12.50), multiplied by 20, the participant's years of credited service.

Participant B has 20 years of credited service under a multiemployer plan and a monthly benefit of \$600 (based on the benefit in effect for at least five years). The benefit has not been reduced under section 411(a)(3)(E) of the Code. Participant B has a guaranteed monthly benefit of \$325. This is based on an accrual rate for purposes of section 4022A, without regard to the section 4022A(c) limits, of \$30; i.e., \$600, the benefit in effect for five years or more, divided by 20, the number of years of credited service. This \$30 accrual rate is reduced by the limits in section 4022A(c) to a guaranteed accrual rate of \$16.25; i.e., 100 percent of the first \$5 = \$5, plus 75 percent of the net \$15 = \$11.25. The \$16.25 accrual rate is then multiplied by 20, the number of years of credited service, to determine participant B's guaranteed benefit.

Participant B's supplemental benefit is \$275 per month; i.e., \$13.75, the excess of his or her accrual rate under section 4022A without regard to the section 4022A(c) limits (\$30), over his or her accrual rate taking into account the section 4022A(c) limits (\$16.25), multiplied by 20, the participant's years of credited service. Note in this example that while no portion of a participant's accrual rate in excess of \$20 per month is subject to PBGC's basic benefit guarantee the entire amount is guaranteeable under this supplemental guarantee program.

"Guaranteed supplemental benefit" is "the supplemental benefit payable with respect to a participant that is guaranteed by the PBGC under the supplemental guarantee program, as determined under § 2692.3 of this subchapter." That section provides that a participant's guaranteed supplemental benefit is the lesser of his or her supplemental benefit or the number of units of supplemental coverage purchased by the plan multiplied by the participant's service multiplier. Under § 2692.3(b), the service multiplier is normally the participant's total number of years of credited service, although there is a special rule for a participant whose benefit has been reduced under section 411(a)(3)(E) of the Code (relating to a past-service disregard provision in a plan). Thus, PBGC will guarantee a participant's supplemental benefit only to the extent of the number of units of supplemental coverage purchased by his or her plan. In the first example above, PBGC will guarantee the participant's entire supplemental

benefit only if his or her plan has purchased at least 3 units of coverage (3×20 (the number of years of credited service) = \$60 of supplemental coverage.)

Part 2691—Requirements for Coverage

Part 2691 establishes the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program.

Section 2691.2 Provides that PBGC will guarantee the payment of supplemental benefits under a multiemployer plan if the plan (1) is covered by Title IV of ERISA, (2) is eligible for coverage, (3) satisfies the requirements for initial coverage, (4) pays its premiums when due, and (5) is insolvent.

A plan is eligible for coverage under § 2691.3 if (1) the fair market value of the plan assets as of the end of the pre-eligibility year equals at least 15 times the total amount of the benefit payments and expenses under the plan for that year ("15-year asset test"); (2) the fair market value of the plan's assets as of the end of the pre-eligibility year, plus expected investment earnings on those assets for the next ten plan years equal or exceed the total amount of expected benefit payments and expected expenses under the plan for that ten-year period ("10-year benefit payment test"); (3) the plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed ("mass withdrawal test"); and (4) the maximum supplemental benefit under the plan, as of the date the plan's application for coverage is filed, is greater than zero. "Pre-eligibility year" is defined in § 2690.3 as "the plan year preceding the plan year in which an application for coverage that conforms with the requirements of § 2691.5 is filed."

The 15-year asset test is derived from section 4022A(g)(2)(B)(i) of the Act. That section provides that "unless the corporation determines otherwise, a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year." In order to reduce plan costs, the regulation provides that the plan's Form 5500 or Form 5500-C filed for the pre-eligibility year is used to determine whether this test is met. For example, under the Form 5500 for plan years beginning in 1981, the value of plan assets as of the end of the 1981 plan year is stated on line 13(h) of the Form 5500 and the total of benefit payments and other expenses for the

1981 plan year is stated on line 14(l). A special rule is included for small plans that have filed or are going to file a Form 5500-R (which does not include this information) for the pre-eligibility plan year. For such plans, the plan sponsor must submit a certification that the plan satisfies the 15-year asset test.

The 15-year asset test is a conservative means for determining eligibility. In view of the fact that this program is voluntary and self-financing, it is necessary, at least at the outset, to adopt a conservative approach to coverage under the program in order to preserve its financial integrity. The 15-year asset test is also necessary to avoid adverse selection by plans that will require financial assistance from PBGC in the near future.

PBGC believes that the 15-year asset test and the fact that this program is voluntary are indicative of Congress' intent that coverage under this program be made available only to plans in good financial condition that are able to pay benefits when due in the near future. However, satisfaction of the 15-year asset test does not necessarily indicate that a plan can pay future benefits when due. Accordingly PBGC is proposing two additional eligibility tests: the mass withdrawal test and the 10-year benefit payment test. The mass withdrawal test is necessary to protect the supplemental insurance program because a mass withdrawal is the result of a shrinkage in the plan's contribution base, and therefore will increase the likelihood that the plan will require financial assistance. The 10-year benefit payment test is intended for those rare situations where a plan that satisfies the 15-year asset test, nevertheless faces an imminent cash flow problem because of a significant increase in the benefits expected to be payable under the plan. For example, assume that all the retirees in a multiemployer plan are "spunoff" to a new plan, with the multiemployer plan transferring the retirees' entire accrued benefit liabilities and substantially all of the plan's assets to the new plan. As a result of this transaction the multiemployer plan satisfies the 15-year asset test. However, the plan has a significant number of active participants who are expected to enter pay status within the next several years. Because of this, the plan may be unable to pay benefits in the near future. In this situation, PBGC believes that the plan should be ineligible for coverage under the supplemental guarantee program.

Finally, a plan is eligible for coverage under § 2691.3 only if the maximum supplemental benefit under the plan, as of the date the plan's application for

coverage is filed, is greater than zero. "Maximum supplemental benefit" is defined in § 2690.2 as "the supplemental benefit to which an individual who is or could be a participant under the plan would be entitled at the earlier of age 65 or the plan's normal retirement age if he or she commenced participation at the earlier of the earliest possible entry age under the plan or age 22 and served continuously until the earlier of age 65 or the plan's normal retirement age, based on plan provisions currently in effect five years or more (under which such amount would be the highest)." Under this, a plan is eligible for coverage even if no actual plan participant has yet accrued a supplemental benefit. The purpose of this rule is to enable plans that are otherwise eligible and will have supplemental benefits based on the current plan provisions, to apply for coverage at the earliest possible date. (As will be explained more fully in the discussion of the late entry fee, a plan may defer applying for coverage without penalty until such time as it has participants in pay status who are entitled to supplemental benefits. It may nevertheless be to the plan's advantage to enroll sooner.)

Section 2691.4(a) of the regulation provides that a plan that is eligible for coverage shall become covered under the supplemental guarantee program upon filing with PBGC a written application for coverage, including the initial premium, and any late entry fee, due under Part 2693, and thereafter, approval by PBGC of the application. (See discussion of late entry fee under Part 2693 (relating to premiums)). Coverage is effective under the supplemental guarantee program as of the first day of the plan year during which a complete application is filed by the plan and the initial premium, and if applicable, late entry fee, is paid (§ 2691.4(c)).

Section 2691.4(d) of the regulation relates to changes in coverage. To preserve the fiscal integrity of the program, increases in units of supplemental coverage will be approved by PBGC only if the plan satisfies the requirements for initial coverage. A plan seeking an increase in coverage must satisfy anew the eligibility requirements in § 2691.3(a)(1) and (a)(2) (i.e., the 15-year asset test and the insolvency test; the plan by definition already satisfies the maximum supplemental benefit requirement in § 2691.3(a)(3)) and comply with the requirements for coverage in § 2691.4 (§ 2691.4(d)(1)). That is, the plan must file an application, pay the premium for the additional unit or

units, and thereafter obtain PBGC approval.

Decreases in coverage, on the other hand, do not create a potential for abuse of the supplemental insurance program, because such decreases reduce the exposure of the program. Accordingly, a plan may decrease its coverage without PBGC approval (§ 2691.4(d)(2)). A plan may decrease its coverage no more than once a year, by so indicating on the PBGC-1 and paying the reduced premium. A plan that has already filed its PBGC-1 for a plan year must wait until the following plan year to decrease its coverage. A plan may not decrease coverage in any plan year during which it is receiving financial assistance from PBGC under Part 2694 of this subchapter.

Requirements concerning the application for coverage are set forth in § 2691.5. In addition to paying the initial premium and any late entry fee, the application must include the information specified in § 2691.5(d). Among the information required is information that will enable PBGC to determine whether the eligibility tests in § 2691.3 are satisfied and to apply the maximum plan coverage limitation in § 2692.4:

(1) A copy of the plan's Form 5500, 5500-C or 5500-R filed for the pre-eligibility plan year. In addition, for a plan that filed a Form 5500-R for the pre-eligibility plan year, the application shall include the plan's most recent Form 5500 or Form 5500-C. (PBGC notes that a plan will be unable to submit an application for coverage until it has submitted its annual report form for the pre-eligibility plan year.)

(2) A copy of the two most recent actuarial reports.

(3) A statement updating the most recent actuarial report to show any material changes.

(4) A statement of the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed, including supporting documentation.

(5) A certification by the plan sponsor that the plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(6) A certification by an enrolled actuary that the plan satisfies the test described in § 2691.3(a)(2), including supporting assumptions and method, and a statement that, in making the certification, due consideration was given to the distribution of benefit liabilities under the plan.

In addition, the plan sponsor must submit a certification indicating whether

the plan is subject to a late entry fee, and, if so, the amount of the fee (including interest), with supporting calculations. This certification shall include a statement of the year in which the plan first satisfied the 15-year asset test, and for that year and each year thereafter, the amount of the missed premium or a statement that there is no missed premium due for that year, including calculations or other evidence supporting the statement. (Calculation of the late entry fee is discussed in greater detail later in this preamble.) PBGC may request any additional information it needs, including information to verify the late entry fee (§ 2691.5(e)).

PBGC is required under § 2691.6(a) to accept a plan for coverage if it determines that the plan is eligible for coverage and has submitted a complete application. PBGC may, however, approve lower coverage than the plan requested, if it determines that the plan requested coverage greater than that allowed under § 2692.4 of this subchapter. PBGC's decision to approve or reject an application will be in writing (§ 2691.6(b)). If PBGC rejects the application, in whole or in part, PBGC's decision will state the reasons for the decision and advise the plan sponsor of its right to appeal the decision pursuant to Part 2606 of PBGC's regulations.

Section 2691.7 of the regulation contains rules relating to cancellation of coverage under the supplemental guarantee program. PBGC may cancel coverage if the plan fails to pay a premium when due (§ 2691.7(a)), or if PBGC determines that the plan's application contained a material misrepresentation (§ 2691.7(b)). A plan may cancel coverage upon notice to PBGC (§ 2691.7(c)).

If a plan fails to pay the full amount of any premium due by the last date prescribed for payment under Part 2693, PBGC shall issue the plan a notice of cancellation. A notice of cancellation is effective on the 31st day after it is issued, unless the plan pays its full premium before that date.

PBGC may cancel coverage if it determines that the application contained a material misrepresentation of fact, and that it would have rejected the application had not that fact been misrepresented (§ 2691.7(b)). PBGC will cancel a plan's coverage under this provision only after reviewing all the facts and circumstances, and coverage is cancelled as of the first day the plan was covered under the supplemental guarantee program. If coverage is cancelled, PBGC will refund premiums (and any late entry fee) paid by the plan (§ 2691.7(b)(1)). PBGC's decision to cancel coverage is subject to appeal

pursuant to Part 2606 of PBGC's regulations (§ 2691.7(b)(2)). However, the filing of an appeal will not stay the cancellation decision. If the plan appeals the decision and PBGC's Appeals Board determines that the initial determination to cancel coverage was erroneous, the Appeals Board will order that coverage be reinstated upon the plan's repayment of any amounts refunded and payment of any premium subsequently due. These same rules on cancellation also apply to an application for an increase in coverage.

Coverage will become incontestable as to the statements in the application after coverage (or the increased coverage) has been in effect for 10 years (§ 2691.7(b)(3)). PBGC believes that it is reasonable for plans and participants to be able to rely on supplemental guarantee program coverage after coverage has been in effect for this length of time. However, any individual who knowingly and willfully falsifies a material fact in the application will be subject to applicable criminal penalties under 18 U.S.C. 1001, no matter when the false statement is discovered.

Section 4022A(g)(2) of the Act provides that coverage "shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation." This regulation provides that a plan may cancel coverage without PBGC approval in accordance with the rules in § 2691.7(c). A plan may cancel its coverage by so indicating on the Form PBGC-1. A plan may not cancel coverage in any plan year in which it is receiving financial assistance from PBGC under Part 2694; nor may a plan cancel coverage in any plan year in which it has already filed its Form PBGC-1 and paid its premium pursuant to Part 2693. Finally, a plan that cancels its coverage shall not be eligible to re-enter the supplemental guarantee program.

PBGC believes that revocable coverage is consistent with traditional insurance principles and with the concept of a voluntary insurance program. In addition, PBGC is concerned that requiring an irrevocable election of coverage by a plan might deter participation by plans that are uncertain about their long-term interest in the program.

PBGC recognizes that making coverage revocable may increase its administrative burden by making it more difficult to anticipate future experience under the program. This will make it more difficult to prescribe a reasonable and adequate initial premium rate and to recommend

appropriate adjustments to Congress. Moreover, PBGC understands that revocable coverage could be disruptive to plans and participants because the decision to participate could be subject to yearly reevaluation. Nevertheless, the PBGC believes, on balance, that revocable coverage is preferable. The bar on re-entering the program after voluntarily cancelling coverage is necessary, in PBGC's view, to prevent abuse of the supplemental program and to provide some greater measure of stability to the program.

PBGC specifically requests public comment on these issues.

Part 2692—Coverage Limitation for Participants and Multiemployer Plans

Part 2692 prescribes rules for determining the amount of coverage of a participant and a multiemployer plan under the supplemental guarantee program. Section 2692.2 provides that the guaranteed supplemental benefit of a participant is the lesser of the participant's supplemental benefit or the number of units of supplemental coverage of the plan, multiplied by the participant's service multiplier. Each unit of supplemental coverage is equal to a monthly benefit of \$1.00 times a participant's "service multiplier" (§ 2692.3(a)). As discussed earlier in this preamble, a participant's "service multiplier" is normally a participant's total number of years of credited service under the plan (§ 2692.3(b)).

Units of supplemental coverage are available only in whole number increments (§ 2692.3(a)). Thus, to insure the entire supplemental benefit of a participant whose supplemental benefit is \$75 per month and who has 30 years of credited service under the plan, a plan must purchase 3 units ($\$75 \div 30 = \2.50 supplemental accrual rate).

A plan may apply for any number of units of supplemental coverage, up to the limit described in § 2692.4, for the plan as a whole (§ 2692.3(a)). That is, a plan must purchase the same number of units for all participants in the plan, even though the guaranteeable supplemental benefits of the participants will be different amounts. In deciding to propose this guarantee structure, PBGC first considered and rejected two other alternatives. First, PBGC considered a guarantee structure that would make coverage available for all supplemental benefits, regardless of amount, under the plan. Under this structure a plan would pay a single premium for coverage of all participants' full supplemental benefit. PBGC also considered a guarantee structure that would permit a plan to vary coverage for

specific groups of participants, e.g., by bargaining units or regions. This structure might be attractive to plans that vary benefit levels for such groups.

PBGC has decided to propose only one guarantee structure at this time in the interest of simplicity and administrative ease. PBGC chose the plan-wide unit benefit guarantee structure, rather than the other two structures, because this structure is comparatively easy to administer, while still providing a plan with the flexibility to select the coverage it wants and the ability to obtain full coverage. Moreover, this structure is attractive because coverage of the plan as a whole will work in the same manner as under the basic benefits program.

Section 2692.4 of the regulation contains a limitation on the number of units of supplemental coverage a plan may purchase. A multiemployer plan that is eligible for coverage under § 2691.3 may apply for any number of units of supplemental coverage, up to the number of units necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed. This rule is designed to make it impossible for plans to circumvent the requirement in § 2691.4(d)(1) that a plan that wants to increase its coverage must satisfy anew the eligibility requirements in § 2691.3, by prohibiting a plan from purchasing more units of supplemental coverage than it currently needs in anticipation of future benefit increases.

Part 2693—Premiums

Part 2693 prescribes the premium for coverage under the supplemental guarantee program. It also requires a late entry fee in certain instances for a plan that applies for initial coverage after the first year it is eligible for coverage under the supplemental program.

To participate in the supplemental program, a multiemployer plan is required to pay an annual premium. (Payment of the premium will not, however, result in coverage under the supplemental guarantee program for plans that have not satisfied the requirements for coverage under the program.) The premium is based on the number of plan participants, the number of units of supplemental coverage elected by the plan, and the supplemental premium rate (§ 2693.4(a)). The definition of "participant" for this purpose is the same definition as that used for payment of premiums for basic benefits guaranteed by PBGC. The supplemental premium rate is \$.30.

The premium rate for the supplemental program is based on the ultimate premium rate for multiemployer plans for basic benefits under section 4008(a)(3)(A)(iii)(IV) of the Act. To determine the supplemental premium rate, the premium rate for basic benefits was converted to a premium per \$1.00 of basic benefits guaranteed, based on the highest average guaranteed benefit payable under a multiemployer plan covered by Title IV. The cost of one unit of supplemental coverage is a pro-rata portion of the premium for the underlying basic benefits.

The form prescribed by Part 2693 for payment of premiums is Form PBGC-1 (§ 2693.2). A plan must use the same Form PBGC-1 for its premium payment under the supplemental guarantee program and for its premium for basic benefits.

The plan sponsor must file the plan's initial premium payment as part of its application for coverage (§ 2693.3(a)). No Form PBGC-1 is necessary with this premium payment. The filing may be made at any time. The plan administrator must make subsequent premium payments concurrently with premium payments for basic benefits i.e., no later than the last day of the seventh month following the close of the prior plan year (§ 2693.3(b)).

As noted above, under § 2691.7(a), if a plan fails to pay a premium when due, after the initial premium, PBGC shall issue a notice of cancellation. The notice is effective on the 31st day after it is issued, unless the plan pays the premium due on or before the 30th day. Under this proposed regulation, no interest or penalty charges are assessed for a premium payment made during the 30-day period, although a late payment charge will be imposed with respect to a premium for basic benefits paid during that time. (See Part 2610 of PBGC's regulations.) PBGC is considering assessing late payment interest and penalty charges for a premium payment under the supplemental program during the 30-day period in order to discourage routine late payments. PBGC specifically requests comments on this issue.

If PBGC determines that a plan has paid less than its full premium, it will issue a notice of cancellation, requiring that the amount due be paid within 30 days. The plan may appeal PBGC's determination. However, filing of an appeal will not stay PBGC's notice of cancellation; the plan must pay the amount determined due by PBGC within the 30-day period in order to avoid cancellation (§ 2693.3(f)). If the plan's appeal is successful, PBGC will refund

the overpayment with interest (§ 2693.7(c)).

As discussed earlier, § 2693.5 generally requires a late entry fee, in addition to an initial premium, for a plan that fails to apply for coverage during the first year in which it is eligible for coverage. The late entry fee equals the plan's missed premiums plus interest (§ 2692.5(a)).

The late entry fee is intended to encourage early entry into the supplemental guarantee program. It is consistent with and authorized by section 4022A(g)(2)(B) (i) and (iii) of the Act, which provide "that a plan must elect coverage under the supplemental program within the time permitted by the [PBGC] regulations" and that the PBGC regulations shall include "such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title." Section 4022A(g)(4)(B)(i) contemplates time limits within which a plan may enter the program. Accordingly, with the exceptions noted below, a plan that enters after the plan year in which it is first eligible is assessed a charge for late entry based on the premiums it would have paid had it applied when first eligible.

Moreover, PBGC believes it is necessary and appropriate for a viable program to charge a late entry fee. First, a late entry fee will encourage early entry. By doing so, it should enable PBGC to identify, at an early date, the majority of the plans interested in the program. This will assist PBGC in determining the viability of the program. Second, the fee will help finance the cost of the program. (Had the plan joined the program and paid premiums from when it was first eligible, those monies would have been available for the program.)

The late entry fee rules assume that a plan that satisfies the 15-year asset test is eligible for coverage under § 2691.3(a), unless the plan can demonstrate to the contrary. Accordingly, a plan that fails to file an application for coverage on or before the last day of the first plan year in which it satisfies the 15-year asset test described in § 2691.3(a)(1) is presumptively liable for a late entry fee based on the plan's missed premiums for each "missed premium year" (§ 2693.5(a)). A "missed premium year" is defined in § 2690.4 as "any plan year in which the plan satisfies the 15-year asset test described in § 2691.3(a)(1) of this subchapter but does not apply for

coverage in accordance with § 2691.5 of this subchapter." (As discussed hereafter, however, there is no missed premium due for any year for which the plan can demonstrate it was not, in fact, eligible for coverage under § 2691.3(a).) Because the effective date of the supplemental guarantee program is January 1, 1983, a plan's first missed premium year cannot be earlier than its plan year beginning in 1983.

Section 2693.5(b) provides that the amount of the missed premium for each missed premium year is the premium determined under § 2693.4 that would have been due had coverage been in effect for that year. For this purpose, the number of participants is the number reported on the plan's Form PBGC-1 filed for that year. The number of units of supplemental coverage used in this calculation is the lesser of a) one-half the number of units necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed, or b) the number of units of supplemental coverage actually necessary in each year to guarantee the highest supplemental benefit for a participant in pay status as of the last day of that year, as demonstrated by the plan sponsor to the satisfaction of PBGC.

PBGC considered several other rules for determining missed premium amounts. For example, PBGC considered basing the computation on the number of units of supplemental coverage for which the plan applies in its initial application. This rule was rejected because it is easily subject to abuse: a plan could apply for 1 unit of coverage in its initial application and apply for additional units the following year. PBGC also considered basing the missed premium amounts on one unit of supplemental coverage for each missed premium year. This rule was rejected because it would not adequately encourage early entry into the supplemental guarantee program. Finally, PBGC considered using the maximum supplemental benefit under the plan in each missed premium year. This rule was rejected as too harsh.

Consequently, PBGC has decided to propose a rule that normally assumes that the number of units in effect for each missed premium year is one-half the maximum number of units the plan could purchase, i.e., one-half the units necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed. However, if for any given year, the plan sponsor can demonstrate that the number of units of supplemental coverage necessary to

guarantee the highest supplemental benefit for a participant in pay status on the last day of that year is lower than one-half the maximum, then this lower number of units shall be used to compute the missed premiums. If the plan sponsor demonstrates that no participant in pay status as of the last day of a plan year had a supplemental benefit, then the missed premium for that year is zero (see discussion below).

Section 2693.5(b) contains special rules which provide, among other things, that a plan that satisfies the 15-year asset test described in § 2691.3(a)(1) will not have a missed premium due for any year for which it can show that it did not satisfy either of the other two eligibility requirements, and therefore, was not actually eligible for coverage in that year. Section 2693.5(b)(1) provides that there is no missed premium due for a missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that plan year, the plan could not satisfy the insolvency test described in § 2691.3(a)(2).

Section 2693.5(b)(2) gives somewhat broader relief and provides that there is no missed premium due for a missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that year, there was no participant in pay status entitled to a supplemental benefit. Thus, under this rule, even though a plan was eligible for coverage in a particular year, because the maximum supplemental benefit was greater than zero, it will not be charged a late entry fee with respect to that year if no pay status participant was receiving a supplemental benefit. PBGC believes that this rule achieves a fair result.

As discussed earlier, the maximum supplemental benefit test is used as an eligibility requirement in order to make the supplemental program available to more plans sooner. However, PBGC does not believe it is fair to assess a late entry fee with respect to a year in which a plan did not actually have benefits that would be insured under the program. Thus, PBGC concluded that a missed premium should accrue only for a plan year in which an eligible plan had either participants in pay status with supplemental benefits or participants whose accrued benefits included supplemental benefits. The latter alternative was rejected because of the administrative burden it would have placed on a plan to demonstrate that no participant had accrued a supplemental benefit, in order to avoid a missed premium charge for a given year.

PBGC expects that in many cases a plan sponsor will be able to demonstrate that there is no missed premium due for a year based on the maximum supplemental benefit under the plan for that year. That is, in any year when the maximum supplemental benefit is zero, it automatically follows that no actual plan participant could have a supplemental benefit. In those cases where the maximum supplemental benefit for a missed premium year is greater than zero, the plan would have to review the benefits of only those participants in pay status to determine whether it can satisfy this exception.

Finally, it should be noted that if a plan can demonstrate that the maximum supplemental benefit in a given year was zero, this demonstration will cover all prior missed premium years as well. This is because it is extremely unlikely that a plan with a maximum supplemental benefit of zero in one year, had a maximum supplemental benefit greater than zero in an earlier year. Similarly, if a plan can demonstrate for a given year that it had no pay status participants with supplemental benefits, that demonstration will also cover prior years. PBGC believes that the possibility that there was a participant in pay status with a supplemental benefit in an earlier year is too remote to warrant the administrative expense of making a plan prove that fact for each prior year.

Section 2693.5(b)(3) contains a special rule for multiemployer plans classified as "small" in any missed premium year. A plan is a small plan for a missed premium year if the plan filed a Form 5500-R or Form 5500-C for the preceding plan year. For all such years, there is no missed premium due.

PBGC believes this rule is appropriate because it would be relatively costly for these plans to attempt to determine and demonstrate that no participant in pay status had a supplemental benefit for a prior year. In addition, PBGC is concerned that the late entry fee would operate as a powerful disincentive for a small plan to apply for coverage under the supplemental guarantee program. Finally, PBGC believes that the amount of money involved (potentially waived) under this rule is relatively small.

Under § 2693.5(c), interest accrues on the amount of the missed premium for each missed premium year until the late entry fee is paid, at the rate prescribed in section 6621(b) of the Internal Revenue Code. Interest is compounded annually. This interest rate is the same rate applicable to late payments of basic benefits premiums. The rate is currently 20 percent per year, but it is variable and will change whenever the rate under section 6621(b) of the Code

changes. The date from which interest accrues for each missed premium year is the last day of that year.

Section 2693.6 of the regulation provides that premiums due from a multiemployer plan for coverage under the supplemental guarantee program for any plan year during which the plan receives financial assistance from the PBGC, either for guarantee supplemental benefits or for basic benefits, are not required to be paid, but instead shall be treated as financial assistance. This is consistent with the rule on payment of the basic benefits premium by multiemployer plans receiving financial assistance for basic benefits.

Section 2693.7 of the regulation sets forth rules for PBGC refunds of overpayments. Under § 2693.7(a), if PBGC rejects an application for coverage, PBGC shall refund to the plan the initial premium and late entry fee, if any. Section 2693.7(b) provides that if the PBGC cancels a plan's coverage for a material misrepresentation or a mass withdrawal, PBGC shall likewise refund to the plan any amounts paid for plan years beginning on or after the effective date of cancellation. If the plan miscalculates the premium or late entry fee and overpays, PBGC shall refund to the plan the excess payment (§ 2693.7(c)). Finally, under § 2693.7(d), if in response to a notice of cancellation a plan pays the premium demanded by PBGC but appeals that determination, and PBGC's Appeals Board finds that the plan did overpay, PBGC shall refund the overpayment amount with interest. Interest will be paid at the rate prescribed in section 6621(b) of the Code.

Part 2694—Financial Assistance

Part 2694 prescribes the rules for PBGC financial assistance to multiemployer plans covered by the supplemental guarantee program that are or will be insolvent and unable to pay when due supplemental benefits (§ 2694.1(a)). Part 2694 also establishes the procedure under which plan sponsors shall file an application for financial assistance with PBGC and the terms and conditions under which PBGC shall provide financial assistance (§ 2694.1(a)).

Section 2694.2 provides that the plan sponsor of a multiemployer plan covered by the supplemental guarantee program who determines that the plan is or will be insolvent and unable to pay supplemental benefits when due may apply to PBGC for financial assistance. Section 2694.2 also provides that the plan sponsor shall submit any information the PBGC determines it needs to review the application.

PBGC expects to promulgate, at a later date, specific information required to be included in an application. PBGC notes that there is little need to prescribe this information requirement at this time because of the remote possibility that a plan that is covered by the supplemental guarantee program and which thus satisfies the 15-year asset test, will require financial assistance within at least 10 years after coverage under the program is effective. PBGC believes it important in developing these information requirements to minimize reporting requirements and to avoid requiring the submission of duplicative information. Accordingly, PBGC will coordinate the information required to be submitted in an application for financial assistance under the supplemental guarantee program with the information required to be submitted in an application for financial assistance for basic benefits.

If, upon receipt of an application for financial assistance, PBGC verifies that the plan is or will be insolvent and unable to pay supplemental benefits when due, PBGC shall provide the plan financial assistance in an amount sufficient to enable the plan to pay guaranteed supplemental benefits under the plan (§ 2694.3(a)). PBGC decisions on applications for financial assistance shall be in writing. A PBGC decision to disapprove an application shall state the reasons for the determination and state that the plan may file an administrative appeal in accordance with Part 2606 (§ 2694.3(b)).

The rules in §§ 2694.4 and 2694.5 of the regulation for financial assistance for guaranteed supplemental benefits are virtually identical to the rules in section 4261(b) of the Act for financial assistance for basic benefits. Under § 2694.4(a), financial assistance shall be provided under such conditions as PBGC determines are equitable and are appropriate to prevent unreasonable loss to PBGC with respect to the plan. Financial assistance is a loan by PBGC to the plan. A plan which has received financial assistance shall repay the amount of such assistance to PBGC on such reasonable terms and for such periods as PBGC deems equitable and appropriate in the particular case. (See section 4067 of the Act; cf. section 4261(b)(2) of the Act, which requires financial assistance to be repaid to PBGC on reasonable terms consistent with regulations prescribed by PBGC.) PBGC may provide interim financial assistance under § 2694.5, pending determination of the proper amount of financial assistance, in such amounts as it considers appropriate in order to

avoid undue hardship to plan participants and beneficiaries.

Sections 4005(e) and 4005(f) of the Act establish a supplemental guarantee program fund on the books of the U.S. Treasury and require the fund to be self-supporting. In addition, no amounts borrowed from the U.S. Treasury pursuant to PBGC's borrowing authority may be used for the supplemental guarantee fund. Accordingly, § 2694.6 of the regulation provides that PBGC shall pay guaranteed supplemental benefits only to the extent there is money available in the supplemental benefit program fund to pay those benefits. PBGC specifically requests public comment on what rules should be adopted to deal with the situation where the program is expected not to have sufficient funds to pay all benefits when due. For example, should a reduction in financial assistance apply to all plans receiving assistance, or only to those that apply after the guarantee fund is exhausted?

One alternative for dealing with the potential insolvency problem would be to establish a much higher premium rate, in order to minimize the likelihood of benefit cutback. PBGC is disinclined to adopt this approach because of the difficulty in determining what that premium rate should be and because a much higher premium might deter many plans from entering the program. But PBGC requests comments on this alternative.

Part 2695—Mass Withdrawals

Part 2695 prescribes special rules for multiemployer plans covered by the supplemental guarantee program that experience a mass withdrawal. Section 2695.2(a) of the regulation provides that PBGC shall cancel the coverage of a multiemployer plan with respect to which there is a mass withdrawal if the mass withdrawal date occurs on or before the earlier of (1) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires, or (2) six years after the plan's initial coverage date.

A "mass withdrawal" is defined in § 2690.5 as "a withdrawal or withdrawals from a multiemployer plan as a result of which the plan is subject to section 4219(c) (1) (D) of the Act, and includes a termination by mass withdrawal under section 4041A (a) (2) of the Act and the withdrawal of substantially all the employers pursuant to an agreement or agreements to withdraw". Section 4219(c) (1) (D) of the Act requires that when a multiemployer

plan terminates by the withdrawal of every employer from a plan or where substantially all the employers withdraw from a plan pursuant to an agreement or agreements to withdraw from the plan, the plan's total unfunded vested benefits must be allocated among all such employers. "Initial coverage date" is defined in § 2690.5 as "the date as of which coverage under the supplemental guarantee program is first effective for a plan pursuant to § 2691.4(c)". "Mass withdrawal date" means—"(a) in the case of a termination by mass withdrawal, the date determined under section 4041A(b)(2) of the Act; or (b) in any other case, the earliest employer withdrawal date for an employer subject to section 4219(c) (1) (D) of the Act, as determined under section 4203(e) of the Act" (§ 2690.5).

PBGC believes it necessary to establish a minimum period of participation during which a plan is covered by the supplemental guarantee program before which a plan may experience a mass withdrawal and continue to be covered. PBGC notes that a mass withdrawal will generally increase the likelihood that a plan will require financial assistance under the supplemental guarantee program. The existence of coverage under the supplemental guarantee program may encourage a mass withdrawal. Therefore, a minimum period of program participation is necessary to deter a plan from electing coverage under the supplemental guarantee program in anticipation of the withdrawal of all or substantially all of the employers in the plan.

Because a mass withdrawal is most likely to occur on the date on which one or more collective bargaining agreements expire, the minimum participation period is tied to the bargaining cycle. The minimum participation period runs from the plan's initial coverage date and in the usual case, will not expire until each collective bargaining agreement under which the plan is maintained has been re-negotiated and thereafter expires. Thus, if the mass withdrawal date is before the date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires, the plan's coverage will be cancelled. However, in no event will PBGC cancel a plan's coverage because of a mass withdrawal, if the mass withdrawal date is more than six years after the plan's initial coverage date. PBGC believes that six years is a sufficiently long period to

deter possible abuse of the insurance system.

PBGC's decision to cancel a plan's coverage as the result of a mass withdrawal shall be in writing. The decision shall state the reasons for the determination, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of PBGC's regulations, and state that the decision is effective on the date of issuance. The decision shall also state the date as of which the plan's coverage is cancelled. The cancellation date shall be the last day of the plan year preceding the plan year in which PBGC notifies the plan that its coverage is cancelled. PBGC shall refund to the plan any amount paid for plan years beginning after the date as of which the plan's coverage is cancelled. If the plan appeals PBGC's decision and PBGC's Appeals Board finds that the initial determination is erroneous the Appeals Board will order the plan reinstated subject to payment of any amounts refunded and any premium due.

PBGC believes it will be necessary for the supplemental guarantee program to contain certain special rules relating to merges, spinoffs or transfers of assets or liabilities. These rules would address plan coverage in the event a covered plan engaged in one of these transactions. Special rules are necessary because a merger, spinoff or transfer may create a significant risk to the supplemental guarantee program, as for example, in the case of the merger of a financially weak, non-covered plan into a covered plan, as well as create substantial administrative problems.

Special rules would need to address the following issues: Under what circumstances, in any, should a plan covered by the program continue to be covered when it is involved in a merger, spinoff or transfer? Should the result be different in the other plan involved in the transaction is a non-covered plan? In this latter situation, should coverage be continued only for those participants who were previously covered by the program? If so, what administrative problems would this create, and how might they be handled?

PBGC currently believes that, except for a *de minimis* transaction, the resulting plans or plan should be treated as new plans that must satisfy the eligibility requirements of § 2691.3(a) and the coverage requirements of § 2691.4 anew in order to participate in the program. Consistent with this rule, participants who, because of a merger, spinoff or transfer, are no longer in a plan covered by the program would not continue to be covered by the program.

This would avoid a tremendous administrative burden on both the non-covered plan and on the guarantee program.

A tentative cut-off for whether a transaction is *de minimis* would be if the transaction affects less than 3% of the total assets or liabilities. For example, in the case of a merger, a transaction would be *de minimis* if the present value of the accrued benefits of the merging plan not covered by the program is less than three percent of the fair market value of the assets of the covered plan.

Finally, under these rules, the merger of two covered plans would not result in cancellation of coverage. However, this raises the issue of the level of coverage, if the two plans had different levels. The approach which would seem to provide the greatest protection to the supplemental guarantee program would be to cover the merged plan at whatever was the lowest level of coverage of the merging plans.

PBGC specifically invites comments on these issues.

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The PBGC expects that the total annual premiums collected in the first few years of the program will be less than \$10 million. Moreover, this regulation is required by statute.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by PBGC. Defining "small plans" as those with under 100 participants, such plans represent only 10% of all multiemployer plans covered by PBGC (200 out of 2,000). Further, small multiemployer plans represent only .3% of all small plans covered by the PBGC (200 out of 61,200) and less than .05% of all small plans (200 out of 427,900). Moreover, the PBGC expects that a significant number of multiemployer plans are currently

ineligible for coverage under this program because of the 15-year asset test. In addition, the program is voluntary. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Assistant Executive Director for Policy and Planning, Pension Benefit Guaranty Corporation (140), 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

In developing this proposed regulation, PBGC solicited comments from knowledgeable individuals outside the corporation. Copies of these comments are available for public inspection at the above address.

List of Subjects in 29 CFR Parts 2690-2695

Employee benefit plans, Pensions, Pension insurance.

In consideration of the foregoing, it is proposed to amend Chapter XXVI of Title 29, Code of Federal Regulations by adding a new Subchapter I consisting of Parts 2690 through 2695 to read as follows:

SUBCHAPTER I—SUPPLEMENTAL GUARANTEE PROGRAM FOR MULTIEMPLOYER PLANS

Part	
2690	Definitions
2691	Requirements for Coverage
2692	Coverage Limitations for Participants and Multiemployer Plans.
2693	Premiums
2694	Financial Assistance
2695	Mass Withdrawals

SUBCHAPTER I—SUPPLEMENTAL GUARANTEE PROGRAM FOR MULTIEMPLOYER PLANS

PART 2690—DEFINITIONS

Sec.	
2690.1	Purpose and scope.
2690.2	General definitions.
2690.3	Requirements for coverage.
2690.4	Premiums.
2690.5	Mass withdrawals.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1214-15 (1980) [29 U.S.C. 1302, 1322a].

§ 2690.1 Purpose and scope.

This part sets forth the definitions used in Subchapter I. Section 2690.2 contains definitions of terms of general applicability. The subsequent sections contain definitions of terms specific to each part within the subchapter.

§ 2690.2 General definitions.

For purposes of Subchapter I—
"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Actuarial report" means a report submitted to the plan in connection with a valuation of plan assets and liabilities, for purposes of section 412 of the Code.

"Code" means the Internal Revenue Code of 1954, as amended.

"Guaranteed supplemental benefit" means the supplemental benefit payable with respect to a participant that is guaranteed by the PBGC under the supplemental guarantee program set forth in this subchapter, as determined under § 2692.2 of this subchapter.

"Insolvent" means that a plan is unable to pay benefits when due for the plan year. A plan terminated by mass withdrawal is not insolvent until it has first been amended to eliminate all benefits that are not eligible for the PBGC's guarantee under section 4022A(b) of the Act.

"Maximum supplemental benefit" means the supplemental benefit to which an individual who is or could be a participant under the plan would be entitled at the earlier of age 65 or the plan's normal retirement age if he or she commenced participation at the earlier of the earliest possible entry age under the plan or age 22 and served continuously until the earlier of age 65 or the plan's normal retirement age, based on plan provisions in effect five years or more (under which such amount would be the highest.)

"Multiemployer plan" means a pension plan described in section 4001(a)(3) of the Act.

"Participant" means any individual who is included in one of the categories below:

(a) *Active*.—(1) Any individual who is currently in employment covered by the plan and who is earning or retaining credited service under the plan. This category includes any individual who is currently below the integration level in a plan that is integrated with Social Security.

(2) Any non-vested individual who is not currently in employment covered by the plan but who is earning or retaining credited service under the plan. This category does not include a non-vested former employee who has incurred a

break in service of the greater of one year or the break in service period specified in the plan.

(b) *Inactive.*—(1) *Inactive receiving benefits.* Any individual who is retired or separated from employment covered by the plan and who is receiving benefits under the plan. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(2) *Inactive entitled to future benefits.* Any individual who is retired or separated from employment covered by the plan and who is entitled to begin receiving benefits under the plan in the future. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(c) *Deceased.* Any deceased individual who has one or more beneficiaries who are receiving or entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Plan administrator" means the plan administrator, as defined in sections 4001(a)(1) and 3(16) of the Act.

"Plan sponsor" means the plan sponsor, as defined in section 4001(a)(10) of the Act.

"Plan year" means the calendar, policy or fiscal year on which the records of the plan are kept.

"Supplemental benefit" means the monthly benefit under the plan, except for the nonforfeitable benefit accrued prior to July 30, 1980 by a participant to whom section 4022A(h) of the Act applies, that would be guaranteed under section 4022A of the Act without regard to the limitations in section 4022A(c), reduced by the benefit guaranteed under section 4022A(c) of the Act.

"Supplemental guarantee program" means the program described in section 4022A(g)(2) of the Act and established in this subchapter, under which the PBGC guarantees the payment of supplemental benefits.

"Terminate by mass withdrawal" means to terminate under section 4041A(a)(2) of the Act.

§ 2690.3 Requirements for coverage.

For purposes of Part 2691—

"Last entry date" means the last day of the first plan year beginning on or

after January 1, 1983, in which a plan satisfies the 15-year asset test described in § 2691.3(a)(1) of this subchapter.

"Pre-eligibility year" means the plan year preceding the plan year in which an application for coverage that conforms with the requirements of § 2691.5 is filed.

§ 2690.4 Premiums.

For purposes of Part 2693—

"Missed premium year" means any plan year in which the plan satisfies the 15-year asset test described in § 2691.3(a)(1) of this subchapter but does not apply for coverage in accordance with § 2691.5.

§ 2690.5 Mass withdrawals.

For purposes of Part 2695—

"Initial coverage date" means the date as of which coverage under the supplemental guarantee program is first effective for a plan pursuant to § 2691.4(c).

"Mass withdrawal" means a withdrawal or withdrawals from a multiemployer plan as a result of which the plan is subject to section 4219(c)(1)(D) of the Act, and includes a termination by mass withdrawal under section 4041A(a)(2) of the Act and the withdrawal of substantially all the employers pursuant to an agreement or agreements to withdraw.

"Mass withdrawal date" means (a) in the case of a termination by mass withdrawal, the date determined under section 4041A(b)(2) of the Act; or (b) in any other case, the earliest employer withdrawal date for an employer subject to section 4219(c)(1)(D) of the Act, as determined under section 4203(e) of the Act.

PART 2691—REQUIREMENTS FOR COVERAGE

Sec.

2691.1 Purpose and scope.

2691.2 Benefits guaranteed under supplemental guarantee program.

2691.3 Eligibility for coverage.

2691.4 Requirements for coverage.

2691.5 Application.

2691.6 PBGC action on application.

2691.7 Cancellation of coverage.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1214-15 (1980) [29 U.S.C. 1302, 1322a].

§ 2691.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to set forth the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program established in this subchapter.

(b) *Scope.* This part applies to each multiemployer plan covered under section 4021(a) of the Act and not excluded by section 4021(b), that applies for coverage or is covered under the supplemental guarantee program.

§ 2691.2 Benefits guaranteed under supplemental guarantee program.

(a) *General requirements.* PBGC shall guarantee, in accordance with this subchapter, the payment of supplemental benefits under a multiemployer plan—

(1) To which section 4021 of the Act applies;

(2) Which is eligible for coverage in accordance with § 2691.3;

(3) Which satisfies the requirements for coverage in accordance with § 2691.4;

(4) Which pays all premiums when due in accordance with Part 2693 of this subchapter; and

(5) Which is insolvent.

(b) *Benefits guaranteed for a participant.* The supplemental benefits of a participant in a plan described in paragraph (a) of this section that are guaranteed by PBGC under the supplemental guarantee program shall be determined in accordance with § 2692.2 of this subchapter.

§ 2691.3 Eligibility for coverage.

(a) *General requirement.* Except as provided in paragraph (b) of this section, a multiemployer plan is eligible for coverage under the supplemental guarantee program if it satisfies the following requirements:

(1) The fair market value of the plan's assets as of the end of the pre-eligibility plan year equals or exceeds 15 times the total amount of the benefit payments and expenses under the plan for that year.

(i) For a plan that has filed or is going to file a Form 5500 or Form 5500-C for the pre-eligibility plan year, that form shall be used to demonstrate satisfaction of the test described in paragraph (a)(1).

(ii) For a plan that has filed or is going to file a Form 5500-R for the pre-eligibility plan year, the plan sponsor's certification in accordance with § 2691.5(d)(12) shall be used to demonstrate satisfaction of the test described in paragraph (a)(1).

(2) The fair market value of the plan's assets as of the end of the pre-eligibility plan year, plus expected investment earnings on those assets for the next ten plan years, equal or exceed the total amount of expected benefit payments and expected expenses under the plan for that ten-year period.

(i) For a plan that has filed or is going to file a Form 5500 or Form 5500-C for the pre-eligibility plan year, that form shall be used to determine the fair market value of plan assets.

(ii) For a plan that has filed or is going to file a Form 5500-R for the pre-eligibility plan year, the fair market value of plan assets shall be the fair market value reported by the plan sponsor in accordance with § 2691.5(d)(12).

(iii) Expected investment earnings shall be determined using the same interest assumption used for determining the minimum funding requirement under section 412 of the Code.

(iv) Expected benefit payments shall be determined by assuming that current benefits remain in effect and that all scheduled increases in benefits occur.

(v) Expected expenses shall be determined using expenses in the pre-eligibility plan year, adjusted to reflect any anticipated changes.

(3) The plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(4) The maximum supplemental benefit under the plan, as defined in § 2690.2, is greater than zero, as of the date the plan's application for coverage is filed.

(b) *Re-entry.* A multiemployer plan is not eligible for coverage under the supplemental guarantee program if it was previously covered by the program and its coverage was cancelled in accordance with § 2691.7(a) or (c) of this part, or § 2695.2 of this subchapter. If coverage was cancelled pursuant to § 2691.7(b), the plan shall be eligible for re-entry if it meets the requirements in paragraph (a) of this section.

§ 2691.4 Requirements for coverage.

(a) *General rule.* Except as provided in paragraph (b) of this section, a plan that is eligible for coverage under § 2691.3 shall become covered under the supplemental guarantee program upon—

(1) Filing with PBGC a written application that conforms with the requirements of § 2691.5, including payment of the initial premium and any late entry fee due under Part 2693 of this subchapter; and

(2) Approval by PBGC of the application.

(b) *Late entry fee.* If a plan fails to apply for coverage before its last entry date, as defined in § 2690.3, its application for coverage under the supplemental guarantee program shall include a late entry fee determined in accordance with § 2693.5 of this subchapter.

(c) *Effective date of coverage.* A plan whose application is approved by PBGC is covered under the supplemental guarantee program as of the first day of the plan year during which it files a complete application with PBGC.

(d) *Changes in coverage.*—(1) *Increase coverage.* A plan that is covered under the supplemental guarantee program may increase its coverage at any time upon satisfaction of the requirements of paragraph (a) of this section. When a plan applies for increased coverage, the premium described in paragraph (a)(1) is the premium owed for the plan's existing coverage plus the increased coverage requested. The effective date of increased coverage, if approved by PBGC, shall be the first day of the plan year in which the complete application is filed.

(2) *Decreased coverage.* A plan that is covered under the supplemental guarantee program may decrease its coverage without PBGC's approval by following the procedures, including time limits, for cancellation of coverage set forth in § 2691.7(c) of this part. A plan may not decrease coverage in any plan year during which it is receiving financial assistance from PBGC under Part 2694 of this subchapter.

§ 2691.5 Application.

(a) *General.* Subject to the rule in § 2691.4(b) on late entry, an application for initial or increased coverage may be filed with PBGC at any time. In addition to the initial premium, and any late entry fee, due under Part 2693, the application shall include the information specified in paragraph (d) of this section.

(b) *Who shall file.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign the application.

(c) *Where to file.* The application shall be delivered by mail or submitted by hand to the Division of Case Classification and Control (540), Office of Program Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

(d) *Information.* Each application shall contain the following information:

(1) The name of the plan.
(2) The name, address and telephone number of the plan sponsor, and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with

the PBGC. The notice should indicate if no EIN or PIN has been assigned.

(4) A copy of the most recent IRS determination letter, if any, relating to the plan.

(5) A statement that the plan is applying for coverage (or increased coverage) under the supplemental guarantee program, indicating the number of units of supplemental coverage for which the plan is applying, i.e., the number of \$1.00 units requested.

(6) A statement of the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed, including supporting documentation.

(7) A copy of the plan document currently in effect, i.e., a copy of the last restatement of the plan and all subsequent amendments.

(8) If not included in item 7, a copy of any amendment to the plan adopted or effective within the 5-year period preceding the beginning of the plan year during which the application is filed.

(9) A copy of the two most recent actuarial reports relating to the plan. The reports shall include a complete description of the actuarial assumptions and methods used; an age and service distribution of active and retired lives, and the associated liability distributions for retired lives; the number of contribution base units for the five most recent plan years; all asset and liability figures used to complete Schedule B of the Annual Report Form (Form 5500 series), including the value of vested benefits; and the contribution rates in effect.

(10) A statement updating the most recent actuarial report described in item 9 to show any material changes.

(11) A copy of the plan's Annual Report Form (Form 5500 series) for the pre-eligibility plan year, including schedules. In addition, for a plan that has filed a Form 5500-R for the pre-eligibility plan year, the application shall contain the plan's most recent Form 5500 or Form 5500-C, including schedules.

(12) For a plan that has filed a Form 5500-R for the pre-eligibility plan year, a certification by the plan sponsor that the plan satisfies the 15-year asset test described in § 2691.3(a)(1). The certification shall include a statement as to the fair market value of the plan's assets as of the end of the pre-eligibility year and the total amount of the benefit payments and expenses under the plan for that year.

(13) A certification by the plan sponsor that the plan has not

experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(14) A certification by an enrolled actuary that the plan satisfies the test described in § 2691.3(a)(3), including supporting assumptions and methods, and a statement that in making the certification due consideration was given to the distribution of benefit liabilities under the plan.

(15) The amount of the initial premium, paid to PBGC in the application, including supporting calculations.

(16) A certification by the plan sponsor indicating whether the plan is subject to a late entry fee, and, if so, the amount of the fee (including interest). The certification shall include a statement as to the year in which the plan first satisfied the 15-year asset test described in § 2691.3(a)(1), and for that year and each year thereafter, a statement with calculations as to the amount of missed premium or a statement that there is no missed premium due for that year, including evidence supporting the statement.

(e) *Additional information.* In addition to the information described in paragraph (d) of this section, PBGC may require the plan sponsor to submit any other information PBGC determines it needs to review an application.

(f) *Duplicate information.* In the case of plan applying for additional units of supplemental coverage, any of the information required by paragraph (d) of this section may be omitted if the identical information was previously filed with PBGC. When information is omitted pursuant to this paragraph, the application shall so indicate and shall state the date on which the information was submitted and that the information is still accurate and complete.

(g) *Date of filing.* An application is not considered filed until all the information required by paragraph (d) of this section and the initial premium, and, if applicable, late entry fee due have been submitted. The date of filing is the date on which all the information (or the final portion of the required information), the premium and late entry fee, if any, are hand-delivered or mailed, or the last such date if these items are submitted separately. An application shall be presumed to have been mailed on the date on which it is postmarked by the United States Postal Service, or three days prior to the date on which it is received by the PBGC if it does not contain a legible United States Postal Service postmark.

§ 2691.6 PBGC action on application.

(a) *General.* PBGC shall accept a plan for coverage if it determines that the plan is eligible for coverage under § 2691.3 and has submitted an application that complies with § 2691.5. PBGC may, however, approve lower coverage than the plan requested, if it determines that the plan requested coverage greater than that allowed under § 2692.4 of this subchapter.

(b) *PBGC decision.* PBGC shall notify the plan sponsor in writing of its decision on the application. If PBGC approves the application, the decision shall state that the plan is covered under the supplemental guarantee program and specify the amount of coverage the plan will receive. If PBGC rejects the application, in whole or in part, the decision shall state the reasons for the rejection and include a statement of the plan sponsor's right to appeal the decision pursuant to Part 2606 of this chapter. Filing of an appeal shall not stay the effectiveness of a decision granting coverage for less than the amount applied for.

§ 2691.7 Cancellation of coverage.

(a) *Missed premiums.* Unless the premium due is not payable under § 2693.6 of this subchapter because the plan is receiving financial assistance from PBGC, if the plan fails to pay any premium due under Part 2693 by the last date prescribed for payment in § 2693.3(b) or (c), PBGC shall issue the plan a notice of cancellation. The notice shall advise the plan that unless the full amount due is paid within 30 days after the date of the notice, the plan's coverage under the supplemental guarantee program shall be cancelled. Cancellation shall be effective on the 31st day after the date of the notice. If a plan's coverage is cancelled pursuant to this paragraph, it shall not be entitled to a refund of premiums paid, nor shall it be eligible to re-apply for coverage.

(b) *Material misrepresentation.* Except as provided in paragraph (b)(3) of this section, if PBGC determines that a plan's application for initial coverage or an increase in coverage contained a misrepresentation as to a material fact that would have caused PBGC to reject the application had not that fact been misrepresented, the plan's coverage shall be cancelled by PBGC. Cancellation shall be effective as of the plan's effective date under § 2691.4(c) of initial coverage or increased coverage, as applicable.

(1) *Effect of cancellation.* A plan whose coverage is cancelled pursuant to paragraph (b) of this section shall be entitled to a refund of amounts paid under the supplemental guarantee

program, in accordance with § 2693.7(b) of this subchapter. The plan shall be eligible to re-apply for coverage if it meets the tests in § 2691.3(a).

(2) *PBGC decision.* PBGC shall notify the plan in writing of its decision to cancel the plan's coverage. The decision shall state the reasons for the determination, the date as of which a plan's coverage is cancelled, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter, and state that the decision is effective on the date of issuance.

(3) *Restriction on right to cancel.* After initial coverage or an increase in coverage has been in effect for 10 years, it shall be incontestable as to the statements contained in the application.

(c) *Cancellation by plan.* Except as provided in paragraph (c)(2) of this section, a plan may cancel coverage, without PBGC approval, by so indicating on its Form PBGC-1 filed in accordance with Part 2693 of this subchapter. To be effective, the form must be filed within the time limits for filing set forth in Part 2693. Cancellation of coverage shall be effective as of the last day of the plan year preceding the plan year for which the Form PBGC-1 is filed.

(1) *Effect of cancellation.* A plan that cancels its coverage pursuant to paragraph (c) of this section shall not be entitled to a refund of premiums (or any late entry fee) paid for plan years when coverage was in effect, nor shall it be eligible to re-apply for coverage.

(2) *Restrictions on right to cancel.* A plan may not cancel coverage in any plan year in which it is receiving financial assistance from PBGC under Part 2694 of this subchapter, nor in any plan year in which it has already filed its Form PBGC-1 and paid its premium pursuant to Part 2693.

PART 2692—COVERAGE LIMITATIONS FOR PARTICIPANTS AND MULTIEMPLOYER PLANS

Sec.

- 2692.1 Purpose and scope.
- 2692.2 Guaranteed supplemental benefits.
- 2692.3 Plan coverage.
- 2692.4 Maximum plan coverage.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1214-15 (1980) (29 U.S.C. 1302, 1322).

§ 2692.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules for determining the amount of coverage for a participant and a multiemployer plan under the supplemental guarantee program.

(b) *Scope.* This part applies to each multiemployer plan covered under

section 4021(a) of the Act and not excluded by section 4021(b), that applies for coverage or is covered under the supplemental guarantee program and to participants and beneficiaries in those plans.

§ 2692.2 Guaranteed supplemental benefits.

The PBGC shall guarantee the payment with respect to a participant of a supplemental benefit provided under a multiemployer plan covered by the supplemental guarantee program equal to the lesser of the participant's supplemental benefit, or the number of units of supplemental coverage purchased by the plan multiplied by the participant's service multiplier (as defined in § 2692.3(b)).

§ 2692.3 Plan coverage.

(a) *General.* Subject to the limitation in § 2692.4, a multiemployer plan that is eligible for coverage under § 2691.3 may apply for any number of units of supplemental coverage. The same number of units shall be purchased for all participants in the plan. Units may only be purchased in whole number increments. Each unit is equal to a monthly benefit with respect to a participant in the amount of \$1.00 times the participant's service multiplier.

(b) *Service multiplier.* Except as provided in the next sentence, a participant's service multiplier is the participant's total number of years of credited service, determined in accordance with section 4022A(c)(4) of the Act. In the case of a participant whose benefit under the plan has been reduced under section 411(a)(3)(E) of the Code and whose benefit guaranteed under section 4022A is determined under section 4022A(d)(1), the participant's service multiplier is the amount determined under section 4022A(d)(1) of the Act, divided by the amount determined under section 4022A(c)(1)(A) of the Act.

§ 2692.4 Maximum plan coverage.

A multiemployer plan may not purchase more than the number of units of coverage necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage (or increased coverage) is filed.

PART 2693—PREMIUMS

Sec.

- 2693.1 Purpose and scope.
- 2693.2 Form.
- 2693.3 Requirement to pay premiums.
- 2693.4 Premium rate.
- 2693.5 Late entry fee.
- 2693.6 Premium for plan year during which plan receives financial assistance.

Sec.

- 2693.7 Overpayments.
- 2693.8 Date of filing or payment.
- 2693.9 Computation of time.

Authority: Secs. 4002(b)(3), 4006(a), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1), 105(a) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1264-66, 1214-15 (1980) (29 U.S.C. 1302, 1306, 1322a).

§ 2693.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe the premiums for coverage of multiemployer plans under the supplemental guarantee program established in this subchapter. This part also prescribes the late entry fee for a plan that applies for coverage after its last entry date.

(b) *Scope.* This part applies to each multiemployer plan that applies for coverage or is covered under the supplemental guarantee program.

§ 2693.2 Form.

The form prescribed by this part for the payment of premiums is Form PBGC-1. A completed Form PBGC-1 shall accompany all payments of premiums under this part (other than the initial premium payment). A plan shall use a single Form PBGC-1 for both its premium payment under this part and under Part 2610 (premium for basic benefit coverage) of this chapter.

§ 2693.3 Requirement to pay premiums.

(a) *Initial premium.* The plan sponsor of a plan that is applying under § 2691.4 of this subchapter for coverage under the supplemental guarantee program shall pay the initial premium due as part of its application for coverage. The payment check shall be made payable to PBGC and shall show the name of the plan and the EIN-PIN with respect to the plan on its face.

(b) *Premium for covered plan.* The plan administrator of each plan covered under the supplemental guarantee program shall file Form PBGC-1 and pay the premium due, in accordance with the instructions accompanying the form, no later than the last day of the seventh month following the close of the prior plan year.

(c) *Change of plan year.* Notwithstanding paragraph (b) of this section, the plan administrator of a plan that is covered under the supplemental guarantee program and that changes its plan year, shall file Form PBGC-1 and pay the premium due for the short plan year, in accordance with the instructions accompanying the form, no later than the later of—

(1) The last day of the seventh month following the close of the short plan year; or

(2) 30 days after the date on which the amendment changing the plan year was adopted.

(d) *Non-payment of premium.* Except as provided in paragraphs (d)(1) and (d)(2), the failure of the plan administrator of a plan covered by the supplemental guarantee program to pay the full premium due under this part within the time limits prescribed in this section shall result in the cancellation of that plan's coverage under the program, in accordance with § 2691.7.

(1) *Non-payment of initial premium.* A plan has not satisfied the requirement for coverage under § 2691.4(a)(1) (filing a complete application), until it has paid the full initial premium due pursuant to this part.

(2) *Financial assistance.* Paragraph (d) of this section shall not apply to a premium that need not be paid pursuant to § 2693.6 of this part for a year in which the plan is receiving financial assistance under Part 2694 of this subchapter or financial assistance under section 4261 of the Act.

(e) *Duration of obligation to pay premiums.* Premiums shall continue to accrue under this part for each plan year until the end of the plan year in which a multiemployer plan's coverage is cancelled in accordance with § 2691.7 or § 2695.2 of this subchapter or until the plan's assets are distributed in connection with the termination of the plan.

(f) *Contested premium amounts.* If PBGC determines that a plan has paid less than the full premium due under this part, it shall so notify the plan, as described in § 2691.7(a) of this subchapter. The plan may appeal PBGC's determination pursuant to Part 2606 of this chapter. However, filing of an appeal shall not stay the effect of a notice of cancellation issued under § 2691.7(a) of this subchapter.

§ 2693.4 Premium rate.

(a) *General.* A multiemployer plan shall pay for each plan year a premium to PBGC for coverage under the supplemental guarantee program in an amount equal to the product of—

(1) The number of individuals who were participants in the plan on the last day of the preceding plan year;

(2) The number of units of supplemental coverage in effect for the year, or for which the plan is applying; and

(3) The supplemental premium rate of \$30.

(b) *Short plan year.* For any plan that changes its plan year, the plan shall pay the applicable premium under paragraph (a) for each individual who is a

participant in the plan on the last day of the short plan year.

§ 2693.5 Late entry fee.

(a) *General.* A multiemployer plan that fails to apply for initial coverage on or before the last day of the first plan year in which the plan satisfies the 15-year asset test set forth in § 2691.3(a)(1) shall be presumptively liable for a late entry fee determined under this section. The late entry fee shall equal the total amount of the plan's missed premiums, determined under paragraph (b) of this section, plus interest, determined under paragraph (c) of this section, for each missed premium year. However, there is no missed premium due for any year in which the plan did not, in fact, satisfy all of the eligibility requirements in § 2691.3(a), as demonstrated in accordance with paragraphs (b)(1) and (b)(2) of this section.

(b) *Computation of missed premiums.* Except as provided in paragraphs (b)(1), (b)(2) and (b)(3) of this section, the amount of the missed premium for each missed premium year is equal to the premium determined under § 2693.4 of this part that would have been due had coverage been in effect for each missed premium year, based on the plan's Form PBGC-1 filed for that year and assuming coverage in each year of the lesser of one-half the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed, or the number of units of supplemental coverage actually necessary to guarantee the highest supplemental benefit for any participant in pay status under the plan as of the last day of that year, as demonstrated by the plan sponsor to the satisfaction of PBGC.

(1) There is no missed premium for any missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that plan year, the plan could not satisfy the plan solvency requirement described in § 2691.3(a)(2).

(2) There is no missed premium for any missed premium year (and all prior missed premium years) if the plan sponsor demonstrates to the satisfaction of PBGC that there is no supplemental benefit payable with respect to any participant in pay status as of the last day of that year.

(3) There is no missed premium for any missed premium year if the plan filed a Form 5500-R or Form 5500-C for the preceding plan year.

(c) *Interest.* Interest shall accrue on the amount of the missed premium for each missed premium year from the last day of the year until the late entry fee is

paid. Interest shall be at the rate prescribed in section 6621(b) of the Code and shall be compounded annually.

(d) *Contested amount.* In any case where the plan disputes PBGC's determination of the amount due under this section, the plan may appeal PBGC's determination pursuant to Part 2606 of this chapter. However, notwithstanding the filing of an appeal, a plan shall not be covered under the supplemental guarantee program until it has paid the late entry determined due by PBGC.

§ 2693.6 Premium for plan year during which plan receives financial assistance.

The premium due under this part need not be paid for any plan year during which a plan receives financial assistance from PBGC pursuant to Part 2694 of this subchapter or section 4261 of the Act. Any premium not paid pursuant to this section shall be treated as financial assistance under Part 2694.

§ 2693.7 Overpayments.

(a) *Rejected applications.* If a plan files an application for coverage and pays its initial premium and late entry fee, if any, and thereafter PBGC rejects the application, PBGC shall refund to the plan the total amount paid.

(b) *Cancellation for material misrepresentation or mass withdrawal.* If PBGC cancels a plan's coverage under the supplemental guarantee program under § 2691.7(b) (for a material misrepresentation) or under § 2695.2(a) (for a mass withdrawal), the PBGC shall refund to the plan any amounts paid by the plan under the supplemental guarantee program for plan years beginning on or after the effective date of cancellation.

(c) *Erroneous computation by plan.* If a plan computes and pays an amount that exceeds the premium payment or late entry fee due under this part, PBGC shall refund to the plan the excess amount.

(d) *Contested amounts.* If a plan pays a premium or late entry fee and then appeals the amount of the premium or late entry fee pursuant to § 2693.3(f) or § 2693.5(d), respectively, and the decision on the appeal finds that there has been an overpayment, PBGC shall refund to the plan the excess amount, with interest at the rate specified in section 6621(b) of the Code from the date of the overpayment to the date of the refund.

§ 2693.8 Date of filing or payment.

Any form required to be filed and any payment required to be made under the provisions of this part shall be considered to have been filed or made

on the date on which it is hand-delivered or mailed. A form or payment shall be presumed to have been mailed on the date on which it is postmarked by the United States Postal Service, or three days prior to the date on which it is received by the PBGC if it does not contain a legible United States Postal Service postmark.

§ 2693.9 Computations of time.

In computing any period of time under this part, the day of the act, event or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a federal holiday. For the purpose of computing interest under § 2693.5, a Saturday, Sunday or federal holiday referred to in the previous sentence shall be included.

PART 2694—FINANCIAL ASSISTANCE

Sec.

- 2694.1 Purpose and scope.
 - 2694.2 Application for financial assistance.
 - 2694.3 PBGC action on application.
 - 2694.4 Financial assistance.
 - 2694.5 Interim financial assistance.
 - 2694.6 Limitation on payment of supplemental benefits.
 - 2694.7 Prohibition on changes in coverage.
- Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1214-15 (1980) (29 U.S.C. 1302, 1322a).

§ 2694.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe the rules for PBGC financial assistance to multiemployer plans covered by the supplemental guarantee program that are or will be insolvent and unable to pay when due supplemental benefits. This part establishes the procedure under which plan sponsors shall file an application for financial assistance with PBGC and the terms and conditions under which PBGC shall provide financial assistance.

(b) *Scope.* This part applies to multiemployer plans that are covered by the supplemental guarantee program and are or will be insolvent and unable to pay when due supplemental benefits.

§ 2694.2 Application for financial assistance.

A plan sponsor of a multiemployer plan covered by the supplemental guarantee program who determines that the plan is or will be insolvent and unable to pay supplemental benefits when due may apply to PBGC for financial assistance. Thereafter, the plan

sponsor shall submit any information PBGC determines it needs to review the application.

§ 2694.3 PBGC action on application.

(a) *General.* If, upon receipt of an application for financial assistance under § 2694.2, PBGC verifies that the plan is insolvent and unable to pay supplemental benefits when due, PBGC shall provide the plan financial assistance in an amount sufficient to enable the plan to pay guaranteed supplemental benefits due under the plan.

(b) *PBGC decision.* PBGC's decision under this section approving or disapproving an application, in whole or in part, shall be in writing. If PBGC disapproves an application, in whole or in part, the decision shall state the reasons for the determination, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter and state that the decision is effective on the date of issuance.

§ 2694.4 Financial assistance.

(a) *Terms and conditions.* Financial assistance shall be provided under such conditions as PBGC determines are equitable and are appropriate to prevent unreasonable loss to PBGC with respect to the plan.

(b) *Repayment.* A plan which has received financial assistance shall repay the amount of such assistance to PBGC on such reasonable terms and for such periods as PBGC deems equitable and appropriate in the particular case.

§ 2694.5 Interim financial assistance.

Pending determination of the proper amount of financial assistance under § 2694.3(a), PBGC may provide interim financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan

participants and beneficiaries.

§ 2694.6 Limitation on payment of supplemental benefits.

Notwithstanding §§ 2694.3(a) and 2694.5 of this part, PBGC shall provide financial assistance to pay supplemental benefits guaranteed under the supplemental guarantee program only to the extent that there is money available to do so in the supplemental guarantee program fund established under section 4005(e) of the Act.

§ 2694.7 Prohibition on changes in coverage.

A plan may not cancel or decrease its coverage under the supplemental guarantee program in a year during which the plan receives financial assistance under this part.

PART 2695—MASS WITHDRAWALS

Sec.

2695.1 Purpose and scope.

2695.2 Mass withdrawals.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93-406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96-364, 94 Stat. 1302, 1214-15 (1980) [29 U.S.C. 1302, 1322a].

§ 2695.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe special rules for multiemployer plans that are covered by the supplemental guarantee program that experience a mass withdrawal.

(b) *Scope.* This part applies to mass withdrawals, including a termination by mass withdrawal under section 4041A(a)(2) of the Act and the withdrawal of substantially all employers in a plan pursuant to an agreement or agreements to withdraw.

§ 2695.2 Mass withdrawals.

(a) *General rule.* PBGC shall cancel the coverage under the supplemental guarantee program of a multiemployer

plan with respect to which there is a mass withdrawal if the mass withdrawal date occurs on or before the earlier of—

(1) The date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires; or

(2) Six years after the plan's initial coverage date.

(b) Cancellation of coverage.

Cancellation shall be effective as of the last day of the plan year preceding the plan year in which PBGC notifies the plan that its coverage is cancelled. PBGC shall make a refund to the plan for any overpayment in accordance with § 2693.7(b) of this subchapter. If a plan's coverage is cancelled pursuant to this paragraph, it shall not be eligible to re-apply for coverage.

(c) *PBGC decision.* PBGC's decision to cancel a plan's coverage under this section shall be in writing. PBGC's decision shall state the reasons for the determination, the date as of which the plan's coverage is cancelled, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter and state that the decision is effective on the date of issuance.

Issued at Washington, D.C., this 26th day of January 1983.

Raymond Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-2752 Filed 1-31-83; 8:43 am]

BILLING CODE 7708-01-M

Reader Aids

Federal Register

Vol. 48, No. 22

Tuesday, February 1, 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
	523-5286
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, FEBRUARY

4447-4646..... 1

CFR PARTS AFFECTED DURING FEBRUARY

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.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next

work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
February 1	February 16	March 3	March 18	April 4	May 2
February 2	February 17	March 4	March 21	April 4	May 3
February 3	February 18	March 7	March 21	April 4	May 4
February 4	February 22	March 7	March 21	April 5	May 5
February 7	February 22	March 9	March 24	April 8	May 9
February 8	February 23	March 10	March 25	April 11	May 9
February 9	February 24	March 11	March 28	April 11	May 10
February 10	February 25	March 14	March 28	April 11	May 11
February 11	February 28	March 14	March 28	April 12	May 12
February 14	March 1	March 16	March 31	April 15	May 16
February 15	March 2	March 17	April 1	April 18	May 16
February 16	March 3	March 18	April 4	April 18	May 17
February 17	March 4	March 21	April 4	April 18	May 18
February 18	March 7	March 21	April 4	April 19	May 19
February 22	March 9	March 24	April 8	April 25	May 23
February 23	March 10	March 25	April 11	April 25	May 24
February 24	March 11	March 28	April 11	April 25	May 25
February 25	March 14	March 28	April 11	April 26	May 26
February 28	March 15	March 30	April 14	April 29	May 31

CFR CHECKLIST; 1982 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1982. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$615 domestic, \$153.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1982):		Title	Price
1-2		1000-end	7.50
3		CFR Index	9.50
4		CFR Unit (Rev. as of Apr. 1, 1982):	
5 Parts:		17 Parts:	
1-1199		0-239	8.50
1200-end		240-end	8.00
7 Parts:		18 Parts:	
0-45		1-149	8.00
46-51		150-399	8.50
52		400-end	7.50
53-209		19	9.50
210-299		20 Parts:	
300-399		1-399	6.50
400-699		400-499	8.00
700-899		500-end	8.50
900-999		21 Parts:	
1000-1059		1-99	7.00
1060-1119		100-169	7.50
1120-1199		170-199	7.50
1200-1499		200-299	5.50
1500-1899		300-499	8.50
1900-1944		500-599	8.00
1945-end		600-799	6.00
8		800-1299	7.00
9 Parts:		1300-end	5.50
1-199		22	9.00
200-end		23	7.50
10 Parts:		24 Parts:	
0-199		0-199	7.00
200-399		200-499	8.50
400-499		500-799	7.00
500-end		800-1699	7.50
12 Parts:		1700-end	7.00
1-199		25	8.50
200-299		26 Parts:	
300-499		1 (§§ 1.0-1.169)	9.00
500-end		1 (§§ 1.170-1.300)	7.50
13		1 (§§ 1.301-1.400)	7.00
14 Parts:		1 (§§ 1.401-1.500)	7.50
1-59		1 (§§ 1.501-1.640)	7.50
60-139		1 (§§ 1.641-1.850)	7.50
140-199		1 (§§ 1.851-1.1200)	8.50
200-1199		1 (§§ 1.1201-end)	9.00
1200-end		2-29	7.50
15 Parts:		30-39	7.00
0-299		40-299	8.50
300-399		300-499	7.00
400-end		600-end	5.50
16 Parts:		27 Parts:	
0-149		1-199	7.50
150-999		200-end	7.50

CFR Unit (Rev. as of July 1, 1982):

Title	Price	Title	Price
28	8.00	38 Parts:	
29 Parts:		0-17	8.00
0-99	9.00	18-end	7.00
100-499	6.00	39	7.00
500-899	8.50	40 Parts:	
900-1899	6.50	0-51	8.50
900-1910	9.00	52	9.00
1911-1919	6.00	53-80	8.50
1920-end	8.50	81-99	8.50
30 Parts:		100-149	7.50
0-199	8.00	150-189	7.50
31 Parts:		190-399	7.50
0-199	7.00	400-424	8.00
32 Parts:		425-end	7.50
1-39, Vol. I (rev. 9/1/82)	9.00	41 Chapters:	
1-39, Vol. II (rev. 9/1/82)	11.00	1 (1-1 to 1-10)	8.50
1-39, Vol. III (rev. 9/1/82)	10.00	1 (1-11 to App.)-2	7.50
400-699	10.00	3-6	8.50
700-799	8.50	7	5.50
800-999	8.00	8	5.50
1000-end	7.00	9	8.00
33 Parts:		10-17	7.50
1-199	9.00	19-100	8.00
200-end	8.00	102-end	7.00
34 Parts:		CFR Unit (Rev. as of Oct. 1, 1981):	
1-399	13.00	42 Parts:	
400-end	8.50	1-60	7.50
35	6.50	61-399	7.00
36 Parts:		45 Parts:	
1-199	7.00	1-199	7.00
200-end	7.50	1200-end	7.50
37	7.00	46 Parts:	
		70-79	6.00
		110-139	5.00
		49 Parts:	
		1300-end	7.50

MICROFICHE EDITION OF THE CFR:

The CFR is now available on microfiche from the Superintendent of documents, Government Printing Office, Washington, D.C. 20402, at the following prices:

1981

Complete set (one-time mailing):

\$155.00 (domestic).

Individual copies—\$2.00 each (domestic).

1982

Subscription (mailed as issued):

\$250.00 (domestic).

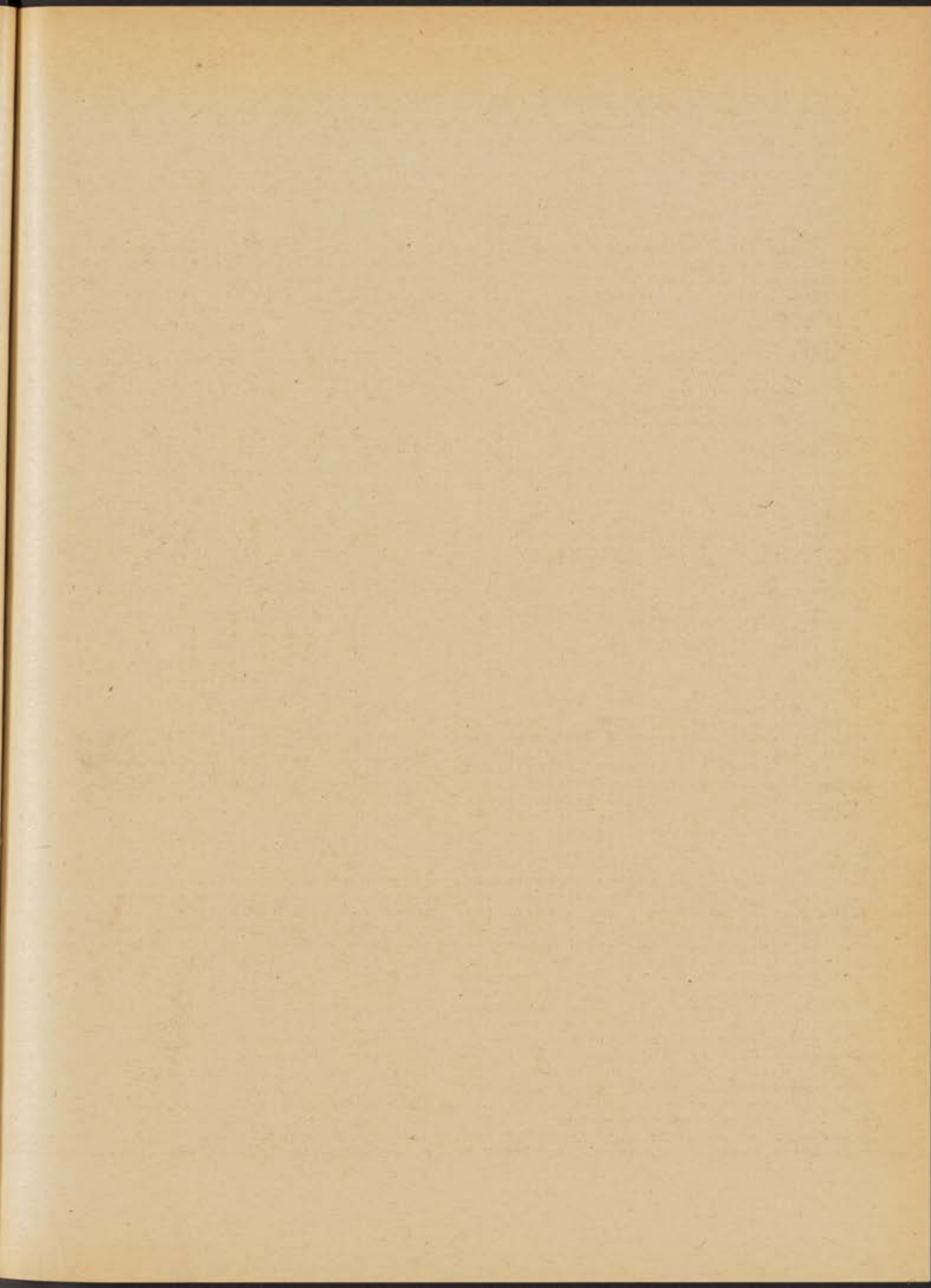
Individual copies—\$2.25 each (domestic).

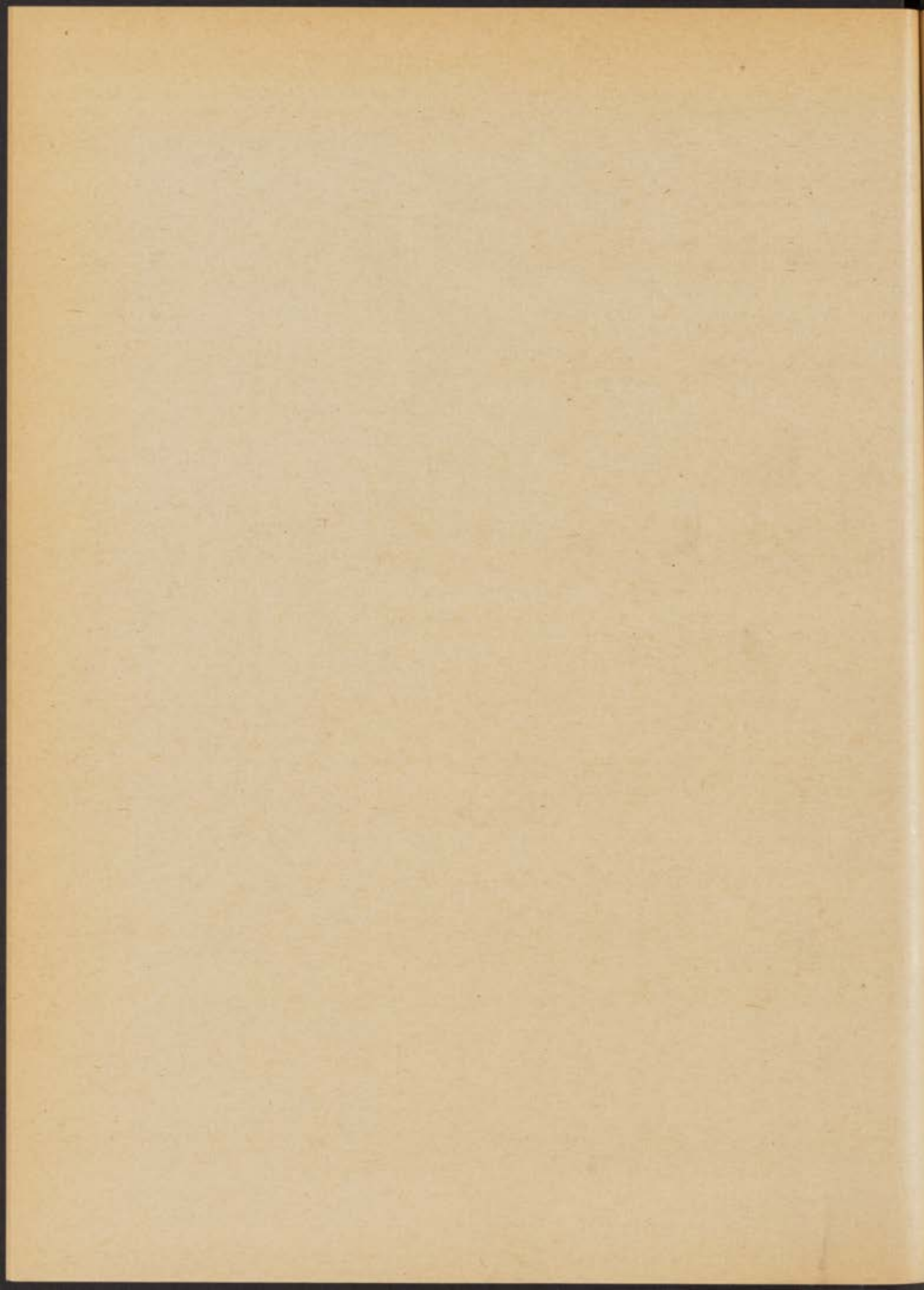
List of Public Laws

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 January 19, 1983

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637
U.S.A.
TEL: 773-936-5000
FAX: 773-936-5000
WWW.CHICAGO.EDU





Three volumes of the Code of Federal Regulations, Agriculture, Title 7. The volumes are stacked, showing the spines and front covers. The spines are dark with the title 'code of federal regulations' in white. The front cover of the top volume is light-colored with the title 'Agriculture' and the number '7' prominently displayed. A circular seal is visible on the bottom right of the front cover.

Code of Federal Regulations

Revised as of July 1, 1982

Quantity	Volume	Price	Amount
_____	Title 32—National Defense (Parts 400 to 699)	\$10.00	\$ _____
_____	Title 36—Parks, Forests, and Public Property (Part 200 to End)	7.50	_____
		Total Order	\$ _____

A Cumulative checklist of CFR issuances for 1981-82 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

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Charge to my Deposit Account No.

							-	
--	--	--	--	--	--	--	---	--

Order No. _____



Total charges \$ _____ Fill in the boxes below.

[illegible]

Expiration Date
Month/Year

Name—First, Last

[illegible]

Street address

[illegible]

Company name or additional address line

[illegible]

City

State

ZIP Code

(or Country)

[illegible]

PLEASE PRINT OR TYPE

For Office Use Only.

Quantity	Charges
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Enclosed	
To be mailed	
Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
UPNS	
Discount	
Refund	