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federal register

Friday
November 25, 1983

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Justice Department

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Environmental Protection Agency

Air Traffic Control
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Animal Drugs
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Government Contracts
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5128 of November 23, 1983

National Disabled Veterans Week, 1983

By the President of the United States of America

A Proclamation

All too often, we take for granted the freedoms that we enjoy. We must be ever mindful, however, of the sacrifices made by those men and women who have served in our Nation's armed forces in defense of those freedoms. We especially owe a debt of gratitude to those veterans who became disabled in the service of our country, for they truly know the price of freedom. Daily, these selfless men and women must endure hardship and lost opportunities because of the sacrifices they have made. We must accord them the respect and honor that they deserve.

We must also recognize the significant contributions these special men and women have made. Both in military service and in civilian life, they have been a source of inspiration and admiration, overcoming adversity with pride and dignity.

It is most fitting, therefore, that the Congress, by House Joint Resolution 283, has designated the week beginning November 6, 1983, as "National Disabled Veterans Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 6, 1983, as National Disabled Veterans Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of November, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-31808
Filed 11-23-83; 11:49 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5129 of November 23, 1983

Florence Crittenton Mission Week, 1983

By the President of the United States of America

A Proclamation

This year marks one hundred years of outstanding public service to young women by the Florence Crittenton Mission organization. In 1883, Charles Nelson Crittenton of New York opened his first mission which, in the words of its original Congressional charter, was to assist troubled young women to "seek reformation of character . . . (and) to reach positions of honorable self-support" and thereby make a new start in life.

The Florence Crittenton Mission today has grown to a network of 39 agencies in 26 States. It has achieved distinction in providing a wide range of services to young women, from residential care to career counseling.

The Congress, by House Joint Resolution 383, has designated the week beginning November 6, 1983 as "Florence Crittenton Mission Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 6, 1983, as Florence Crittenton Mission Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of November, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-31809
Filed 11-23-83; 11:50 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5130 of November 23, 1983

Anti-Defamation League Day, 1983

By the President of the United States of America

A Proclamation

Since its inception, the Anti-Defamation League has worked to strengthen the democratic underpinnings of American society and to establish a harmonious unity of friendship and understanding amidst this Nation's religious, racial, and ethnic diversity. The Anti-Defamation League has combatted, counteracted, and worked to educate the public against anti-Semitism, racism, and the extremists of totalitarianism. The Anti-Defamation League also has articulated the special concerns and interests of the American Jewish community in upholding human rights and civil liberties in this country and throughout the world and served as an effective advocate for friendship with Israel.

The Anti-Defamation League and its leaders and supporters set an example of leadership and participation in events and programs to affect the well-being and future of all people. In purpose and program, the Anti-Defamation League espouses and fulfills the highest ideals and aspiration of Americans of all faiths, races, and cultural origins.

The Congress, by House Joint Resolution 408, has designated November 12, 1983, as "Anti-Defamation League Day" and has authorized and requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 12, 1983, as Anti-Defamation League Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of November, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-31810
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 102

Federally Licensed Grain Warehouses; Warehouse Bonds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This action makes it possible for grain warehousemen licensed under provisions of the United States Warehouse Act, as amended (7 U.S.C. 241, *et seq.*) to provide and the Department to recognize protection for depositors other than the usual bond furnished by a corporate surety. Governmental units have enacted or are considering indemnification plans which the Department believes will offer as much protection for depositors. If so, federally licensed warehousemen should have the choice of furnishing such evidence of protection without the added cost of furnishing the usual form of surety.

DATES: Effective November 25, 1983; comments to be received on or before December 27, 1983.

ADDRESS: Send or deliver written comments to Dr. Orval Kerchner, Chief, Warehouse Development Branch, Room 2720-South, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, 202-447-3616.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and the Regulatory Flexibility Act Certification

This rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified "non-major" because the proposal does not meet the criteria contained therein for major regulatory actions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because (i) This action imposes no additional economic costs on small entities; (ii) licensed warehousemen are not required to participate in any indemnity or insurance fund and may choose to provide bond as presently authorized; and (iii) the use of the service is voluntary.

Paperwork Reduction Act

Reporting and recordkeeping requirements have received OMB clearance under OMB No. 0581-0027.

Background

The U.S. Warehouse Act was passed by Congress in 1916. The Act provides for the licensing of such warehousemen as may apply to the Secretary of Agriculture, and (1) Meet Departmental standards, (2) agree to abide by the law and the regulations thereunder, and (3) who are, in his discretion, proper warehousemen within the intent of the law for the storage of agricultural products.

The primary objectives of the U.S. Warehouse Act are to: (1) Protect producers and others who store their property in public warehouses; (2) assure the integrity of warehouse receipts as documents of title to be used as collateral for loans, and to facilitate trading in interstate commerce of agricultural commodities; and (3) set and maintain a standard for sound warehouse operations.

A warehouse receipt is acceptable only when it has integrity. Integrity means that the original depositor or a subsequent holder of a receipt must have reasonable assurance that the product covered by the warehouse receipt will be returned upon surrender of the receipt and a valid request for delivery. Failing to receive return of the product, the depositor or holder of the receipt must have the further assurance that the warehouseman is able to pay him for this breach of contract.

Historically, the responsibility of a licensed warehouseman to fulfill his obligations to depositors has been backed by a corporate surety bond. Such bonds have not been for full coverage and depositors could suffer a loss should losses occur which exceed the amount of the bond. Under existing regulations, a licensed warehouseman must maintain allowable net assets amounting to 20 cents a bushel with a minimum of $25,000 for the maximum number of bushels that can be stored and must provide a bond, the amount of which is computed at a rate of 20 cents per bushel for the first 1,000,000 bushels of licensed capacity; 15 cents per bushel for the next 1,000,000 bushels of licensed capacity; and 10 cents per bushel for all licensed capacity over 2,000,000 bushels: Provided, that in any case the amount of bond shall not be less than $20,000 nor more than $500,000, except in case of a deficiency in net assets above the $25,000 minimum required there shall be added to the amount of bond an amount equal to such deficiency.

Most, if not all, licensed warehousemen also operate a grain marketing business buying grain from producers through the same facilities used for the storage of grain. As grain is received over the scale, the optimum situation would be that it is either deposited for storage with a warehouse receipt demanded and issued or sold with payment demanded and made. However, often the grain's status is not declared by the owner as delivered; or it is deposited for storage with no receipt demanded or issued; or it is sold and payment not demanded or made. The sale or other diposition of grain deposited in a licensed warehouse leads to a full marketing relationship between the depositor and the warehouseman.

Usual marketing relationships have been complicated by another kind of transaction commonly known as price later or deferred pricing or delayed price grain. Such a transaction may be described as a sales contract that constitutes a bona fide sale and change of ownership from the seller to buyer, but which permits the seller to fix the price of the grain at a later date at a pre-agreed formula for determining such price. The seller may continue to have some control of the pricing of his grain but has no physical claim. Generally, no advance payment is made to the seller. The buyer has only a grain payable position with the seller. The seller has

only a money receivable position, a common creditor status.

The business of storing and marketing often becomes inseparable and likewise the funds available to the total business often cannot be segregated. These situations create continuous, dual and at times uncertain obligations leading to a commingling of grain assets and liabilities.

Consequently, there are risks for producers who sell deposited grain as well as for producers who store such grain. To date, the Secretary has not asserted his jurisdiction pursuant to the U.S. Warehouse Act, in the area of grain merchandising at licensed elevators. A number of States have and have sought to protect producers in such dealings both at State and federally licensed facilities. Historically, this has been by additional bonds for this purpose, a preventative action. Lately, a few States have turned to remedial actions such as indemnification of insurance funds.

The State of Illinois in legislation known as Senate Bill 800, "The Illinois Grain Insurance Act," signed into law August 16, 1983, has established in the State a Grain Insurance Fund ("Fund") to pay producers of grain for all of their financial losses caused by a failure of a grain warehouseman and 85 percent to a maximum of $100,000, of their financial losses caused by the failure of a grain dealer. The Fund would be financed by an assessment on each licensed grain dealer and grain warehouseman for a period of three years and then as needed to maintain a fund balance of 3 million dollars. State appropriations would also be used to pay claims, if the money in the Fund were insufficient. The Act requires every Illinois-licensed grain dealer and grain warehouseman to participate in the Fund. Those Illinois-licensed grain dealers and grain warehousemen participating in the Fund are exempted from the initial bond requirements of Illinois law. The Act allows federally licensed warehousemen to participate in the fund on a voluntary basis.

The Illinois Act appears to provide at least as much protection for the depositors as is presently afforded by the bonding provisions of federal regulations. For this reason some federally licensed warehousemen in Illinois have requested permission to participate in the Fund.

These licensees have also requested that participation in the Fund be accepted in lieu of the corporate surety bond presently required by federal regulations. The warehousemen point out that if a federally licensed warehouseman, wishing to do so, were permitted to participate in the Fund, the warehouseman would have to pay the assessments required by the Illinois Act and, under present federal regulations, would also have to purchase a corporate surety bond. This arrangement would put the federally licensed warehouseman at an economic disadvantage as compared to Illinois-licensed warehousemen and would discourage the federal licensee from participating in the Fund.

Based on the foregoing, the Secretary has determined that it would further the objectives of the U.S. Warehouse Act to permit federally licensed warehousemen to participate in an indemnity or insurance fund, provided that such participation: (1) Would afford as much or more monetary protection to depositors as do the bonding requirements of the regulations; (2) would not lessen the responsibilities or privileges of the warehouseman; (3) would not dilute the rights of a depositor; and (4) would not diminish the exclusive jurisdiction and authority of the Secretary with respect to the licensees.

In order not to discourage participation in such an indemnity or insurance fund, §§ 102.6 and 102.13 are hereby amended to provide that a federally licensed warehouseman must file either a corporate surety bond or a certificate of participation in an indemnity or insurance fund which the Secretary has approved.

Based on a careful review of the Illinois Grain Insurance Act and all other pertinent information available at this time, the Secretary has determined that participation by federally licensed warehousemen in the Illinois Grain Insurance Fund would comply with the above requirements and is hereby approved. Therefore, those federally licensed warehousemen who choose to do so may, if accepted by Illinois, participate in the Fund and may file a certificate of participation in the Fund in lieu of a corporate surety bond.

Because the Illinois Act was made effective on August 16, 1983, and Illinois-licensed warehouses can now participate and offer this additional protection to the producers, in order not to be put at an economic disadvantage federally licensed warehousemen in Illinois should be allowed to have the option to participate as soon as possible. Therefore, it has been determined that a situation exists which warrants publication of this action without the opportunity for prior public comment because of the above. Accordingly, pursuant to 5 U.S.C. 553(d)(3), it is found upon good cause that notice and other public procedures are impracticable, unnecessary, and contrary to the public interest, and good cause is found for publishing this interim final rule at this time with opportunity (less than 30 days after publication) for public comments after publication. Further, a less than 30 day comment period is deemed adequate in view of the need to implement the optional bonding as soon as possible.

Because other States or the Federal Government may enact legislation establishing indemnity or insurance funds similar to the Illinois Fund the amendment provides for certification by any State, Federal or Federal/State governmental unit.

List of Subjects in 7 CFR Part 102

Administrative practice and procedure, Grain, Surety bonds, Warehouses.

Accordingly, 7 CFR Part 102 is amended as follows:

PART 102—GRAIN WAREHOUSES

1. Section 102.6 is amended by adding a paragraph (h).

§ 102.6 Financial Requirements.

* * * * *

(h) In case a warehouseman files a bond in the form of a certification of participation in an indemnity or insurance fund as provided for in § 102.13(b), the licensed warehouseman shall have and maintain a minimum of $25,000 in allowable net assets and any deficiency in assets above the $25,000 minimum shall be covered by an acceptable and valid certificate.

2. Section 102.13 is amended to read:

Warehouse Bonds

§ 102.13 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the act shall, before such license is granted, file with the Secretary or his designated representative a bond either:

(a) In the form of a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall:

Faithfully perform during the period of one year commencing————, or until the termination of said license(s) in the event of termination prior to the end of the one year period, all obligations of a licensed warehouseman under the terms of the act and regulations thereunder relating to the above-named products; and

Faithfully perform during said one year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the act, such delivery obligations and further

obligations as a warehouseman as exist at the beginning of said one year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s):

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the act and regulations and contracts include obligations under any and all modifications of the act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby wavied.

The bond shall be subject to §§ 102.14 through 102.17; or:

(b) In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Secretary, established and maintained by the Federal Government, a State, or a combination of the Federal Government and a State, backed by the full faith and credit of the applicable government unit, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouseman under the terms of the Act and regulations. A certificate of participation and coverage in such fund shall be furnished to the Secretary annually. If administration or application of the fund shall change after being approved by the Secretary, the Secretary may revoke his approval. Such revocation shall not affect a depositor's rights which have arisen prior to such revocation. Upon such revocation the licensed warehouseman then must comply with paragraph (a). Such certificate of participation shall not be subject to §§ 102.14 and 102.15.

(Sec. 28, 39 Stat. 490, 7 U.S.C. 268)

Done at Washington, D.C., November 18, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-31573 Filed 11-23-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 907

[Navel Orange Reg. 581]

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

Correction

On page 52466 in the issue of Friday, November 18, 1983, in the third column, the file line at the end of the document should read:

[FR Doc. 83-31277 Filed 11-17-83; 8:45 am]

BILLING CODE 1505-01-M

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7 CFR Part 910

[Lemon Reg. 438]

Lemons Grown in California and Arizona; Limitation of Handling

Correction

On page 52429 in the issue of Friday, November 18, 1983, in the second column, the file line at the end of the document should read:

[FR Doc. 83-31342 Filed 11-17-83; 12:02 am]

BILLING CODE 1505-01-M

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7 CFR Part 910

[Lemon Reg. 439]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 235,000 cartons during the period November 27–December 3, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 27, 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 rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon their available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on November 21, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.739 is added as follows:

§ 910.739 Lemon Regulation 439.

The quantity of lemons grown in California and Arizona which may be handled during the period November 27, 1983, through December 3, 1983, is established at 235,000 cartons.

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

Dated: November 23, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-31811 Filed 11-23-83; 11:53 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of BWIA International

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds BWIA International to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street N.W., Washington, D.C. 20536, telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with BWIA International on November 3, 1983 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

Adding in alphabetical sequence, "BWIA International".

* * * * *

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: November 17, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-31639 Filed 11-23-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-111]

9 CFR Part 92

Specifically Approved States Authorized to Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Louisiana to the lists of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, has determined that Louisiana has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

DATES: Effective date of the interim rule is November 25, 1983. Written comments must be received on or before January 24, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844-AAA, Federal Building, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

Mares and stallions over 731 days of age must be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards necessary to ensure that such mares and stallions being imported into the United States are free of the contagion of CEM. These minimum standards, which concern treatment, testing, and handling of the horses, are set forth in § 92.4(a)(6) of the regulations for stallions and in § 92.4(a)(9) of the regulations for mares.

It has been determined that Louisiana meets the requirements of both § 92.4(a)(6) and 92.4(a)(9). Therefore, Louisiana is added to the lists of those States approved to receive certain mares and stallions over 731 days of age imported into the United States from countries affected with CEM.

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant annual effect on the economy; 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 have any 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 their review process required by

Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Dr. Saul T. Wilson, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. These amendments relieve unnecessary restrictions presently imposed on mares and stallions over 731 days of age from countries affected with CEM and bound for Louisiana, and should be made effective immediately in order to permit affected persons to move these horses into Louisiana. Otherwise, these horses would be allowed to be imported only to other States which have been approved to receive horses from countries affected with CEM. The nearest State to Louisiana approved to receive mares and stallions from countries affected with CEM is Kentucky. This action should result in a decrease of transportation costs for such horses.

It is anticipated that fewer than 12 mares and stallions from countries affected with CEM will be imported into the State of Louisiana annually. This compares with 320 such animals imported into the entire United States during Fiscal Year 1983 and with approximately 40,000 horses of all classes imported into the United States during that same period.

Under the circumstances explained above, Mr. Bert W. Hawkins, 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 entities.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

In § 92.4, paragraphs (a)(5)(ii) and (a)(8)(ii) are revised to read:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds and for animal specimens for diagnostic purposes;[5] and reservation fees for space at quarantine facilities maintained by Veterinary Services.

* * * * *

(a) * * *

(5) * * *

(ii) The following States have been approved to receive stallions over 731 days of age pursuant to § 92.2(i)(2)(iv):

The State of California
The State of Colorado
The State of Kentucky
The State of Louisiana
The State of Maryland
The State of New York
The State of North Carolina
The State of Ohio
The State of South Carolina
The State of Virginia

* * * * *

(8) * * *

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of California
The State of Colorado
The State of Kentucky
The State of Louisiana
The State of New York
The State of South Carolina
The State of Virginia

* * * * *

Authority: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 17th day of November, 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-31642 Filed 11-23-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-39-AD; Amdt. 39-4707]

Airworthiness Directives; Piper PA-31 Series Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 82-27-13, Amendment 39-4707 (48 FR 37922, 37923) which revised Amendment 39-4534 (48 FR 1034, 1035) as corrected in 48 FR 15458, 15459, applicable to Piper PA-31 series airplanes. This correction is necessary because the FAA inadvertently required installation of permanent changes in aircraft markings, manuals or handbooks by specific dates when temporary changes required by the AD provided an acceptable level of safety.

EFFECTIVE DATE: November 29, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Trammell, ACE-130A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 82-17-13, Amendment 39-4707 (48 FR 37922, 37923) which revised Amendment 39-4534 (48 FR 1034, 1035) as corrected in 48 FR 15458, 15459, applicable to Piper PA-31 series airplanes, the FAA found that the AD contained errors. Specifically, the AD inadvertently required installation of permanent changes in aircraft markings, manuals or handbooks by certain dates when temporary changes prescribed by the AD provided an acceptable level of safety. Therefore, action is taken herein to make these corrections. Since this action is clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

In FR Doc. 83-420 (48 FR 1034, 1035), appearing on page 1035 in the **Federal Register** of January 10, 1983, make the following corrections to the Airworthiness Directive (14 CFR 39.13): Correct paragraph a) 4 to read as follows:

"4. Permanent Piper Flap Travel Restrictions and Placard Kit, P/N 764 396, applicable to Model PA-31, PA-31-300, PA-31-325 and PA-31-350 airplanes, and P/N 764

397, applicable to Model PA-31P airplanes, may be incorporated when available. On or before March 31, 1983, install Flap Travel Restriction Supplementary Kit, P/N 764 920L, in accordance with Piper Service Letter 958 dated Octboer 25, 1982, which includes additional stops and modification instructions to preclude the possibility of flap damage."

Correct paragraph (b)4 to read as follows:

"4. Permanent Autopilot/Flap Operation Placard, Piper P/N 81009-02 and permanent "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual" revisions incorporating the same information specified in paragraph b)1 may be incorporated when available."

Correct paragraph (c)3 to read as follows:

"3. Permanent Autopilot/Flap Operation Placard, Piper P/N 81009-02 and permanent "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual" revisions incorporating the same information specified in paragraph c)1 may be incorporated when available."

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Issued in Kansas City, Missouri, on November 10, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-31554 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-73-AD; Amdt. 39-4758]

Airworthiness directives; Piper Models PA-23-235, PA-23-250 and PA-E23-250 Airplanes; Corrections

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 83-22-01, Amendment 39-4758 (48 FR 50071, 50072), applicable to Piper Models PA-23-235, PA-23-250 and PA-E23-250 airplanes. This correction is necessary because the applicability statement inadvertently cited an incorrect serial number when the AD was published in the **Federal Register.**

EFFECTIVE DATE: November 29, 1983.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 83-22-01, Amendment 39-4758 (48 FR 50071, 50072), applicable to Piper Models PA-23-235, PA-23-250 and PA-E23-250 airplanes, the FAA found that the applicability statement inadvertently cited an incorrect serial number for Piper Model PA-23-250 airplanes when the AD was published in the **Federal Register.** Therefore, action is taken herein to make this correction. Since this action is clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

In FR Doc. 83-29495 (48 FR 50071, 50072), appearing on page 50072 in the **Federal Register** of October 31, 1983, make the following correction to the Airworthiness Directive (14 CFR 39.13); Correct lines 3 and 4 of the applicability statement "(S/N 27-2505 through 27-755468)" to read "(S/N 27-2505 through 27-7554168)."

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and § 11.89, Federal Aviation Regulations (14 CFR 11.89))

Issued in Kansas City, Missouri, on November 10, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-31553 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 8

[Docket No. RM83-67-000; Order No. 350]

Revision of Licensed Hydropower Development Recreation Report; FERC Form 80

Issued: November 22, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its Regulations (18 CFR 8.11) by changing the filing requirement for FERC Form No. 80 from every two years to every four years. This rule is part of the Commission's ongoing program to review all of its reporting requirements. This rule will reduce the burden on licensees by fifty percent and will provide the Commission with the information needed to continue to monitor recreational usage patterns at hydroelectric developments.

EFFECTIVE DATE: This rule will become effective January 24, 1984. However, if the Office of Management and Budget's approval has not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the 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 amending the regulations (18 CFR 8.11) governing the filing of FERC Form No. 80, "Licensed Hydropower Development Recreation Report".[1] This amendment is part of the Commission's ongoing program to review and evaluate all of its reporting requirements. The Commission's goal is to eliminate those requirements which impose unnecessary reporting burdens on the public and which are not needed to fulfill the Commission's regulatory responsibilities.

II. Nature of the Amendments

FERC Form No. 80 gathers information about recreational facilities and opportunities at developments within hydroelectric projects [2] licensed by the Commission under the Federal Power Act.[3] This information is used to

[1] FERC Form No. 80, previously entitled "Licensed Projects Recreation Report," is not codified in the *Code of Federal Regulations* and is not being printed by the *Federal Register* with this final rule. Copies of FERC Form No. 80, including all instructions to the form, are available at the Commission's Office of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426.

[2] For purposes of FERC Form No. 80, each development within a project is defined as containing either a reservoir or a generating station and its specifically-related waterways.

[3] 16 U.S.C. 797, 803 (1976 and Supp. V 1981). The Commission collects FERC Form No. 80 data under section 304 of the Federal Power Act, 16 U.S.C. 825c (1976 and Supp. V 1981).

determine whether the public's need for water-based recreational facilities is being met by the licensees of such projects or whether additional efforts should be made to satisfy current and future recreational needs.

FERC Form No. 80 is currently filed on approximately 800 hydroelectric developments. The form is required to be submitted every other year, and collects data only for the calendar year immediately preceding the year in which it is filed.

Under this fir al rule, FERC Form No. 80 is required to be submitted every four years, for data compiled during the previous calendar year, rather than every two years as now specified in 18 CFR 8.11(a)(2).[4] All forms must still be submitted by April 1 of the year in which they are due, starting with April 1, 1987. Filings of FERC Form No. 80 will only need to update previously submitted FERC Form No. 80 data. This aspect of the Commission's regulations has not been changed.[5]

By changing the filing requirement for FERC Form No. 80 from every two years to every four years, the Commission will achieve a 50 percent reduction in both the reporting burden on licensees and in administrative review costs for the Commission. However, this burden reduction will not interfere with the Commission's ability to monitor and, if necessary, to enforce the regulations governing recreational development of which FERC Form No. 80 is a part. This ability depends upon the availability of data that is current enough to be useful in comparing a licensee's actions with those undertaken at comparable projects. The Commission believes that four-year intervals for updating the data is reasonable in light of the relatively stable usage patterns common to many of the recreational developments at licensed hydropower projects.

Finally, when FERC Form No. 80 was last revised in September 1981, the Commission did not revise that part of the General Instructions which provides that when actual data is not available at the time of filing, reasonable estimates of such data may be substituted. Similar estimates will be accepted every four years under this final rule, provided that they are based upon adequate supporting data.

III. Paperwork Reduction Act Statement and Effective Date

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (Supp. V 1981, and the Office of Management and Budget's (OMB) regulations, 5 CFR 1320.12 (1983)) require that OMB approve certain information collection requirements or revisions thereof imposed by agency rule. Therefore, the information collection revisions in this rule are being submitted to OMB for its approval. The information collection provisions now in 18 CFR 8.11 have OMB approval (Control No. 19020106). Interested persons can obtain information on these information collection provisions by contacting the Office of the General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, RC–421, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Karen Hurwitz) (202) 357–8033.

This final rule makes minor amendments to the Commission's regulations that are designed to reduce reporting burdens on Commission licensees. The Commission, therefore, for good cause finds pursuant to section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) (1983), that prior notice and opportunity for public comment are unnecessary. Since the information collection revisions in this rule must be submitted to OMB for clearance, this rule will become effective January 24, 1984. If OMB's approval and control number have not been received by that effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects in 18 CFR Part 18

Electric power, Recreation and recreation areas.

In consideration of the foregoing, the Commission is amending Subchapter B, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission

Lois D. Cashell,

Acting Secretary.

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

1. The authority citation for Part 8 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1976 and Supp. V 1981); E.O. 12,009, 3 CFR 142 (1978); Federal Power Act, 15 U.S.C. §§ 791a–828c (1976 and Supp. V 1981); Administrative Procedure Act, 5 U.S.C. 551–557 (1983).

2. In § 8.11, paragraph (a)(2) is revised to read as follows:

§ 8.11 Information respecting use and development of public recreational opportunities.

(a) * * *

(2) The FERC Form No. 80 is due on April 1, 1987, for data compiled during the calendar year ending December 31, 1986. Thereafter, FERC Form No. 80 is due on April 1 of every fourth year for data compiled during the previous calendar year.

* * * * *

[FR Doc. 83-31629 Filed 11-23-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 154

[Docket No. RM83-73-000; Order No. 349]

Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies

Issued: November 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending 18 CFR 154.38 to require natural gas pipelines that file purchased gas cost adjustment filings to use a standard format prescribed in FERC Form No. 542–PGA, Purchased Gas Adjustment (PGA) Filing. The use of a standard filing format will reduce much of the processing costs incurred by the Department of Energy and the users of this information will be able to use it more easily, effectively and accurately. The Commission also is requiring that certain additional data be submitted in these filings.

EFFECTIVE DATE: This rule is effective February 1, 1984. However, if the Office of Management and Budget's approval has not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) is amending 18 CFR 154.38 to require that a standard form be used and that certain additional information be submitted in purchased gas cost adjustment filings.[1] This rule is effective

[4] The two year reporting requirement was promulgated in Docket No. RM81-36-000, Order No. 179 (issued October 9, 1981), 46 FR 50,055 (1981).

[5] 18 CFR 8.11(a)(3).

[1] The format and filing requirements are set forth in FERC Form No. 542-PGA, Purchased Gas

Continued

without notice and comment because it is procedural in nature and imposes no substantial additional burden on natural gas pipelines.

I. Background

On April 14, 1972, the Federal Power Commission (FPC), this Commission's predecessor, amended its regulations [2] to permit natural gas pipeline companies to include purchased gas cost adjustment provisions (PGA clauses) in their FPC (now FERC) Gas Tariffs. Inclusion of PGA clauses in gas tariffs allows pipelines to flow through or "track" changes in certain costs without having to make general rate filings.[3] By filing PGA rate changes, natural gas pipelines are reimbursed dollar-for-dollar for changes in the cost of purchased gas.

To amend rates under PGA clauses, pipelines must meet the following conditions of § 154.38. First, proposed PGA clauses must be accompanied by cost studies performed in conformity with § 154.63. The studies must be based on actual costs for the 12 most recent months of experience. In the cost studies, changes in costs may be annualized. Second, the determination of changes in the cost of gas purchased from producers must be separated from those for pipeline suppliers. Third, changes in purchased gas cost must be at least one mill ($0.001) per Mcf (thousand cubic feet) before the changes may be reflected in rates. Fourth, pipelines may change their rates under their PGA clauses no more frequently than once every six months. Fifth, at least once every 36 months, each pipeline that uses a PGA clause must file tariff sheets restating its rates to establish new Base Tariff Rates.

For pipelines to collect changes in the cost of purchased gas, they generally rely on current cost data adjusted for producer changes that are provided under the NGPA. The resulting gas costs are recovered over the forthcoming adjustment period. However, future period costs cannot be predicted entirely accurately and the actual cost of purchased gas generally differs somewhat from projected costs. To record these over and undercollections of actual purchased gas costs, the Commission requires pipelines to establish in their accounting systems an "Account 191, Unrecovered Purchased Gas Costs".[4] In this deferred account, pipelines carry as an asset costs that are underrecovered because the projected gas cost levels in the companies' rates were too low and failed to recover actual costs. On the other hand, pipelines carry as a liability costs that are overrecovered because the projected gas cost levels in the companies' rates were too high and recovered more than the actual cost of gas. In later billing periods, when pipelines adjust their PGA rates, they add surcharges to recover costs that were underrecovered, or provide reductions to reimburse customers for costs that were overcollected. Consistent with § 154.38(d)(4)(iv)(c), carrying charges are computed on the over, or undercollected, balances carried in Account 191 to reimburse the pipelines, in cases of undercollection of costs, and the customers, in cases of overcollection of costs, for the use of their money. Thus, through PGA rate changes, rates are adjusted semi-annually to correct for a prior period's under, or overcharging, together with related carrying charges.

Pipelines file PGA rate adjustment filings to reflect changes in projected purchased gas costs in their rates, and to clear their deferred accounts. As a part of their PGA rate adjustments, pipelines are required to furnish the Commission, jurisdictional customers and interested state commissions with reports containing detailed computations that show clearly the derivation of the "Current Adjustments" being applied to their existing rates. Exhibit A of § 154.38(d)(4)(v) currently delineates the information that the Commission requires the pipelines to provide in these reports.

Before allowing PGA rate changes to become effective, the Commission examines each PGA filing to ensure that the PGA rate changes are just and reasonable, and accurately reflect the pipeline's approved PGA clause.

The process of analyzing and comparing data submitted in PGA filings affords the Commission an opportunity not only to verify the data submitted in the PGA filing under examination, but it allows the Commission and the Department of Energy (DOE) to study industry-wide effects of implementation of national programs, statutes, or policies. These studies help both the Commission and DOE to implement their respective responsibilities under the Natural Gas Act, the Natural Gas Policy Act and the Department of Energy Organization Act, and provide an important source of information on gas markets for use by Congress, public interest groups, intervenors, and other governmental agencies. The widespread use and importance of this information argues for clear, complete, and accurate reporting of the data in PGA rate adjustment filings.

II. Discussion

A. Standard Format

At present, pipelines file PGA adjustment filings in a variety of formats. Each pipeline sets out the supporting data required in Exhibit A in the format of its choice. For the twenty largest pipelines, DOE staff enters this voluminous information into its computers in order to better analyze it. Currently, a special computer program must be written for each of these pipelines. DOE must change its program for each of these pipelines every time the pipeline changes its filing format.[5]

The current practice is inefficient. DOE spends large sums of money rewriting computer programs to make them compatible with each pipeline's PGA filing format. The use of a standard filing format would avoid much of this cost.

Pipelines all submit essentially the same data in their PGA filings and this lends itself to standardization. After pipelines have converted to the new standard filing format, DOE will greatly decrease its processing costs and the users of this information will be able to use it more easily, effectively and accurately.

The Commission believes that adoption of a standard filing format should require expenditure of few resources by the pipelines. The information required in the new standard filing format is already gathered by the pipelines and is readily available to them. The pipelines will incur some costs in rewriting their own computer programs, for those that use computers, and in changing the way in

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Adjustment (PGA) Filing. This document is available through the Commission's Division of Public Information, 825 North Capitol Street, NE., Washington, D.C. 20426.

[2] Purchased Gas Cost Adjustment Provision in Natural Gas Pipeline Companies' FPC Gas Tariffs, 35 FR 16743 (1972) [Order No. 452]. This Order has been amended by Order Nos. 452–A and 452–B. Prior to Order No. 452, on a case-by-case basis, the FPC often allowed natural gas pipeline companies to track supplier rate increases as a result of settlement agreements between the pipelines and their customers. However, this authority to track costs usually was limited to the term of the settlement, but for no more than two years duration.

[3] Under § 154.38, the Commission permits pipelines to track purchased gas costs.

[4] *See* 18 CFR Parts 201 and 204.

[5] Most of the twenty largest pipelines submit both hard copies of their PGA filings, which is mandatory, and magnetic computer tapes, which is voluntary. DOE would like these pipelines to submit computer tapes that contain the same data in the same format as their hard copy PGA filings. At present, there are major discrepancies between the hard copies and the computer tapes. If voluntary submittal of the identical data on the magnetic computer tapes is forthcoming by the larger pipelines, the Commission might not have to consider making this an express requirement in a future rulemaking.

which they compile their data in PGA adjustment filings. However, these are one-time costs. The pipelines should incur little additional costs once they convert to this new filing format.

B. Amended Filing Requirements

The Commission is also amending the filing requirements of § 154.38 to specifically require certain data now being submitted voluntarily by most pipelines. In addition, the Commission is making certain minor additions to the information and the calculations required in PGA filings.

The Commission is requiring pipelines to give the NGPA category and, where applicable, subcategory designation of each source of purchased gas in the PGA filings. Most pipelines currently volunteer this information. However, it is sometimes difficult for the Commission to correlate the NGPA designation of a particular source of gas because of the format of some of the PGA filings. Again, the Commission believes that this requirement will not greatly burden the pipelines.

The Commission is requiring that all costs of purchased gas be stated in cents per million Btu's (British thermal units) rather than in cents per Mcf. The cost of purchased gas depends on its energy-producing capacity. The energy-producing capacity of gas is measured in Btu's. At present, the Commission converts gas costs that are stated in cents per Mcf (which is given at different pressure bases in different pipelines' filings) to cents per million Btu's in order to compare costs and to determine the maximum lawful prices as prescribed in the NGPA, which states such prices in cents per million Btu's. Since the Commission must ultimately convert these costs to cents per million Btu's using standard conversion factors and relevant information provided in the PGA filings, the Commission is requiring pipelines to state their purchased gas costs in cents per million Btu's in the support data of their PGA filings. The Commission is not requiring pipelines to change their system of stated rates so that the rates reflected on their Tariff Sheets must be on a cents per million Btu's basis. In their tariff sheets, they may state rates in whatever manner and on whatever basis is allowed in their General Terms and Conditions of their effective Tariffs. The Commission believes that the requirement of stating costs in the support data of PGA filings in cents per million Btu's will involve a routine, simple recomputation and will impose little or no burden on the pipelines.

For the sake of uniformity, the Commission is requiring pipelines to use the official DOE/EIA Geographic Area Names to describe the location of each source of gas. The Commission believes that this minor clerical requirement will cause pipelines only a very small burden.

The Commission also is updating its filing requirements to include a second format for providing supporting information relating to deferred account costs for pipelines that use a "unit of sales" methodology in computing deferred gas costs on a pipeline's system. The presently effective format for providing supporting information relating to deferred account costs applies to pipelines that compute their deferred gas costs on a "unit of purchase" basis. However, in recent years, several pipelines through section 4 rate applications have revised the mechanism for computing deferred gas costs on their systems to a "unit of sales" methodology. This necessitates two separate formats for reporting the supporting information relating to the deferred account gas costs on a pipeline system. One format applies to pipelines utilizing a "unit of sales" methodology, and the other format applies to pipelines utilizing a "unit of purchase" methodology in computing deferred gas costs. The additional information requested in the new format applicable to pipelines utilizing a "unit of sales" methodology has been provided previously by the affected companies in their PGA filings.

In addition to the new requirements stated above, the Commission is restating its present requirement that in their PGA rate adjustment filings, pipelines give the actual quantities and costs of purchased gas for the past billing period and give the weighted average rate for that period. This is not a new filing requirement. Exhibit A of Section 154.38 already requires pipelines to submit actual purchase and cost data for the past period. However, pipelines have not always met this filing requirement. Often, instead of giving actual data for the past period, pipelines have just restated their earlier projections of costs for that period. The Commission requires submission of actual purchase and cost data for the past period.

III. Implementation of the Standard Filing Format

The Commission is implementing the requirements described above by: (1) Removing Exhibit A from § 154.38(d)(4)(v); (2) amending that subsection to require all pipelines filing PGA rate adjustment filings to comply with the filing requirements and format prescribed in FERC Form No. 542–PGA, Purchased Gas Adjustment (PGA) Filing; and (3) publishing this document and making it available at the Commission's Division of Public Information, 825 North Capitol Street, NE., Washington, D.C. 20426.

IV. Effective Date of the Final Rule and Paperwork Reduction Act Statement

The Commission finds, pursuant to 5 U.S.C. 553(b)(3)(A), that notice and comment procedure is not required because the changes in the Commission's rules that are promulgated in this rule are purely procedural in nature. These changes do not cause a significant economic impact on those entities subject to the regulations. The rule requires natural gas pipelines to use a standard format and to submit certain additional information when they file purchased gas cost adjustment filings with the Commission. These changes do not affect whether the pipelines are allowed the changes proposed in their filings. The Commission finds the burden on the pipelines imposed by these changes to be minimal.

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 48 FR 13666, 13694 (1983) (to be codified at 5 CFR Part 1320). OMB has 60 days, which it can extend to 90 days by notifying the Commission, to approve, modify, or disapprove these information collection provisions (the OMB clearance number for the present filing requirements is 1902–0070). If OMB's approval and control number have not been received by February 1, 1984, the Commission will issue a notice temporarily suspending the effective date.

Inquiries relating to the information collection provisions in this rule can be made by contacting Joseph H. Long, Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033. Comments on these information collection provisions should be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

List of Subjects in 18 CFR Part 154

Natural gas.

In consideration of the foregoing, Part 154 of Chapter 1, Title 18 of the *Code of Federal Regulations* is amended as set forth below, effective February 1, 1984.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, as amended, 15 U.S.C. 717–717z (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978).

2. Section 154.38 is amended by removing Exhibit A from that section.

3. In § 154.38, the third sentence of paragraph (d)(4)(v) is revised to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) * * *

(4) * * *

(v) * * * The format in which this report must be submitted and the information that must be contained in this report are prescribed in FERC Form No. 542–PGA, Purchased Gas Adjustment (PGA) Filing, available at the Commission's Division of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426. * * *

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[FR Doc. 83–31627 Filed–11–23–83; 8:45 am]
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18 CFR Parts 154, 270, 273, 284, and 340

[Docket No. RM77–22–000, RM77–22–004, RM77–22–005; Order No. 273–A]

Rate of Interest on Amounts Held Subject To Refund; Oil Pipelines, and Elimination of the Undertaking Requirements for Gas Pipelines and Producers; Order Denying Rehearing

Issued November 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) denies rehearing of the final rule establishing the rate of interest on amounts held subject to refund for oil pipelines. The final rule essentially fixed the interest rate at the prime rate charged by banks for short-term commercial loans, the same rate applicable to electric utilities and natural gas companies under the Commission's jurisdiction.

Petitions were filed by the State of Alaska for rehearing and clarification of the final rule, and by the owners of the Trans Alaska Pipeline System for reconsideration of the final rule. For reasons more fully set forth in the order denying rehearing, the petitions are denied because they do not raise any new issue that was not fully considered by the Commission during the rulemaking or, which now having been considered, warrants any modification of the final rule.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Background

On December 28, 1982, the Federal Energy Regulatory Commission (Commission) issued the "Final Rule Respecting the Rate of Interest on Amounts Held Subject to Refund for Oil Pipelines, and Eliminating the Undertaking Requirements for Gas Pipelines and Producers" (Order No. 273, 48 FR 1279, January 12, 1983). The final rule specifies that the interest on refund payments by jurisdictional oil pipeline companies shall be the prime rate charged by commercial banks for short-term business loans. This rule applies to all refund amounts held on or after its effective date (February 11, 1983) including amounts in the *Trans Alaska Pipeline System* (TAPS) proceeding (Docket No. OR78–1). In addition, the final rule provides for the compounding of interest on a quarterly basis and provides the procedures for refunds in the case of joint tariffs.

On January 27, 1983, the State of Alaska (Alaska) and the owners of the Trans Alaska Pipeline System (TAPS owners) filed, respectively, a petition for rehearing and clarification and a petition for reconsideration of the final rule. On February 28, 1983, the Commission issued an order granting those requests for rehearing solely for the purpose of further consideration, 48 FR 9242 (March 4, 1983). For the reasons set forth below, the Commission denies both rehearing requests.

II. Summary and Analysis of Petitions

A. TAPS Owners

The TAPS owners contend that, in a closed meeting of the Interstate Commerce Commission (ICC) on June 28, 1977, at which the ICC adopted a suspension order issued the same day,[1] a "contract" was established between the TAPS owners and the ICC regarding the suspension of interim rate tariffs of the TAPS pipeline companies.[2] In that agreement, the TAPS owners say, the ICC imposed a refund provision in the TAPS owners' tariff that included an interest rate equivalent to the U.S. Treasury bill rate established in section 15(8)(e) of the Interstate Commerce Act as a *quid pro quo* for the ICC not suspending certain interim rates. The TAPS owners have furnished portions of a transcript of that meeting which they claim evidences this so-called contract.

The TAPS owners say that the Commission cannot now unilaterally modify the contract and establish a new interest rate (*i.e.*, the prime rate). The TAPS owners again cite two cases in support of this argument, *United States* v. *Chesapeake and Ohio Railway Co.*, 426 U.S. 500 (1976) (*Chessie*), and *Norfolk Western Railway Co.* v. *ICC*, 619 F.2d 1033 (4th Cir. 1980) (*Norfolk*).[3] This argument and these two cases have been fully addressed in the preamble of the final rule, and the Commission does not find that the TAPS owners' petition presents any new reason that would prevent the Commission from imposing the prime interest rate for *TAPS* refund amounts after February 11, 1983.

Several points should be noted. First, those portions of the transcript of the ICC closed conference of June 28, 1977, reveal only that one of the conditions for acceptance of an interim rate filing was that a refund provision had to be included. No particular rate of interest for refunds is mentioned.[4] The first time

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[1] Order No. 36611, Investigation and Suspension Docket No. 9164, Trans Alaska Pipeline System (Rate Filing), 355 I.C.C. 80 (1977).

[2] This assertion was originally set forth in the "Joint Reply of TAPS Owners", filed February 19, 1981, in both Docket No. OR78–1 and Docket No. RM77–22 (as a comment in this rulemaking).

[3] The *TAPS* owners argue that the Commission in the final rule misconstrued the *Chessie* case and cite a passage from the preamble which states:

> There was no indication in the case that once the suspension power is exercised, an ancillary condition could not be changed. Therefore, the Commission is not barred from changing conditions, such as the refund interest rate, that are ancillary to the suspension order in the TAPS case.

(48 FR 1,287) In fact, the Commission was referring in this passage to the holding in the *TAPS* case, and not to the *Chessie* case. (*See* Trans Alaska Pipeline Rate Cases, 436 U.S. 631 (1978)).

[4] The TAPS owners cite to the remarks of Ms. Rosenak in response to a question of whether a refund condition can be made a condition in a suspension order: "Yes, we always have done so in the rail general increases. It is a condition of our refiling, that there must be a refund provision." (Tr. 71)

The TAPS owners also cite Mr. Evans' proposal, which they say "was essentially adopted by the Commission":

> I wonder if I can suggest a possible way to handle it neatly, and, I think, clearly. Why not say "subject, however, to the following conditions: one, that the

Continued

the ICC even discussed the refund rate was in the ordering paragraph of the suspension order. In that paragraph, the ICC said:

> It should also be noted that the carriers at the oral argument expressed assent to an even higher rate of interest in the event of an investigation without suspension. Under the circumstances, we believe interest computed in accordance with section 15(8)(e) would be fair to all parties.[5]

Two conclusions seem evident: First, that there is no contract for a particular interest rate that can be found in the ICC's deliberations of June 28th and, second, that the ICC's suspension order imposes an interest rate without unanimous pipeline consent and only under the circumstances that existed at that time. The Commission finds it impossible to discern any contractual *quid pro quo* on the appropriate interest rate from the events of June 28, 1977, particularly for all future periods and circumstances.

As a result, the Commission does not believe that the *Chessie* and *Norfolk* cases cited by the TAPS owners require the Commission to revise the final rule here. At best, those cases indicate that where the ICC's use of its ancillary power to impose suspension conditions clearly embodies the terms of an agreement between the ICC and companies regulated by that agency, the ICC cannot unilaterally amend the critical terms of that agreement as reflected in a suspension order. In *Norfolk*, for example, the ICC attempted to modify a condition (*i.e.*, an indexing scheme) that was expressly set forth as a central provision of the "contract" between ICC and the railroads. This Commission is not barred from reassessing the appropriate interest rate for refunds under circumstances existing in 1983, particularly where the petitioners fail to show that the ICC's order embodies a clear and fundamental agreement with the TAPS owners as to a particular rate of interest that would be in place for all time periods.

B. State Of Alaska

Alaska's petition is two-fold. First, Alaska asserts that the Commission should apply the newly-established refund interest rate to *all* charges ultimately determined to be excessive in the *TAPS* case, rather than to just those charges that are held on or after February 11, 1983, the effective date of this final rule. Alaska argues that, with respect to *TAPS*, the equities strongly favor a retroactive application of the prime interest rate to refunds of all overcharges, no matter when collected. Alaska finds it difficult to discern "any way" in which the application of the prime interest rate to all excess charges could prejudice any TAPS owner.

In the second part of its petition, Alaska requests the Commission to clarify its regulations if the Commission declines to apply the prime interest rate to all excessive charges whenever made. 18 CFR 340.1(c)(1) and (2) provide in pertinent part:

> (c) *Refunds.* (1) Any pipeline company that collects charges pursuant to this section shall refund at such time, in such amounts, and in such manner as may be required by final order of the Commission, the portion of any rates and charges found by the Commission in that proceeding not to be justified, together with interest as required in subparagraph (2) of this paragraph.
>
> (2) Interest shall be computed from the date of collection until the date refunds are made as follows:
>
> (i) At an average prime rate for each calendar quarter on amounts held on or after February 11, 1983. . . .

Alaska claims that one interpretation of § 340.1(c)(1) and (2) is that all charges ultimately determined to be excessive must be refunded together with interest computed at the prime rate from the date of collection of those charges. However, Alaska notes that for *TAPS*, the preamble of the final rule is clear on the Commission's intention to make the prime rate applicable only as of February 11, 1983, and that all excess charges collected before and held up to that date will be subject to the previous refund standard.

With regard to Alaska's initial allegation that the Commission erred in not applying the new interest rate to all excessive charges whenever collected, Alaska's claim has already been fully considered in the final rule. The Commission stated in the final rule that it applied a balancing test before determining that the retroactive application of the prime rate would be unreasonable and unfair in this case (48 FR 1288). Notwithstanding comments of Alaska to the contrary, the Commission continues to believe that the TAPS owners would be prejudiced by a retroactive application of the prime rate because they acted in reliance on the ICC section 15(8)(e) rate prior to the date of the final rule in this docket. It has not been demonstrated by Alaska that the TAPS owners or shippers did not rely on the ICC standard's being in effect prior to February 11th. This is a critical, albeit immeasurable, factor. Because it is an immeasurable factor, however, is no reason to apply the prime rate retroactively.

Indeed, under relevant case law, retroactive application of new principles is permitted only under very limited circumstances.[6] In addition to reliance, factors that are pertinent for determining the reasonableness of retroactivity are whether the rule is an abrupt departure from well-established practice, whether the issues were previously unsettled, whether the retroactivity would cause an unfair degree of burden; the need for administrative flexibility; and whether there is statutory impetus for retroactivity.[7] The principle at issue in the instant case (*i.e.*, the ICC interest rate) was clearly the rate applicable to refunds prior to February 11, 1983; thus, the Commission would have made an "abrupt departure from established practice" if it applied the prime rate retroactively (48 F.R. 1287). Hence, the Commission believes it is precluded by the general rule against retroactivity from applying the prime rate retroactively due to the degree of reliance by the TAPS owners on the ICC rate and unfairness that would be imposed upon them if a different rate were applied. The points raised by Alaska favoring retroactivity might be given more weight if the time period involved was exceedingly long. The Commission also notes that the final rule uniformly applies the new interest rate prospectively—both for the TAPS owners and for all other pipelines.

With regard to Alaska' request for clarification, Alaska is correct in its interpretation of that regulation, *i.e.*, that the prime interest refund rate applies to (1) all excessive charges held by a pipeline company on or after February 11, 1983 where those charges resulted from collections made prior to February 11th; and (2) all excessive charges collected and held on or after February 11th. Thus, for charges collected and held before February 11, 1983, the interest rate for TAPS is the ICC's section 15(8)(e) rate, and the interest rate for all other pipelines is the rate specified in orders issued by the Oil Pipelines Board.

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interim tariffs contain *a refund provision*," just what you've got.

And when you're through with that, have a semicolon, and "two, that the carriers file supplements to their original tariffs containing a similar refund provision," or something to that effect.

[Tr. 79] (emphasis added).

[5] Order No. 36611, *supra* note 1.

[6] *See, e.g.*, Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 16–17 (1976); SEC V. Chenery Corp., 330 U.S. 194 (1947).

[7] *See, e.g.*, SEC v. Chennery, *id.*, at 209; Tennessee Gas Pipeline Co. v. FERC, 606 F.2d 1094, 1116 n.77 (D.C. Cir. 1979), *cert. denied*, 445 U.S. 920 (1980); New York Telephone Co. v. FCC, 631 F.2d 1059, 1068 (2d Cir. 1980); Retail, Wholesale and Dep't. Store Union v. NLRB, 466 F.2d 380, 390 (D.C. 1972).

The Commssion believes that the inclusion in the regulations of this detailed explanation, which as a practical matter involves only the TAPS owners, would unnecessarily complicate § 340.1(c). In addition, the Commission received no other requests for clarification of that regulation. Thus, the Commission will not unnecessarily complicate its regulations with detailed descriptions and examples of the interest refund requirement for TAPS. The Commission emphasizes that in each case involving an interest rate for oil pipeline refunds, the Commission will apply § 340.1(c) consistently with the explanation in the final rule and this rehearing order.

Therefore, the Commission is not persuaded that either the TAPS owners or Alaska has raised any issue that was not fully considered by the Commission during the rulemaking or, which now having been considered, warrants any modification of the final rule. Accordingly, the petitions of the TAPS owners and of Alaska for rehearing and reconsideration are denied.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31631 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-153 (Colorado-30); Order No. 347]

High-Cost Gas Produced from Tight Formations; Colorado

Issued: November 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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 determined 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 Colorado Oil and Gas Conservation Commission that the Plainview Formation located in Adams and Weld Counties, Colorado, be designated as a tight formation under § 271.703(d).

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

FOR FURTHER INFORMATION CONTACT: Steven Ross (202) 357-8571, or Victor Zabel (202) 357-8616.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Plainview Formation 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 November 22, 1982 (47 FR 53739, November 29, 1982) [1] based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that the Plainview Formation located in Adams and Weld Counties, Colorado, be designated as a tight formation.

Evidence submitted by Colorado [2] supports the assertion that the Plainview Formation located in Adams and Weld Counties, Colorado meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective December 21, 1983.

List of Subjects in 18 CFR Part 271:

Natural gas, Incentive price, Tight formations.

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

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: 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.

2. Section 271.703 is amended by adding paragraph (d)(155) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(155) *Plainview Formation in Colorado.* RM79-76-153 (Colorado-30).

(i) *Delineation of formation.* The Plainview Formation is located in Adams and Weld Counties, Colorado, in Township 1 North, Range 67 West, Sections 31 through 33; Township 1 South, Range 67 West, Sections 1 through 36; and Township 1 South, Range 68 West, Sections 1 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Plainview Formation is 8,586 feet. The producing interval is approximately 78 feet in thickness and begins at the base of the Skull Creek Shale and extends to the top of the Lakota Formation.

[FR Doc. 83-31630 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

[2] Colorado submitted its recommendation for the Plainview Formation on November 8, 1982. On September 15, 1983, in response to a request by the Commission for additional information, the Commission received the information needed to complete its evaluation of Colorado's application.

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18 CFR Part 271

[Docket No. RM79-76-203 (Colorado-27 Addition); Order No. 348]

High-Cost Gas Produced from Tight Formations; Colorado

Issued: November 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

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 determined 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 (1983)). 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 recommendations of the State of Colorado Oil and Gas Conservation Commission that an additional area of the Mancos "B" Formation located in Rio Blanco County,

Colorado, be designated as a tight formation under § 271.703(d).

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

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees, (202) 357-5420 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations (18 CFR § 271-703(d) (1983)) to include an additional area of the Mancos "B" Formation 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 June 15, 1983 (48 FR 28112, June 20, 1983) [1] based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that an additional area of the Mancos"B" Formation, located in Rio Blanco County, Colorado, be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the additional area of the Mancos "B" Formation located in Rio Blanco County, Colorado, meets the guidelines contained in § 271.703 (c))2).[2] The Commission adopts the Colorado recommendation.

This amendment shall become effective December 21, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

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

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 271—[AMENDED]

Part 271 is amended as follows:

1. The authority for Part 271 reads as follows:

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

2. Section 271.703 is amended by revising paragraph (d) (112) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(112) *The Mancos "B" Formation in Colorado.* RM79-76 (Colorado-27)

(i) *Delineation of formation.* The Mancos "B" Formation is located in the Douglas Creek Arch area of western Colorado, in Rio Blanco County. The Mancos "B" Formation underlies Township 1 North, Range 101 West, Sections 17 through 20 and 29 through 32; Township 1 North, Range 102 West, Sections 7 through 9 and 13 through 36; Townships 1 North and 1 South, Range 103 West, all sections; Townships 1 North and 1 South, Range 104 West, Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 1 South, Range 102 West, Sections 1 through 10, 16 through 21, and 28 through 33; Township 2 South, Range 102 West, Sections 4 through 6; Township 2 South, Range 103 West, Sections 1 through 6, 17, 18, 20, 29, 32, and 33; and Township 2 South, Range 104 West, Sections 1 through 3 and 10 through 15. The additional area is contiguous to that part of the Mancos "B" Formation described above on its northern border. The addition to the Mancos "B" Formation is located in Rio Blanco County, Colorado, along the western flank and northern end of the Douglas Creek Arch in Township 2 South, Range 102 West N½ of Section 8 and N½ and SE¼ of Section 9. On its eastern border, the specified acreage is adjacent to lands described in § 271.703(d)(6).

(ii) *Depth.* The Mancos "B" Formation ranges in thickness from 150 to 325 feet. The average depth to the top of the Mancos "B" Formation is 3,000 feet. The additional area, located in the southern part of the Mancos "B" Formation, has an average depth to the top of the formation of 2,621 feet and an average gross thickness of 375 feet.

[FR Doc. 83-31628 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

[2] The United States Department of the Interior, Bureau of Land Mangement concurs with Colorado's recommendation.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 and 147

[T.D. 83-240]

Drawback of Internal Revenue Tax and Transfer of Merchandise Entered for a Trade Fair From a Foreign-Trade Zone

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to drawback of internal revenue tax and transfer of merchandise entered for a trade fair from a foreign-trade zone, to substitute current references to Tariff Schedules of the United States item numbers. The foregoing changes are necessary to conform the regulations to statutory provisions. The document also amends the Customs Regulations to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted", and afterwards entered for consumption from a trade fair, can only be accomplished after the Foreign-Trade Zones Board of the Department of Commerce has approved such a transfer as being in the public interest. This nonsubstantive change is necessary to avoid possible misinterpretation of the regulations and clearly state statutory requirements.

EFFECTIVE DATE: This rule is effective on December 27, 1983.

FOR FURTHER INFORMATION CONTACT:

Legal aspects of Part 147, Customs Regulations: Donald Beach, Carriers, Drawback and Bonds Division (202-566-5865)

Legal aspects of Part 10, Customs Regulations: Russell X. Arnold, Classification and Value Division (202-566-5727)

Operational aspects: Herbert Geller, Duty Assessment Division (202-566-5307).

U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

This document implements Pub. L. 91-692 by amending the following two sections of the Customs Regulations: Section 10.3, Customs Regulations (19 CFR 10.3), and footnote 2 to that section relating to drawback of internal revenue taxes; and § 147.45, Customs Regulations (19 CFR 147.45), relating to the transfer of merchandise entered for a trade fair from a foreign-trade zone, to delete the reference to item 804.00, Tariff Schedules of the United States, (TSUS) (19 U.S.C. 1202) and substitute TSUS items 804.10 and/or 804.20, as appropriate.

Before Public Law 91-692, articles produced in the United States with the use of foreign articles imported under bond were excluded from entry under the provisions of TSUS item 804.00 as "American goods returned." Such articles would have to be entered and duty paid under another applicable provision of the TSUS. However, articles produced in the United States with the use of foreign articles and

exported with the benefit of drawback (the refund of a duty or tax lawfully collected because of a particular use of the merchandise on which the duty or tax was collected (section 313(a))), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)) could be imported under TSUS item 804.00 as "American goods returned" upon repayment of the drawback.

In the manufacture of aircraft in the United States, it is fairly common practice to use some foreign articles or materials. Export sales of aircraft produced in the United States are significant, and normally, the duty paid on the foreign articles used in the manufacture of such aircraft is subject to the drawback procedure set forth in Part 22, Customs Regulations (19 CFR Part 22), under which 99 percent of the duty paid on the foreign articles or materials is refunded upon exportation of the completed aircraft. In some instances, foreign articles for use in aircraft are temporarily entered to be repaired or altered under TSUS item 864.05, free of duty under bond (see §§ 10.38, and 10.39, Customs Regulations (19 CFR 10.38, 10.39)). Such temporary duty-free entry arrangement is preferred by some manufacturers since no large amount of capital is committed to duty payment for the period between the original entry of the foreign component and the drawback of the duty upon exportation of the aircraft.

Over the years both provisions, i.e., drawback and temporary importation under bond, have been used with respect to eliminating the cost of U.S. duty on foreign articles used in the domestic manufacture of aircraft which are subsequently sold abroad.

Competition in the sales of new aircraft in world markets is rising. Very often the "trade in" allowance for old aircraft is an important factor in obtaining contracts for sales of new aircraft abroad. Under these circumstances, the dutiable status of the old aircraft being "traded in" and returned to the United States becomes important.

In view of the importance of the "trade in" of old aircraft to sales of new aircraft abroad, Congress believed it important to provide similar Customs treatment to aircraft produced in the United States which are sold abroad and returned, whether the drawback or temporary importation bond procedure was used with respect to foreign components. Pub. L. 91–692 provided such Customs treatment for aircraft by amending the TSUS to delete item 804.00, which provided for articles previously exported from the United States which are excepted from free entry under any of several other provisions of Schedule 8, Part 1, TSUS, and are not otherwise free of duty, and inserting in its place (a) TSUS item 804.10, relating to aircraft exported from the United States with benefit of drawback or TSUS item 864.05, and (b) TSUS item 804.20, relating to other articles. In light of the foregoing, Customs published a notice in the **Federal Register** on June 17, 1983 (48 FR 27776), which proposed to amend section 10.3 and footnote 2 to that section and § 147.45 to delete the reference to TSUS item 804.00 and substitute a reference to TSUS items 804.10 and/or 804.20, as appropriate.

In addition to the above, the notice proposed to amend § 147.45 to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Foreign-Trade Zones Board ("Board") of the Department of Commerce has approved such a transfer as being in the public interest.

Section 147.45 does not, in its present form, make it clear that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Board has approved such a transfer as being in the public interest.

No comments were received in response to the notice. Further review of the matter within Customs has not revealed any reason why the amendments should not be adopted as proposed. Accordingly, the amendments set forth below are adopted without change from the June 17, 1983, **Federal Register** notice.

Executive Order 12291

These amendments will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. They are technical conforming amendments which clarify existing regulatory requirements without making any substantive change.

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

Drafting Information

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

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports.

19 CFR Part 147

Customs duties and inspection, Fairs and expositions, Imports.

Amendments to the Regulations

Parts 10 and 147, Customs Regulations (19 CFR Parts 10, 147), are amended as set forth below.

Alfred R. DeAngelus,

Acting Commissioner of Customs.

Approved:

November 3, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.3 is amended/by removing (a) the reference to footnote 2 in paragraph (a) and footnote 2, (b) the words "item 804.00" wherever they appear in paragraph (c)(3) and inserting in their place the words "items 804.10 or 804.20" and (c) the words "item 804.00" in paragraph (f) and inserting in their place the words "item 804.20."

(R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1202 (Gen. Hdnt. 11) 1624))

PART 147—TRADE FAIRS

Section 147.45 is revised to read as follows:

§ 147.45 Merchandise from a foreign-trade zone.

Articles entered for a trade fair from a foreign-trade zone in the status of "zone-restricted merchandise" can afterwards be entered for consumption from a fair if the Foreign-Trade Zones Board has approved the entry for consumption as being in the public interest. Articles entered in the above manner are subject to the provisions of item 804.10, if aircraft, or item 804.20, if not aircraft, unless excluded by headnote 1(c), Subpart A, Part 1, Schedule 8, Tariff Schedules of the United States.

(R.S. 251, as amended, sections 1–21, 48 Stat. 998, 999, as amended, 1000, 1002, as amended, 1003, 77A Stat. 14, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnt. 11)1624))

[FR Doc. 83-31608 Filed 11-23-83; 8:45 am]

BILLING CODE 4820-20-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

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 supplemental new animal drug application (NADA) filed for Quali-Tech Products, Inc., providing for the manufacture of 20- and 25-gram-per-pound tylosin premixes. The premixes will subsequently be used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Aministration, 5600 Fishers Lane, Rockville MD 20857; 301–443–4913.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 318 Lake Hazeltine Dr., Chaska, MN 55318, is the sponsor of a supplement to NADA 97–980 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of 20- and 25-gram-per-pound premixes subsequently used to make finished feeds for swine beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The basis for approval of this supplement is discussed in the freedom of information summary. Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the 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 a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 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), § 558.625 is amended by revising paragraph (b)(14) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(14) To 016968: 1, 2, 4, 8, and 10 grams per pound, paragraph (f)(1) (i), (iii), (iv), and (vi) of this section; 20, 25, and 40 grams per pound, paragraph (f)(1), (i) through (vi) of this section.

* * * * *

Effective date. November 25, 1983.

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

Dated: November 17, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-31557 Filed 11-23-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

Buy America Requirements

AGENCY: Federal Highway Administration [FHWA], DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is amending its Buy America regulation to implement procedures required by section 165 of the Surface Transportation Assistance Act (STAA) 1982 (Pub. L. 97–424). Section 165 provides with exceptions that funds authorized for Federal-aid highway projects may not be obligated unless the steel, cement, and manufactured products used in such projects are produced in the United States. The amendments are based on a review of comments received in response to an interim final rule (January 17, 1983) (48 FR 1946) and to amendments to that interim final rule (May 26, 1983) (48 FR 23631) which were issued to temporarily implement section 165. The final rule provides for application of the revised Buy America provisions to steel and cement regardless of project cost. The waiver exempting manufactured products other than steel and cement contained in the January 17, 1983, interim final rule is retained.

EFFECTIVE DATE: The final rule is effective December 27, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Construction and Maintenance Division, (202) 426–0392, or Ms. Ruth R. Johnson, Office of the Chief Counsel, (202) 426–0781, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The FHWA is issuing a final rule revising the existing Buy America regulation to implement procedures required by section 165 of the STAA of 1982. Section 165 provides that, with exceptions, funds authorized by the STAA of 1982, title 23 of the United States Code, the Urban Mass Transportation Act of 1964, or the STAA of 1978 may not be obligated for highway projects unless steel, cement, and manufactured products used in such projects are produced in the United States. The legislative language also requires Buy America to apply to all projects as opposed to previous provisions which only applied to projects costing more than $500,000. The STAA of 1982 also permits States to impose more stringent requirements than are imposed by section 165 and revises the total contract cost differential permitting the use of foreign materials from 10 percent to 25 percent.

An interim final rule was issued under emergency procedures on January 17, 1983, with an expiration date of September 30, 1983. Comments were requested on or before July 1, 1983. In that interim rule, the FHWA determined that it was in the public interest and not inconsistent with the legislative intent to temporarily waive the provisions of section 165 as they applied to manufactured products other than cement and steel, as well as to projects estimated to cost less than $450,000. On May 26, 1983, an amendment to the interim final rule was published in consideration of comments which had been received to that date. The primary

change was elimination of the $450,000 threshold, thereby making the Buy America provisions applicable to all federally funded highway projects regardles of size. The comment period on the interim final rule as amended was extended to August 1, 1983. On September 30, 1983, an emergency regulation was published which extended the expiration date of the interim final rule as amended, from September 30, 1983, until the date a final rule becomes effective.

Analysis of Comments to the Docket

On August 1, when Docket 83–2 closed, FHWA had received in excess of 560 comments. Members of Congress, foreign governments, manufacturers, suppliers, contractors, State and local agencies, and other parties were represented among the commenters. The FHWA fully considered the issues raised by these commenters as it developed this final regulation.

The principal issues brought out in the docket were that the threshold should be eliminated or lowered, that asphalt should be exempted in the final rule, and that Canadian clinker/cement imports should be permitted.

In general, domestic manufacturers and suppliers agreed with the interim rule; while importers, users, and transporters of imported products, foreign governments and foreign suppliers believe that the regulation reduces competition, restricts free trade, and is inflationary. The issues raised by the commenters were considered in light of the intent of Congress and how implementation of a Buy America rule would affect the administering agencies, the construction industry, and the general public.

The commenters could be characterized as follows:

Asphalt Paving Related Organizations—175 Commenters
Steel Fabricators/Suppliers/Erectors—114 Commenters
Ready-Mix Concrete Related Organizations/ Cement Transporters—56 Commenters
Domestic Steel Manufacturers/ Associations—25 Commenters
Private Citizens—18 Commenters
Cast Iron Related Organizations—17 Commenters
State and Local Highway Agencies/ Governments—17 Commenters
Oil Corporations/Refiners/Associations—15 Commenters
Congressional Comments—45 Congressmen
Domestic Cement Manufacturers—14 Commenters
Prestressed Concrete Related Organizations—12 Commenters
Others—82 Commenters

The following is a general discussion of the comments received in Docket 83–2:

I. Comments Regarding the $450,000 Threshold

Over 150 respondents commented on the FHWA decision, in the interim final rule published January 17, to temporarily waive the provisions of section 165 as they apply to projects estimated to cost less than $450,000. Most of the commenters on this issue objected to the $450,000 waiver with many noting that there was no legislative support for establishing any threshold of applicability. A number of respondents noted that limiting applicability of the Buy America provisions violates the letter and the spirit of the STAA of 1982.

Generally, respondents in favor of continuing the waiver included State and local highway agencies and groups representing foreign nations or foreign exporters. One of the State highway agencies commented that use of the $450,000 exclusion had been effective in holding down the cost of administering the Buy America regulations. Several commenters stated that the resource limitations of small local highway agencies would make the administration of the Buy America provisions difficult.

Respondents commenting on the waiver recommended a number of different threshold levels: 35 percent recommended total elimination; 20 percent favored a "drastically lower" threshold; 25 percent suggested placing the threshold at $50,000; 15 percent believe $100,000 is appropriate; and the remaining 5 percent suggested retaining the present $450,000 threshold level.

II. Comments Regarding Steel

Respondents who commented on steel related issues were generally concerned with prestressing strand.

A number of commenters, including State highway agencies and domestic manufacturers who produce strand from foreign high carbon steel rod, asked that prestressing strand be excluded from the list of steel products covered by Buy America provisions. Some of these commenters noted that the regulation should be concerned with the process of domestic manufacturing of prestressing strand from rod, rather than being concerned with the exclusive use of U.S. made rod. Other concerns included: disposition of current inventories; future availability of qualified strand; domestic manufacturers would raise prices and slow deliveries if foreign competition was excluded; strikes by domestic employees; and that elimination of some of the major manufacturers might cause supply problems in the event of an economic turnaround.

III. Comments Regarding Cement

Over 80 comments were received from respondents who were concerned with the extent of the Buy America provision as it applied to cement.

Many of the commenters in the northern States specifically asked for a waiver in section 165 to allow Canadian cement. These commenters included State highway agencies, ready-mix contractors, cement transporters and various concrete associations. They argued that: supply by the U.S. domestic cement industry is inconsistent and the Canadian cement industry has provided a stable source of cement; Canadian cement producers have major investments in the U.S. which contribute to local taxes, domestic employment, and local business activity for the purchase of equipment and maintenance; the cost of concrete would increase due to increased prices of the limited domestic cement; additional capital investments would be necessary for domestic concrete producers to handle and store this cement; exclusion of Canadian cement would disrupt the market and alienate the Canadian producers who for years have been a very stabilizing influence; and, that it would create a hardship on domestic transporters of cement manufactured in Canada.

Domestic cement manufacturers welcomed the Buy America rule. A number of them stated that the regulation should specifically state that cement made in the U.S. does not include cement made with imported clinker.

Comments from domestic manufacturers regarding the importation of foreign cement or clinker indicated that a rise in imports at the expense of an under-utilized domesitc capacity could well result in a problem similar to that of the U.S. steel industry attempting to compete against a flood of imports with existing domestic plants and equipment that are functionally obsolete. Approximately 90 percent of the production cycle is complete at the time the clinker has been produced and, therefore, 90 percent of the work force producing cement would be Canadians. Further they believed that the issues of public interest extend beyond the borders of an individual State. States should recognize in reviewing localized waiver requests that for every ton of Canadian clinker brought into this country, less work is available for American workers in the domestic cement industry.

IV. Comments Regarding Manufactured Products

A number of respondents objected to the waiver of the provisions of section 165 as they apply to manufactured products. The following comments were made: since American taxpayers are taxed to build highways, American industries should benefit; contractors should be compelled to use American made products or their bids should be rejected; the waiver is not in accord with the intent of Congress; the Buy America provisions should apply to construction machinery used on all projects funded by the STAA of 1982.

A number of respondents believe that the regulation should not allow imported manhole and drainage structure castings to be used on the new highway program. Their basis for this position was that the FHWA would be circumventing the intent of Congress; that there are a large number of foundries scattered throughout the United States with heavy inventories; and that cast metal products can arguably be defined as steel products within the intent of the legislation.

Because of administrative difficulties, several State highway agencies were opposed to the extension of the regulation to include manufactured products unless one of the following changes is made: (1) "Manufactured product" is defined so that only the final manufacturing process which produces a usable product is considered in the determination of foreign versus domestic character or (2), domestic items determined by the FHWA to be of inferior quality or in short supply should be excluded from the regulation or their application phased in to provde for development of domestic supplies. Several commenters noted that it is virtually impossible for a contracting agency to trace all components of some manufactured products incorporated into highway products; e.g.; signal controllers, glass for the signal heads, almost all electrical equipment, paints, and asphalt.

Comments were received from individual respondents interested in extending Buy America provisions to specific manufactured products; i.e., glass beads, pavement joint sealants, and wick drains. Comments were received from a number of respondents seeking to exempt certain specific manufactured products from Buy America provision based on considerations such as limited domestic availability. These products include fencing, ground rubber, laminated bridge bearings, and steel extrusions.

Miscellanous comments concerning manufactured products included a recommendation that imported materials already in storage should not be subject to the Buy America regulation. Commenters also recommended that the regulation should exempt material originating in the U.S. which is shipped to a foreign country to undergo additional processing then returned for use in highway construction.

V. Comments Regarding Oil Products

Over 200 comments were received regarding the application of Buy America provisions to oil products. Virtually all the commenters (asphalt paving contractors and associations, State highway agencies, oil companies, etc.) asked that oil and/or petroleum products and/or asphalt be exempted from the final rule. Of those comments received on oil products, 20 percent of the respondents requested an exemption for foreign crude in the final rule; 30 percent of the respondents recommended exempting all petroleum products; approximately 15 percent of the respondents asked for a waiver for asphalt; and approximately 30 percent asked to exempt crude oil and component by-products. Less than 5 percent recommended including petroleum products and/or asphalt.

Respondents asked that the Buy America provisions be waived for crude oil products, noting that the eastern U.S. is almost entirely dependent upon foreign crude for asphalt and related petroleum products. They argued that a ban on the use of foreign crude oil would be counterproductive resulting in prohibitively high prices and the consumption of a disproportionate share of one of the United States' most valuable and rapidly diminishing natural resources.

A limited number of commenters, all oil companies or refiners, asked that petroleum products, in some fashion, be covered under Buy America provisions. Their comments noted that although the refining capacity of the U.S. is more than adequate to supply current requirements for asphalt and other highway project related products, insufficient amounts of crude oil are produced domestically to satisfy demand. These commenters believe that the waiver should therefore apply permanently to the crude oil component of asphalt or other petroleum products used in federally assisted projects, but not to the asphalt and other petroleum products.

VI. Miscellaneous Comments of Interest

Some commenters stated that the 25 percent perference insures that the STAA of 1982 will in fact reinforce American jobs, industry, and tax base, and will revitalize America's roads at the lowest "real" cost to the taxpayer.

Others commented that the allowance of a 25 percent or greater difference in the foreign bid versus native bid is inflationary and very counterproductive.

There was, however, a small number (less than 2 percent) of respondents who expressed philosophical opposition to the Buy America concept. These commenters included a State highway agency, foreign governments, contractors, equipment suppliers, a ready mix concrete association, and others. The comments basically noted that the use or non-use of foreign products should be left to the discretion of the States. They believed that because open trade between countries has been very beneficial in the past, it should not be ruled out completely as these provisions would do. The Canadian authorities view the Buy America provisions of the STAA as possibly in violation of the U.S. General Agreement on Tariffs and Trade (GATT). They believe that the Buy America provisions nullify and impair trade concessions which have been agreed to during multilateral GATT negotiations which the U.S. is obligated to observe. Given the economic climate in Canada, the Canadian authorities noted that this type of U.S. action will significantly add to pressure in Canada for similar protectionist measures.

Discussion of Revisions

A summary of the revisions to the existing provisions in 23 CFR 635.410 follows.

I. Exclusion of Manufactured Products

Most responses from product manufacturers recommended that manufactured products should be excluded from Buy America and/or expressed only a passing interest in the regulation. In evaluating the comments from manufacturers and suppliers who wanted to be covered, the indication was that they favored free trade agreements; however, they protested unfair practices such as foreign subsidized dumping, and foreign import restrictions. Government intervention may well be warranted to protect against these practices, but protectionism in terms of a Buy America regulation on all manufactured products would not serve this purpose.

The FHWA believes the message that Congress, State/local governments, and others sent was not to apply an all-inclusive Buy America rule. Although the earlier Buy America statute, section

401 of the STAA of 1978, provided that both unmanufactured and manufactured "articles, materials, and supplies" were covered under Buy America, the FHWA noted that only foreign structural steel could have a significant nationwide effect on the cost of Federal-aid highway construction projects. Therefore, FHWA determined it was in the public interest to apply section 401 only to structural steel. Section 165 of the STAA of 1982 reinforced congressional intent that Buy America should be applied to steel products. Section 165, however, also specifically cites cement products as covered for the first time and it does not apply at all to raw materials. With respect to manufactured products, Section 165 does not differ in its coverage from section 401 of the STAA of 1978. Since FHWA has never covered all manufactured products under its Buy America regulation and Congress did not specifically direct a change in that policy in enacting section 165, FHWA does not believe that all manufactured products must be covered.

Although asphalt use on Federal-aid highway construction is greater than cement and nearly equal to steel, many comments were received expressing support for an exemption for that manufactured product. It should be noted that the congressional debate on Section 165 was focused on the American steel and cement industries and little or no attention was given to the effect of the provision on the asphalt market [128 Cong. Rec. H8984–8990 (daily ed. December 6, 1982)]. A large number of congressional commenters pointed this out in urging an exemption for asphalt. The FHWA considered the minimal use and economic effect of applying Buy America to manufactured products other than asphalt and noted the potential administrative burdens to the State and contractors if those products were covered.

The materials and products other than steel, cement, asphalt, and natural materials comprise a small percent of the highway construction program. The FHWA agrees with the commenters who noted that it is very difficult to identify the various materials and then trace their origin. A manufactured product such as a traffic controller which has many components is particularly difficult to trace. For these reasons and because unfair practices or other specific problems can be addressed by import laws such as title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1671 et. seq.) (Imposition of Antidumping Duties), the FHWA finds that it is in the public interest to waive the application of Buy America to manufactured products other than steel and cement manufactured products.

II. Inclusion of Steel Products

Although Congress included steel, cement, and manufactured products in the STAA, the FHWA interim rule which was effective following enactment of the law on January 6 applied only to steel products and cement products. Previous provisions applied only to structural steel and a determination of foreign or domestic character was based upon the place of manufacture and on the origin of more than 50 percent of the components. The determination to include only structural steel was based in part on the word "substantially" in the language of Section 401 (1978–STAA).

By denoting "steel" in Section 165 (1982 STAA), Congress called attention to their intent to make the coverage more encompassing. The legislative history is also clear on this point. Congressional concern that Federal money spent to improve highways should also aid U.S. industry is apparent in the first sentence of Section 165 which requires the Secretary of Transportation to ensure that funds authorized for Federal-aid highway projects would only buy U.S. made steel. The FHWA therefore, has expanded the Buy America rule to include all steel products.

III. Inclusion of Cement Products

The issue of cement coverage under Buy America centered around imports from Canada. Over 90 percent of the letters received on this issue asked that Canadian cement/clinker imports be exempt from Buy America.

The FHWA recognizes that the U.S. plants which currently import clinker and grind that material into cement will have to change their operations if they desire to continue to be a supply source for Federal-aid highway projects. They can do this in several ways. For example, they can expand to perform all manufacturing processes in the U.S. or only use domestically produced clinker. As another alternative, they will be able to segregate their production of cement made from U.S. and non-U.S. clinker either by using separate facilities or producing in separate production runs. The existing domestic industry, which utilizes foreign imports, will have to make some adjustments, to avoid job displacements resulting from Buy America. However, those adjustments should not be major.

Several commenters were concerned that applying Buy America to cement would force concrete batch plants to separate their domestic and foreign cement storage or to use only domestic cement. FHWA does not believe the impact of this requirement will be great. Normally, if a large quantity of concrete will be needed, new batch plants are set up on the site or existing batch plants are dedicated to the project. Therefore, the commenters' concerns would be valid only to a small amount of cement. It is possible that, if a concrete supplier is unwilling to comply with the Buy America requirement by separating its foreign and domestic cement and is dependent on Federal-aid contracts for continued profitability, it could be economically injured. However, Section 165 specifically requires that only domestic produced cement shall be used on Federal-aid highway construction. The congressional debate on section 165 clearly refers to cement [128 Congressional Record S14772 (daily edition December 15, 1982)]. Segregated cement storage is the best way to assure that only domestic cement will be incorporated into the work and the minimal burden this imposes is fully warranted.

Congress was very specific in including the term "cement" in the Buy America rule and in stating that cement products must be produced in the United States. "Produced in the U.S." means that all manufacturing processes whereby a raw material is changed or transformed into an article which, because of the process, is different from the original product, must occur domestically. Congress intended that the funds authorized by the Act would mainly benefit American workers and that increasing the demand for U.S. cement products would help the cement industry. Congress fully recognized that there would be a cost to implementing this rule. Therefore, the shortage of cement in a particular geographical area cannot be used as a justification to allow imports if the material is available anywhere domestically and can be supplied at a reasonable cost differential.

The FHWA, therefore, has included comment products in the Buy America rule. It is noted that administrative procedures are provided in the final rule to apply waivers in accordance with the legislation to afford some relief in those instances where the cement product inclusion creates situations which are not in the public interest or where the cement product is not produced in the United States in sufficient and reasonably available quantities of satisfactory quality.

IV. Program Coverage

The final rule requires that steel products and cement products be produced domestically, and only those products which are brought to the construction site and permanently incorporated into the completed project are covered. Construction materials, forms, etc., which remain in place at the contractor's convenience, but are not required by the contract, are not covered.

To further define the coverage, a domestic product is a manufactured steel or cement construction material that was produced in one of the 50 States, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States. Raw materials used in the steel and/or cement product may be imported. All manufacturing processes to produce steel and cement products must occur domestically. Raw materials are materials such as iron ore, limestone, waste products, slag used in cement/concrete, etc., which are used in the manufacturing process to produce the steel or cement products. Waste products would include scrap; i.e., steel no longer useful in its present form from old automobiles, machinery, pipe, railroad tracks and the like. Also steel trimmings from mills or product manufacturing are considered waste. Extracting, crushing, and handling the raw materials which is customary to prepare them for transporting are exempt from Buy America.

V. Threshold

The STAA of 1978 (Public Law 95–599), passed in November of 1978 covered projects whose total cost exceeded $500,000. When FHWA implemented the STAA of 1978, it exempted the Buy America provisions from projects estimated to cost less than $450,000. This allowed the construction cost to exceed the estimate by more than 10 percent before the total project cost would exceed $500,000, thus triggering application of the Act.

The STAA of 1982 did not include a threshold even though there exists legislative colloquy indicating it would be continued. The FHWA, however, retained the threshold from the existing regulation in the interim final rule, noting that it would eliminate the administrative burden of enforcing Buy America on a major percentage of highway projects of small size. Effective June 10, 1983, it was decided that for the remainder of the comment period and until the final rule was published that the threshold should be eliminated. It was hoped that information based on experience without a threshold could be obtained before the final rule was implemented.

The FHWA has determined that the administrative burden of including a Buy America provision in all contracts does not warrant the reimposition of a threshold. Also, although there in no conclusive information, FHWA believes that the contractors' documentation of compliance with Buy America for steel and cement does not place a significant burden on them. The FHWA has eliminated the threshold making Buy America applicable to all projects. However, it should be noted that the final rule does permit a very minimal use of foreign steel and cement. The purpose of this is to eliminate placing an administrative burden on the States for truly minor items.

VI. Waivers

A State may request a waiver of the provisions of this section for specific projects and/or certain materials or products in specific locations. The basis for the request may be either a public interest finding or a determination that the product is not available domestically. An example of public interest would be a finding that applying Buy America would actually reduce rather than create jobs.

If the State finds, that a waiver request is warranted, it may document a justification for that waiver through the FHWA division office in its State and then to the Regional Federal Highway Administrator. There will be circumstances where a waiver should apply to an area larger than a region and possibly nationwide. In those cases, the Federal Highway Administrator will consider the merits of the problem and, if appropriate, approve a waiver which would afford uniform applications throughout the area affected. These cases would be forwarded to the Federal Highway Administrator by the Regional Administrator or arise when the Washington Headquarters ascertains that two regions may be acting on the same request.

VII. Compliance

The State's standard contract control procedures to assure that the contractor meets the terms of the contract shall be applicable to verify compliance with Buy America. It is presumed that a bidder who enters into a contract with a State agrees to comply with the Buy America provision. The States are expected to provide sufficient oversight to ensure compliance with the Buy America provisions. Penalties should be applied as may be appropriate in accordance with the standard State and Federal-aid procedures.

VIII. Legislative Changes

Section 165 sets forth two other requirements which supersede the previous requirements contained in section 401 of the 1978 STAA. The legislative language permits States to impose more stringent requirements than are imposed by section 165. Previously, only those State Buy America provisions which were in effect prior to the enactment of the STAA of 1978 were permitted. The STAA of 1982 also revises the total contract cost differential permitting the use of foreign materials from 10 percent to 25 percent. These two changs are incorporated into the final rule.

IX. Procedural Changes

The final rule implements three procedural changes from the interim final rule. The first involves confusion with the provisions in the STAA of 1982 which permit States to impose more stringent Buy America requirements than are contained in the Federal regulation.

Several comments were received which showed that this provision was being misunderstood. Specifically, State legislatures were considering "Buy-State materials and products preference" for Federal-aid highway work. Such a provision in Federal-aid contracts would be in violation of the longstanding prohibition contained in 23 CFR 635.409(a) against State restrictions on the use of articles or materials made or produced in any other State, territory, or possession of the United States. The issue addressed in section 165 of the STAA of 1982 is that certain materials must be produced in the United States rather than in foreign countries. This is obvious from the inclusion of the words "foreign countries" in the aforementioned provision regarding more stringent State requirements. Section 635.410(a) is being revised to clarify this matter.

The second procedural change is necessary to clarify the application of the alternate bid provisions. The previous regulation required alternate bids for foreign and domestic structural steel. Since the STAA of 1982 permits States to impose more stringent Buy America requirements than are imposed by section 165, it has been pointed out that a State could elect to prohibit the use of foreign steel or cement even on projects which could allow alternate bids under § 635.410(b)(3). Therefore, the final rule is simplified by replacing the alternate bid requirements with a

statement that alternate bids for foreign and domestic materials may be included on any Federal-aid highway project at the State's election. The FHWA still encourages States to consider alternate bids on projects where foreign materials are likely to be competitive even with the 25 percent cost differential.

Third, § 635.410(b)(2) has been deleted. The paragraph has provided that certification acceptance (CA) procedures would apply to the Buy America provisions. However, section 165 of the STAA of 1982 is not incorporated into title 23 U.S.C. to which CA is applicable.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, under the regulatory policies and procedures of the DOT, this rulemaking action is considered significant based on the public interest involved.

A regulatory evaluation/regulatory flexibility assessment has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. P. E. Cunningham at the address provided under the heading **"FOR FURTHER INFORMATION CONTACT."** The FHWA has determined that this action will not have a significant economic impact on a substantial number of small entities based upon the evaluation prepared.

List of Subjects in 23 CFR Part 635

Buy America, Government contracts, Grants programs—transportation, Highways and roads.

In consideration of the foregoing, and under the authority of 23 U.S.C. 315, section 165, STAA of 1982, Pub. L. 97-424, 96 Stat. 2136, and 49 CFR 1.48(b), the FHWA amends Part 635, Subpart D, by revising § 635.410 of 23 CFR to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on November 21, 1983.

R. A. Barnhart,

Administrator, Federal Highway Administration.

PART 635—[AMENDED]

§ 635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of § 635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or (ii) if cement or steel materials are to be used, all manufacturing processes for these materials must occur in the United States.

(2) The State has standard contract provisions that require the use of domestic materials and products, including cement and steel materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and/or cement materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and/or cement materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and/or cement materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and/or cement materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and/or cement materials by more than 25 percent.

(4) When cement and steel materials are used in a project, the requirements of this section do not prevent a minimal use of foreign cement and steel materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or $2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and/or cement products as they are delivered to the project.

(c)(1) A State may request a waiver of the provisions of this section if:

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and cement materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the **Federal Register** for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

(23 U.S.C. 315; sec. 165, Surface Transportation Assistance Act of 1982, Pub. L. 97-424, 96 Stat. 2097; 49 CFR 1.48(b).

[FR Doc. 83-31656 Filed 11-23-83; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7922]

Employment Taxes; Backup Withholding and Due Diligence Relating to Taxpayer Identification Numbers and Certification Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to backup withholding and due diligence relating

to taxpayer identification numbers and certification requirements. Changes to the applicable tax law were made by the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369). These regulations affect payors and payees of, and brokers with respect to, reportable payments and provide them with the guidance necessary to comply with the law.

DATE: The temporary regulations are effective for payments made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Diane Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1983, the **Federal Register** published temporary employment tax regulations under the Interest and Dividend Tax Compliance Act of 1983 (26 CFR Part 35a) under sections 3406 and 6676 of the Internal Revenue Code of 1954 (48 FR 45362). Those amendments were published to conform the regulations to the statutory changes enacted by the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369). Section 3406 was added to the Internal Revenue Code of 1954 by section 104 of the Interest and Dividend Tax Compliance ACt of 1983 (Pub. L. 98-67, 97 Stat. 371), and section 6676 of the Code was amended by section 105 of the Act (Pub. L. 98-67, 97 Stat. 380).

This document contains temporary regulations relating to the requirement to impose backup withholding on reportable payments and the exercise of due diligence by payors of reportable interest, dividends, and patronage dividends and brokers. This document adds new § 35a.9999-2 to part 35a, Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983, to Title 26 of the Code of Federal Regulations. In addition, this document amends Q-42 (relating to window transactions) of the question and answers published in the **Federal Register** on October 4, 1983 (48 FR 45362). Because these provisions are generally effective for payments made after December 31, 1983, there is a need for immediate guidance so that payors and payees can prepare to comply with these provisions.

It is expected that further temporary regulations with a cross-reference to a notice of proposed rulemaking, containing additional rules relating to backup withholding, will be published within a month. The temporary regulations contained in this document will remain in effect until superseded by final regulations on this subject.

These temporary regulations, presented in question and answer format, are intended to provide guidelines upon which payors and payees of reportable payments (including reportable interest, dividend, and patronage dividend payments) may rely in order to resolve questions specifically set forth herein. However, no inference should be drawn regarding issues not raised herein or reasons certain questions, and not others, are included in these regulations.

Explanation of Provisions

These regulations provide additional guidance concerning the due diligence standard and provide general rules with respect to backup withholding. Most of the regulations address operational concerns of payors who must adapt their systems to begin withholding on payments made after December 31, 1983.

With respect to due diligence, the regulations provide additional guidance concerning the application of the due diligence exception, the payments to which due diligence is applicable, and the form and timing of the required mailing or mailings. The regulations also specify when due diligence applies to trustees, custodians, and fiduciaries.

The regulations provide guidance concerning the application of backup withholding to payments subject to reporting under section 6041 (relating to rents, royalties, commissions, etc.), section 6041A(a) (relating to nonemployee compensation), section 6045 (relating to brokers and barter exchanges), and section 6050A (relating to certain fishing boat operators).

With respect to reportable interest or dividend payments, the regulations explain how withholding will apply to original issue discount and address how payors may choose not to withhold on minimal payments of interest and dividends.

Section 3406(g)(3) requires that an exemption from withholding shall be provided for the period of time during which a payee is awaiting receipt of a taxpayer identification number. The regulations prescribe certain requirements that a payee must comply with in order to qualify for the exemption. The Service has determined that it generally takes a person approximately 4 weeks to receive a taxpayer identification number. Thus, the regulations provide that a payee generally has 60 days in which to furnish a taxpayer identification number to the payor. Backup withholding is not imposed on payments made during that period, if a payee certifies in the manner required that he or she is waiting for receipt of a taxpayer identification number.

The regulations also provide rules related to the application of backup withholding to trusts and estates. Finally, the regulations specify the record retention requirements for forms related to backup withholding.

With respect to the requirement to withhold under section 3406(a)(1) (B) or (C) when notified by the Service that a payee's taxpayer identification number is not correct or that the payee is subject to withholding due to a notified payee underreporting, payors will not be required to withhold on payments made to such payee until 30 days after temporary regulations are published in the **Federal Register** explaining how withholding will apply under section 3406(a)(1) (B) or (C).

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 533(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

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

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of Amendments to the Regulations

Accordingly Part 35a is amended as follows:

PART 35A—[AMENDED]

Paragraph 1. Section 35a.9999–2 is added immediately after § 35a.9999–1 to read as follows:

§ 35a.9999–2 Questions and answers concerning due diligence and issues in connection with backup withholding.

The following questions and answers principally concern the backup withholding requirement with respect to reportable payments and the due diligence exception to the penalty on payors of reportable interest and dividend payments for failure to provide a payee's correct taxpayer identification number on certain information returns. These requirements are issued under the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98–67, 97 Stat. 369):

Due Diligence

Q–1. If a payor of reportable interest or dividends does not send the mailing or mailings described in A–5 and A–6 of § 35a.9999–1 of the Temporary Employment Tax Regulations, issued under the Interest and Dividend Tax Compliance Act of 1983, T.D. 7916 ("§ 35a.9999–1"), to all payees who have not certified under penalties of perjury that their taxpayer identification numbers are correct, will a payor be considered to have exercised due diligence with respect to a payee to whom the payor sends the required mailing or mailings?

A–1. Yes. Due diligence applies on a payee-by-payee basis. For example, if a payor sends the separate mailing described in A–5 of § 35a.9999–1 by December 31, 1983, only to certain payees, the payor will be considered to have exercised due diligence with respect to the payees to whom the mailing was sent. However, the payor will not be considered to have exercised due diligence with respect to those payees to whom the payor did not send the required mailing or mailings.

A penalty for failure to provide a correct taxpayer identification number will not be imposed merely because the payor fails to send the required mailing or mailings. Rather, a penalty will be imposed only in the case of an information return filed by a payor of reportable interest or dividends if the required mailing or mailings were not sent to the payee and the payor fails to include a taxpayer identification number or includes an incorrect number on the return filed with respect to the payee.

Q–2. Does the due diligence standard apply to reportable payments other than reportable interest or dividends?

A–2. No. The due diligence standard does not apply to payments reportable under sections 6041, 6041A(a), 6045, or 6050A. Thus, payors of these other reportable payments are not required to send the mailings described in A–5 and A–6 of § 35a.9999–1.

Q–3. Do the rules of section 7503 of the Internal Revenue Code, regarding the time for performance of an act where the last day to perform the act falls on Saturday, Sunday, or a legal holiday, apply to the time limits for the mailings described in A–5, A–6, A–52, A–53, and A–55 of § 35a.9999–1?

A–3. Yes. For example, a mailing that must be sent on or before Saturday, December 31, 1983, will be considered timely if sent on or before Tuesday, January 3, 1984.

Q–4. Are trustees, custodians, or other fiduciaries subject to the due diligence standard?

A–4. The due diligence standard does not apply to a trustee, custodian, or other fiduciary, unless such person is a payor of reportable interest or dividends. A trustee, custodian, or other fiduciary is not a payor of reportable interest of dividends simply because the trustee, custodian, or fiduciary receives a payment of reportable interest or dividends. If a trust is considered a payor of reportable interest or dividends under A–20, below, however, the due diligence standard applies.

Q–5. Is a payor required to send the mailings described in A–5 and A–6 of § 35a.9999–1 by first-class mail, if it is the practice of the payor not to send correspondence to the payee by first-class mail, but rather to deliver personally, or to use intra-office mail to communicate with the payee?

A–5. No. A payor may send the mailing or mailings by first-class mail, by personal delivery, or by intra-office mail, provided that the mailing or mailings are delivered by the same method used by the payor in sending account activity and balance information and other correspondence to the payee.

Q–6. Must a payor affix postage to the return envelope to satisfy the requirement of including a postage-prepaid reply envelope in the mailings described in A–5 and A–6 of § 35a.9999–1?

A–6. The requirement that a payor must include a postage-prepaid reply envelope will be satisfied by the use of a "postage-prepaid envelope," a "business reply mail envelope," or by affixing the required postage to a self-addressed reply envelope. (A "business reply mail envelope" involves an arrangement in which postage is charged only when a customer returns the reply envelope.)

Q–7. Must a payor who sends the mailings described in A–5 and A–6 of § 35a.9999–1 to a foreign address affix postage to the reply envelope?

A–7. No. A payor is required to include only a self-addressed reply envelope in a mailing to a foreign address. A payor is not required to affix postage to a reply envelope included in a mailing to a foreign address, regardless of whether the payee is a United States citizen, a United States resident, or a non-resident alien.

Q–8. Will a payor who sends the mailings described in A–5, A–6, A–52, A–53, and A–55 of § 35a.9999–1 violate the separate mailing requirement if the payor sends both a form W–9 (or substitute form) and a Form W–8 (or substitute form) in the same mailing?

A–8. No. The payor may include in any separate mailing both a solicitation of the payee's taxpayer identification number (Form W–9) and a solicitation of a certification of the payee's foreign status (Form W–8).

Q–9. Do "window transactions," as defined in Q–42 of § 35a.9999–1, include payments on Treasury bills and other instruments not in definitive form?

A–9. No. Because Treasury bills are not in definitive form, payments upon Treasury bills are not treated as window transactions. Similarly, payments upon other instruments not in definitive form are not treated as window transactions. The special rules for window transactions set forth in A–42 of § 35a.9999–1 thus apply only to redemptions of United States savings bonds, and to payments upon interest coupons, commercial paper, and banker's acceptances, if such instruments are in definitive form. The due diligence requirements set forth in A–5 and A–6 of § 35a.9999–1 are thus applicable to payors of payments on Treasury bills and other instruments not in definitive form, if those instruments are considered to have been acquired before 1984, and mature after December 31, 1983. In addition, the certification requirements set forth in A–32 of § 35a.9999–1 and all other relevant backup withholding requirements apply to payments on Treasury bills and other instruments not in definitive form.

Requirement of Backup Withholding

Q–10. Does backup withholding apply to reportable payments other than reportable interest and dividend payments?

A–10. Yes. Backup withholding also applies to payments that are subject to reporting under sections 6041(a) or (b),

6041A(a), and 6045, and to certain payments reportable under section 6050A ("other reportable payments"). Backup withholding applies to other reportable payments, other than payments reportable under section 6045, only if: (1) The payee fails to furnish a taxpayer identification number to the payor; or (2) the Internal Revenue Service notifies the payor that the taxpayer identification number furnished by the payee is not correct. Except in the case of payments reportable under section 6045, a payee of other reportable payments is not required to make any certifications under penalties of perjury, unless the payee seeks to claim the exemption from withholding while waiting for receipt of a taxpayer identification number (as explained in A–18, below). See A–12 and A–13, below, for rules regarding the application of backup withholding to transactions subject to reporting under section 6045.

Q–11. Under what circumstances is a payor of payments reportable under section 6041 or section 6041A(a) required to impose backup withholding?

A–11. A payor is required to withhold on reportable payments under sections 6041 and 6041A(a) only if: (1) A payee is subject to backup withholding under A–10, above, (*i.e.*, the payee fails to furnish a taxpayer identification number to the payor or the Internal Revenue Service notifies the payor that the taxpayer identification number furnished by the payee is not correct); and (2) any one of the following three conditions is satisfied: (a) Reportable payments to the payee aggregate $600 or more during the calendar year; (b) the payor was required to file an information return under section 6041 or section 6041A(a), whichever is applicable, with respect to that payee for the preceding calendar year (*i.e.*, payments subject to reporting under section 6041 or section 6041A(a), whichever is applicable, aggregated $600 or more to the payee for the preceding calendar year); or (c) the payor was required to impose backup withholding on payments made to the payee during the preceding calendar year (and the payments subject to backup withholding were of a type reportable under section 6041 or section 6041A(a), whichever is applicable).

If a payor pays amounts aggregating $600 or more to a payee during a calendar year (condition (a) above), the amount subject to withholding is: (1) The amount of the payment that causes the aggregate payments to the payee during the calendar year to total $600 or more (assuming that the payor made no payments during the preceding calendar year that were subject to either reporting under section 6041 or section 6041A(a), whichever is applicable, or backup withholding); and (2) the amount of any additional payments of a type subject to reporting under section 6041 or section 6041A(a), whichever is applicable, made to the payee before the payee provides a taxpayer identification number to the payor of after the Internal Revenue Service notifies the payor that the taxpayer identification number furnished by the payee is not correct. For example, if a payor made payments of $200 each on March 31, 1984, June 30, 1984, and September 30, 1984, to a payee, which were reportable under section 6041, the payments on March 31, and June 30 would not be subject to backup withholding, because the $600 threshold would not have been reached as a result of making either of those payments (assuming that payments made to the payee during 1983 did not aggregate $600 or more and were thus not subject to reporting). However, the payor would be required to withhold 20 percent of the $200 payment made on September 30, if the payee did not furnish a taxpayer identification number to the payor, or the Internal Revenue Service notified the payor that the number provided by the payee is incorrect, prior to the payment date (September 30). If the payor made a $50 payment of a type reportable under section 6041, on December 31, 1984, to the same payee, the payor would be required to withhold 20 percent of the $50 payment, if the payee had not provided a taxpayer identification number, or the Internal Revenue Service notified the payor that the number provided by the payee is incorrect, prior to the date of payment (December 31).

If, in the preceding calendar year, a payor was required to file an information return with respect to payments to the payee under section 6041 or section 6041A(a) (condition (b) above), or a payor is required to impose backup withholding with respect to payments of a type that were reportable under such sections (condition (c) above), the payor is required to withhold 20 percent of any payment of a type reportable under section 6041 or section 6041A(a) made to the payee during the following year, regardless of the amount of the payment, if, prior to the date of the payment, the payee fails to provide a taxpayer identification number to the payor, or the Internal Revenue Service notifies the payor that the number provided by the payee was not correct. Assume, for example, that a payor made reportable payments under section 6041 to a payee that aggregated $600 or more during 1983, so that the payor was required to file an information return with respect to the payments for 1983. If the payor paid $300 to the payee on January 31, 1984, and the payment was of a type reportable under section 6041, the payor would be required to withhold 20 percent of the $300 payment, if, prior to January 31, 1984, the payee did not provide a taxpayer identification number to the payor, or the Internal Revenue Service notified the payor that the number provided by the payee was not correct. Moreover, because payments during 1984 to the payee, or a type subject to reporting under section 6041, would be subject to backup withholding, the payor would be required to withhold 20 percent of any payment of a type reportable under section 6041 that was made to the payee in 1985, unless the payee provided a taxpayer identification number prior to the payment date, or corrected the number provided, if the payor was notified by the Service that the previous number was not correct.

In making the determination of whether payments to a payee aggregate $600 or more during a calendar year or whether condition (b) or condition (c) applies to a payee, the payor must aggregate and take into account payments of the same kind made to the same payee. Payments that are reportable under section 6041 are not required to be aggregated with payments reportable under section 6041A(a). Payors may, in their discretion, aggregate: (1) Payments not of the same kind to the same payee, reportable under section 6041 and 6041A(a), and (2) payments reportable under section 6041 with payments reportable under section 6041A(a).

Q–12. Does backup withholding apply to gross proceeds subject to reporting under section 6045?

A–12. Yes. Backup withholding applies to gross proceeds reportable by brokers, if the customer does not furnish a taxpayer identification number to the broker in the manner required, or the Internal Revenue Service notifies the broker that the number furnished by the customer was incorrect. With respect to a post-1983 account (as defined in A–41 of § 35a.999–1), the taxpayer identification number provided by a customer must be certified under penalties of perjury. With respect to all other accounts, the customer's taxpayer identification number is not required to be certified under penalties of perjury. For example, if a customer who had no prior relationship with a broker opens an account, arranges for the broker to sell readily tradable securities for $100

during 1984, and the sale is required to be reported under section 6045, the gross proceeds of the sale are subject to backup withholding, if the customer does not provide: (1) His taxpayer identification number to the broker and certify it under penalties of perjury; or (2) an awaiting TIN certification (described in A–18, below).

Special rules governing backup withholding with respect to commodity futures contracts, margin account transactions, and short sale transactions will be issued in the near future.

Q–13. Does backup withholding apply to barter exchanges that are subject to reporting under section 6045?

A–13. Yes. If the barter exchange is required to report an exchange under section 6045, it is required to impose backup withholding if a member of the barter exchange does not provide a taxpayer identification number in the manner required or the Internal Revenue Service notifies the barter exchange that the number provided by the member is incorrect. With respect to an account or ongoing relationship established between a barter exchange and a member after December 31, 1983, the member is required to provide a taxpayer identification number to the barter exchange under penalties of perjury. With respect to all other accounts, the member's number is not required to be certified under penalties of perjury.

Q–14. What action is a payor of reportable interest or dividends required to take with respect to payments made on a readily tradable instrument held by a payee, if: (1) Additional readily tradable instruments of the same issue are purchased by the same payee, (2) it is the practice of the payor to combine in one account all the readily tradable instruments of the same issue owned by the same payee (and to make a single aggregate payment with respect to all readily tradable instruments of the same issue included in the account), and (3) certain of the readily tradable instruments of the same issue owned by the payee are subject to backup withholding and others are not subject to backup withholding?

A–14. If it is the practice of a payor to combine in one account all readily tradable instruments of the same issue owned by a payee and if certain of those instruments are subject to backup withholding and others are not subject to backup withholding, the payor is required to withhold 20 percent of the aggregate payment made with respect to all the instruments in the account. If it is not the practice of the payor to combine in one account all readily tradable instruments of the same issue owned by a payee, the payor is required only to withhold 20 percent of the payment made on the instrument or instruments with respect to which the payee is subject to backup withholding.

For example, assume that a payee, prior to 1984, held a readily tradable instrument and that a taxpayer identification number had been provided to the payor. Assume further, during 1984: (1) The payee acquired another readily tradable instrument of the same issue through a post-1983 brokerage relationship, (2) the broker notified the payor that the payee failed to certify that he was not subject to backup withholding due to notified payee underreporting, and (3) the payor, in accordance with its customary practice, combined in one account both readily tradable instruments of the same issue owned by the payee and made an aggregate payment with respect to both instruments in the account. In the circumstance, the payor would be required to withhold 20 percent of the aggregate payment made with respect to both of the instruments of the same issue owned by the payee.

Q–15. Does backup withholding apply to original issue discount?

A–15. Yes. Original issue discount is treated as a payment of interest reportable under section 6049. Thus, original issue discount is subject to backup withholding in the same circumstances in which backup withholding applies to an actual payment of interest. In determining the timing and amount of original issue discount subject to backup withholding, rules consistent with § 31.3455(b)–1 of the Employment Taxes and Collection of Income Tax at Source Regulations shall apply. Thus, the amount to be withheld is limited to the amount of cash paid.

Q–16. If an exempt recipient files a Form W–9 (or a substitute form) in order to be exempt from backup withholding, may the payor rely on the form if the payee fails to include its taxpayer identification number on the form?

A–16. No. A Form W–9 (or substitute form) may be relied upon by a payor only if it includes the payee's taxpayer identification number. Thus, if the Form W–9 (or substitute form) provided by the payee does not contain a taxpayer identification number, the payor must withhold 20 percent of all payments made to the payee. If, however, they payor treats the payee as an exempt recipient under A–29 of § 35a.9999–1 and § 31.3452(c)–1 (b) through (p) of the Employment Taxes and Collection of Income Tax at Source Regulations without requiring the payee to file a Form W–9 (or substitute form), the payor is not required to withhold, even though the payee has not furnished a taxpayer identification number to the payor. This exception, however, is not available to barter exchanges subject to reporting under section 6045.

Q–17. In determining whether a payee failed to provide a taxpayer identification number to a payor, within what period of time must a payor treat a taxpayer identification number or an "awaiting TIN certification" (as defined in A–18, below) provided by a payee as having been received?

A–17. As provided in A–31 of § 35a.9999–1, a payor is required to process a taxpayer identification number within 30 days after the payor receives the taxpayer identification number from the payee. Thus, for example, if a payor of a payment reportable under section 6041 or section 6041A(a) receives a taxpayer identification number on January 16, 1984, the payor must process the number on or before February 15, 1984. As a result, the payor should commence backup withholding with respect to payments made to the payee after January 16, 1984, if the payee were subject to backup withholding under A–10 and A–11, above, but the payor must cease backup withholding by February 15, 1984. The payor may, however, treat the taxpayer identification number as having been received at any time within 30 days after it is provided, so that backup withholding in the example outlined above would not have to be imposed on any payment if the payor processed the number prior to making the payment.

A payor also has 30 days after delivery by a payee of an awaiting TIN certification (as defined in A–18, below) to treat the certificate as having been received.

Exceptions To Backup Withholding

Q–18. Is a payor required to impose backup withholding during a period when a payee is waiting for receipt of a taxpayer identification number?

A–18. In general, if a payee does not provide a taxpayer identification number to a payor, the payor must withhold 20 percent of all payments made to the payee on or after January 1, 1984. However, the payee will not be subject to backup withholding for a period of 60 days, if the payee is waiting for receipt of a taxpayer identification number. In order to be entitled to the 60 day exemption, the payee must comply with the requirements of this A–18.

A payee shall be treated as if he provided a certified taxpayer identification number for a period of 60 days following the day the payor

receives a certificate signed under penalties of perjury (an "awaiting TIN certification"). (See A–17, above, for rules related to the day on which an awaiting TIN certification may be treated as having been received.) If the payor does not receive a taxpayer identification number within 60 days after the payee delivers the awaiting TIN certification to the payor, the payor must withhold 20 percent of all payments made to the payee, until the payee provides a taxpayer identification number to the payor. The awaiting TIN certification must contain statements: (1) That the payee has not been issued a taxpayer identification number, (2) that the payee has applied for a number or intends to apply for a number in the near future, and (3) that the payee understands that if the payee does not provide a taxpayer identification number to the payor within 60 days, the payor is required to withhold 20 percent of any payments made thereafter to the payee until a number is provided. Language that is substantially similar to the following will satisfy this requirement:

> I certify, under penalties of perjury, that a taxpayer identification number has not been issued to me, and that I mailed or delivered an application to receive a taxpayer identification number to the appropriate Internal Revenue Service Center or Social Security Administration Office (or I intend to mail or deliver an application in the near future). I understand that if I do not provide a taxpayer identification number to the payor within 60 days, the payor is required to withhold 20 percent of all reportable payments thereafter made to me until I provide a number.

The foregoing certification, at the discretion of the payor, may be included on the same form as the certifications required by A–32 of § 35a.9999–1.

The payor may use Form W–9, as currently issued by the Internal Revenue Service, to satisfy the requirements of this A–18. If the Form W–9 is used, the payee should write "Applied For" in the space reserved for the taxpayer identification number. The payor also should inform the payee, in supplemental instructions or orally, "that if a taxpayer identification number is not received by the payor within 60 days, the payor is required to withhold 20 percent of all reportable payments thereafter made to the payee until the payor receives a number from the payee." Future editions of the Form W–9 will contain the supplemental instruction.

A payee who seeks to qualify for the 60 day exemption from backup withholding also must certify, under penalties of perjury, that the payee is not subject to backup withholding due to notified payee underreporting, when required to do so by A–32 of § 35a.9999–1 or A–12 or A–13, above. Thus, a payee who establishes an account or acquires an instrument after December 31, 1983, will be subject to backup withholding irrespective of whether the payee certifies that the payee is waiting for receipt of a taxpayer identification number, if the payee fails to make the certification described in A–32 of § 35a.9999–1 or A–12 or A–13, above, concerning notified payee underreporting.

When a payee who opens an account or acquires an instrument after December 31, 1983, and who qualifies for this 60 day exemption furnishes a taxpayer identification number to the payor, the payee is required to certify under penalties of perjury, in accordance with A–32 of § 35a.9999–1 or A–12 or A–13, above, that the taxpayer identification number provided is correct. If no such certification is provided, the payor must institute backup withholding.

A special rule is provided for accounts that are established, or instruments that are acquired (in the case of reportable interest or dividend payments) or relationships established (in the case of other reportable payments) before January 1, 1984. All payees of such accounts, instruments, or relationships will be treated as if they are waiting for receipt of a taxpayer identification number, without any action on their part, until January 16, 1984. The payor must withhold 20 percent of any payment made after January 16, 1984, unless: (1) The payee has certified, as required by this A–18, that the payee is waiting for receipt of a taxpayer identification number or (2) the payor receives a taxpayer identification number from the payee. If, however, a payor has been provided with a Form W–9 (or substitute form) with an "Applied For" designation, by a payee of an account, instrument, or relationship established before January 1, 1984, the form will be valid for 60 days, notwithstanding the fact that the supplemental instruction referred to above was not provided to the payee.

Assume, for example, that the payee of an account established before January 1, 1984, delivered an awaiting TIN certification to the payor on December 30, 1983 and the payor processed the certification that day. The payor should not impose backup withholding on payments made to the payee prior to February 29, 1984, because the payee is treated under this A–18 as having provided a taxpayer identification number during that period. If the payor did not receive a number from the payee prior to February 29, the payor would be required to withhold 20 percent of any payment made to the payee on or after February 29, and before the payee provided a number. (See A–17, above, however, for the rules relating to the date on which the payor may be treated as having received the awaiting TIN certification or a taxpayer identification number.) As another example, assume that a payee of an account established before January 1, 1984, delivered an awaiting TIN certification to the payor on January 12, 1984 and processed it that day. The payor should not impose backup withholding on payments made between January 1 and January 12, because the payee would be treated during that period as if he had provided a taxpayer identification number under the rule set forth above. Moreover, backup withholding would not apply to payments made during the 60 days following January 12, because the payee on that date delivered an awaiting TIN certification. Backup withholding would begin only if the payor had not received a taxpayer identification number within that 60 day period. (See A–17, above, however, for the rules relating to the dates on which the payor may be treated as having received the certificate or the taxpayer identification number.)

The 60 day exemption applicable when a payee provides an awaiting TIN certification applies to payments made on readily tradable instruments only if the instrument is acquired directly from the payor (including a broker that holds the instrument in street name), unless the payee provides an awaiting TIN certification directly to the payor. Thus, if a broker opens a new account after 1983 and acquires a readily tradable instrument for a payee who has no taxpayer identification number, and the instrument is not held in street name, the broker must advise the payor that the payee failed to provide a taxpayer identification number under penalties of perjury, regardless of whether an awaiting TIN certification is provided to the broker. The payor in such a situation, however, must include in the notice sent to a payee (as required by A–39 of § 35a.9999–1) a statement informing the payee that, if the payee does not have a taxpayer identification number, the payee will be exempt from backup withholding for a period of 60 days following the payor's receipt of an awaiting TIN certification, provided that the payee signs an awaiting TIN certification and returns it to the payor. (See A–17, above, for the rules relating to the date on which the payor may be

treated as having received the certificate.) An awaiting TIN certification, in a form permitted by this A–18, should be included with the notice. The form of the notice described in A–39 of § 35a.9999–1 and this A–18 is set forth in the Appendix to this temporary regulation.

Neither the 60 day exemption nor the special presumption applicable to accounts, instruments, and relationships established before January 1, 1984 applies to window transactions, as defined a A–9, above, and Q–42 of § 35a.9999–1. Therefore, a payor is required to withhold 20 percent of any window transaction payment whenever a payee of such a payment does not provide a taxpayer identification number of the payor.

Q–19. Are payors required to withhold on payments that are less than $10, or that, if determined on an annualized basis, would be less than $10 (a "minimal payment")?

A–19. A payor of reportable interest or dividends has the option not to withhold on minimal payments, or, alternatively, to withhold on payments of any amount. The principles of § 31.3452(d)–1 of the Employment Taxes and Collection of Income Tax at Source Regulations shall be utilized in determining whether a reportable interest or dividend payment may be treated as a minimal payment with respect to which backup withholding is not required.

The annualization requirement of § 31.3452(d)–1 of the Employment Taxes and Collection of Income Tax at Source Regulations shall not apply to window transaction payments. A payor may choose not to withhold on any window transaction payment that is less than $10. However, all window transaction payments made at the same time must be aggregated.

The $10 minimal payment exception does not apply to other reportable payments (*i.e.*, payments other than reportable interest or dividends), except payments reportable under section 6045. Payments reportable under section 6045, like reportable interest and dividends, are subject to backup withholding, at the payor's option, only if the reportable amount exceeds $10. The annualization rule of § 31.3452(d)–1 of the Employment Taxes and Collection of Income Tax at Source Regulations is inapplicable to payments reportable under section 6045.

Q–20. Are beneficiaries of trusts or estates subject to backup withholding on distributions from the trust or estate?

A–20. A beneficiary of a trust or estate is subject to backup withholding only if the trust or estate is a payor of a reportable payment. If a trust or estate receives a payment of interest, dividends or any other reportable amount, and if the trust or estate is not a grantor trust (and thus reports receipt of the reportable amount on a Form 1041 (see § 1.671–4 of the Income Tax Regulations)), distributions by the trust or estate to the beneficiaries will not be considered to be a payment of interest, dividends or other reportable amounts.

Special rules are provided, however, with respect to trusts when a grantor is considered the owner of all or a portion of the trust (and there are included in computing the grantor's tax liability those items of income attributable to that portion of the trust) (a "grantor trust"). The special rules applicable to such trusts do not affect payors of payments made to a grantor trust. Rather, the payments to the trust are subject to the general rules of backup withholding. Payments between a grantor trust and its grantors, however, are subject to the special rules, which differ depending on the number of grantors.

If a trust has ten or fewer grantors, payments of interest, dividends or other reportable amounts (except gross proceeds reportable under section 6045) made to the trust are considered payments of the same kind made by the trust (as payor) to each grantor (as payee), in proportion to each grantor's ownership ot the trust. Each grantor of such a trust is treated as having received his or her proportionate share of the reportable payment on the day the payment is received by the trust. Accordingly, any reportable payments made to the trust are treated as reportable payments made by the trust to the grantor or grantors and are subject to all applicable backup withholding requirements. If, for example, a grantor of a trust having 10 or fewer grantors had not provided a taxpayer identification number to the trust in the manner required, the trustee would be required to withhold and remit 20 percent of the reportable payment. In addition, the trustee of a grantor trust having ten or fewer grantors, established on or after January 1, 1984, may not certify either that the trust is not subject to backup withholding due to notified payee underreporting or that the taxpayer identification number provided is correct, unless each grantor has furnished the trustee with such a certification signed under penalties of perjury.

If a grantor trust has more than ten grantors, the trustee is required to treat payments of interest, dividends or other reportable payments (except gross proceeds reportable under section 6045) made to the trust as payments of the same kind made by the trust to each grantor, in an amount equal to the distribution made by the trust to each grantor, on the date on which the distribution to the grantor is paid or credited. The trust is thus treated as a payor of the same types of payments received by the trust, for the purpose of the backup withholding requirements. The trustee of such a trust is required to withhold 20 percent of amounts paid or credited to any grantor who is subject to backup withholding if: (1) The grantor fails to provide a taxpayer identification number to the trust, (2) the grantor fails to provide a certification required by A–32 of § 35a.9999–1, (3) the trust is required to impose backup withholding under the special rules applicable to readily tradable instruments (A–40 of § 35a.9999–1), or (4) the Internal Revenue Service notifies the trustee that the grantor provided an incorrect taxpayer identification number. If the reportable amount of the distribution is greater than the amount distributed, the trustee may, in its discretion subject the entire reportable amount to backup withholding.

For example, if a grantor trust having 100 grantors received a reportable interest payment of $100,000, which was of a type reportable under section 6049, and made a cash distribution of $900 to each grantor (after deducting certain expenses), the trustee would be required to withhold 20 percent of the $900 payment made to any grantor who was subject to backup withholding. Similarly, if a grantor trust having 100 grantors received an oil royalty payment of $100,000, which was of a type reportable under section 6041, and the trust made a cash distribution of $8,000 to each grantor (after deducting certain production related taxes and expenses), the trustee would be required to withhold 20 percent of the $8,000 payment made to any payee who had not provided a taxpayer identification to the trust. Because the certifications required by A–32 of § 35a.9999–1 do not apply to payments of a type reportable under section 6041, grantors of the trust would not be subject to backup withholding if they failed to make such certifications.

In addition, the trustee of a grantor trust having more than ten grantors may certify that the trust's taxpayer identification number is correct and that the trust is not subject to backup withholding due to notified payee underreporting, without regard to the status of the individual grantors of the trust.

Q–21. Are reportable payments made to exempt recipients subject to backup withholding?

A–21. Answer 29 (A–29) of § 35a.9999–1 provides that a payor of reportable interest of dividends is not required to withhold on payment made to exempt recipients. Backup withholding also is not required with respect to any other reportable payment (except barter exchange transactions reportable under section 6045) made to an exempt recipient described in § 31.3452(c)–1 (b) through (p) of the Employment Taxes and Collection of Income Tax at Source Regulations. A middleman, however, shall include only a nominee or custodian known generally in the investment community as a nominee or listed in the most recent publication of the American Society of Corporate Secretaries, Inc. Nominee List. The exempt recipients described in this A–21 shall also be so treated for purposes of § 1.6045–1(e)(3)(i) of the Income Tax Regulations.

Foreign Persons

Q–22. Will a form relating to exemptions for foreign persons be issued by the Internal Revenue Service?

A–22. The Service is currently preparing Form W–8, on which a payee may sign, under penalties of perjury, the statement described in § 1.6049–5(b)(2)(iv) and § 1.6045–1(g)(1) of the Income Tax Regulations, whichever is applicable. See A–51, A–52 and A–55 of § 35a.9999–1 for other requirements. The Form W–8, however, may not be available prior to the time that payors intend to make the mailing or mailings required by A–52 or A–55 of § 35a.9999–1. Accordingly, payors should use the substitute form described in § 1.6049–5(b)(2)(iv) or § 1.6045–1(g)(1), whichever is applicable, on which a payee may make the certifications concerning the payee's foreign status and provide his name, address, and taxpayer identification number (if any). If a payor sends a substitute Form W–9 to a payee, the payor may incorporate the required foreign status certification on the substitute Form W–9.

Record Retention

Q–23. Under what circumstances are payors required to retain the documents they receive from payees?

A–23. With respect to a pre-1984 account or instrument (as defined in A–34 of § 35a.9999–1) or any brokerage relationship that is not a post-1938 account (as defined in A–41 of § 35a.9999–1), the payor is not required to retain either: (1) A form on which a payee certified concerning the correctness of a taxpayer identification number, or (2) an awaiting TIN certification, if the payor can establish the existence of procedures that are reasonably calculated to ensure that a payee who so certified is accurately identified in the payor's records. With respect to all other accounts or instruments, however, payors are required to retain all certification documents in the same manner and for the same period of time that the payor retains other account-creation or instrument-purchase documents.

Appendix

The notice required by A–39 of § 35a.9999–1 and A–18, above, shall be substantially in the form provided below:

Recently, you purchased [identify security acquired]. Because of the existence of one or more of the following conditions, payments of interest, dividends, and other reportable amounts that are made to you will be subject to backup withholding of tax at a 20 percent rate: [specify the condition or conditions applicable]

(1) You failed to provide a taxpayer identification number, or failed to provide such number under penalties of perjury, in connection with the purchase of the acquired security. (An individual's taxpayer identification number is his social security number.)

(2) The taxpayer identification number that you provided is not your correct number.

(3) You are subject to backup withholding due to notified payee underreporting (section 3406(a)(1)(C) of the Internal Revenue Code).

(4) You failed to certify that you are not subject to backup withholding due to notified payee underreporting (section 3406(a)(1)(D) of the Internal Revenue Code).

If condition (1) or (2) applies, you may stop withholding by providing your taxpayer identification number on the enclosed Form W–9, signing the form, and returning it to us. If you do not have a taxpayer identification number, but have (or will soon) apply for one, you may so indicate on the Form W–9; in that case, you will not be subject to withholding for a period of 60 days, but you must provide us with your taxpayer identification number promptly after you receive it in order to avoid withholding after the end of the 60-day period. Certain persons, described on the enclosed Form W–9, are exempt from withholding. Follow the instructions on that form if applicable to you.

If condition (3) applies, and you do not believe you are subject to withholding due to notified payee underreporting, please contact your local Internal Revenue Service office.

If condition (4) applies, you may stop withholding by certifying on the enclosed Form W–9 that you are not subject to backup withholding due to notified payee underreporting, signing the form, and returning it to us.

If more than one condition applies, you must remove *all* applicable conditions to stop withholding.

Please address any questions concerning this notice to:

[Insert Payor Identifying Information]

(Do not address questions to the broker who purchased the securities for you.)

Par. 2. Question 42 (Q–42) of § 35a.9999–1 is amended by removing the phrase "Treasury bills," in the question thereof.

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

This Treasury decision is issued under the authority contained in section 3406 (a), (b), (c), (e), (g), (h), and (i), section 6041, section 6041A(a), section 6042(a), section 6044(a), section 6045, section 6049 (a), (b), and (d), section 6103(q), section 6109, section 6302(c), section 6676, and section 7805 of the Internal Revenue Code of 1954 (97 Stat. 371, 372, 373, 376, 377, 378, 379; 26 U.S.C. 3406 (a), (b), (c), (e), (g), (h), and (i), 68A Stat. 745; 26 U.S.C. 6041, 96 Stat. 601; 26 U.S.C. 6041A(a), 96 Stat. 587; 26 U.S.C. 6042(a), 96 Stat. 587; 26 U.S.C. 6044(a), 96 Stat. 600, 26 U.S.C. 6045, 96 Stat. 592, 594, 26 U.S.C. 6049 (a), (b), and (d), 90 Stat. 1667, 26 U.S.C. 6103(q), 75 Stat. 828; 26 U.S.C. 6109, 68A Stat. 775, 26 U.S.C. 6302(c), 68A Stat. 917; 26 U.S.C. 7805) and in sections 104, 105, and 108 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371, 380, and 383).

M. Eddie Heironimus,

Acting Commissioner of Internal Revenue.

Approved:

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Approval of Modification of the Kentucky Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Interim final rule.

SUMMARY: OSM is announcing interim final approval of a modification of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which will subject surface coal mining operations affecting two acres or less to

Kentucky's revised regulations. The State's modification clarifies the criteria that operations must meet in order for a site to qualify for a two acre exemption pursuant to SMCRA. By letter dated October 31, 1983, Kentucky submitted proposed program amendment consisting of amendments to 405 KAR 7:020E and 7:030E.

DATES: This action is effective November 25, 1983. Public comment is invited on the action set forth herein. Written comments must be received on or before 4:00 p.m. on December 27, 1983 to be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7327.

Copies of the Kentucky program, the October 31, 1983, letter containing the modification to the program, and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

Background

The Kentucky program was conditionally approved by the Secretary of the Interior on May 18, 1982 (47 FR 21404–21435). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice.

Section 528(2) of the SMCRA, exempts from the requirements of the Act "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less . . ." Regulations implementing this provision (30 CFR 700.11(b)) were originally published on March 13, 1979 (44 FR 15311). When Kentucky's permanent regulatory program was conditionally approved on May 18, 1982, the Secretary found that Kentucky's regulations (405 KAR 7:020E and 7:030E) were no less effective than the Federal standard pertaining to two-acre or less operations.

Since the approval of the Kentucky program, OSM has revised its regulations (47 FR 33424 and 48 FR 14814) pertaining to two-acre operations to clarify the criteria that must be met in order for a site to qualify for an exemption. As a result of its oversight activities, OSM had reason to believe that some sites for which Kentucky had granted a two-acre exemption involved questionable determinations regarding apparent haul roads being classified and approved as county roads, which would be inconsistent with OSM's new rules. Therefore, in a letter dated September 6, 1983, OSM notified Kentucky that pursuant to 30 CFR 732.17(e), a State program amendment was required because conditions or events indicated that the Kentucky program no longer met the requirements of SMCRA and the revised Federal regulations.

OSM also urged Kentucky to proceed with emergency rulemaking to promulgate a rule implementing the new Federal standards and thereby bringing all operators into compliance with SMCRA at the earliest possible time. Therefore, Kentucky promulgated by emergency rulemaking revised regulations intended to bring the Kentucky program into compliance with the current Federal standards. In a letter ot OSM date October 31, 1983, Kentucky submitted these regulations as a program amendment.

Also, in the October 31, 1983 letter, Kentucky submitted additional revisions to its regulations intended to satisfy conditions (d), (i), (j), (k), (o) and (p) imposed by the Secretary. These additional amendments are the subject of a separate **Federal Register** notice.

Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment, which subjects two-acre or less operations in Kentucky to the revisions promulgated to its regulations (405 KAR 7:020E and 7:030E), meets the requirements of SMCRA and 30 CFR Part VII.

OSM has reviewed the revised regulations submitted by Kentucky pertaining to two-acre or less operations and finds that Kentucky's new rules are no less effective than OSM's new rules and will bring sites that might otherwise be exempted into compliance with applicable permitting and performance standards. Kentucky's new rule defines "affected area" in a manner essentially identical to OSM's rule except that the phrase "underground workings" is modified by the phrase "associated with underground mining activities, auger mining or in situ mining." Kentucky's rule also modifies the 250 ton removal threshold by the phrase "within 12 successive calendar months." In all other respects, the Kentucky rule is essentially identical to OSM's rule.

The approval of this amendment is effective November 25, 1983. The reason for the immediate effectiveness of this approval is that otherwise mining operations required to be regulated under SMCRA would be unregulated in Kentucky.

To satisfy the public participation requirements for approval or disapproval of State program amendments, the Director is inviting public comment for 30 days on the action set forth herein and will reconsider today's approval in light of those comments. Comments should focus on the issue of whether Kentucky's new rules are no less effective than OSM's regulations. Comments received after December 27, 1983 or at locations other than Lexington, Kentucky, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Following OSM's review of the comments received, OSM will issue a final rule to announce the Director's final decision on this modification of the Kentucky program.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a

significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 917 is amended as set forth herein.

Dated: November 17, 1983.

Dean Hunt,

Acting Director, Office of Surface Mining.

PART 917—KENTUCKY

30 CFR 917.15 is amended by adding paragraph (f) to read as follows:

§ 917.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendment is approved effective on November 25, 1983. Revisions submitted on October 31, 1983, to 405 KAR 7:020E and 7:030E.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-31506 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11-83-105]

Special Local Regulations; Lake Havasu Classic Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Lake Havasu Classic sponsored by the Havasu Sports Federation on the Colorado River. This event will be held within Thompson Bay, Lake Havasu, Arizona on November 23 through 26, 1983.

The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 23 November 1983 and terminate 26 November 1983. Should weather cause a postponement the above regulations will be in effect from 8:00 AM to 5:30 PM on 27 November 1983. Postponement information will be available from the sponsoring organization and the race patrol boats.

FOR FURTHER INFORMATION CONTACT: LTJG J. N. ARROYO, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. Although the application to hold the event was received on 7 June 1983, the city council of Lake Havasu did not approve the event in its final form until 2 September 1983. There was insufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LTJG J. N. ARROYO, Chief, Boating Affairs Branch, Eleventh Coast Guard District, and LT JOSEPH R. McFAUL, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulations

The Havasu Sports Federation's "Lake Havasu Classic" will be conducted on the Colorado River beginning 23 November 1983, east of Spectator Point in Thompson Bay, Lake Havasu. This event will have 75 16- to 20-foot tunnel and pleasure/modified V-bottom outboard boats that could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-105 to read as follows:

§ 100.35-11-105 Havasu Sports Federation/Lake Havasu Classic.

(a) *Regulated Area.* That portion of Thompson Bay, Lake Havasu, Arizona starting approximately 100 yards on a bearing of 130°T off Spectator Point, thence due north approximately 1110 yards, thence 140°T approximately 2200 yards, thence due west approximately 2400 yards, then back to the starting point.

(b) *Effective Date.* The controlled traffic area will be in effect during the following times: 8:00 AM to 5:30 PM each day on 23 through 26 November 1983. Should weather cause a postponement the above regulations will be in effect from 8:00 AM to 5:30 PM on 27 November 1983. Postponement information will be available from the sponsoring organization and the race patrol boats.

(c) *Special Local Regulations.* No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the Regulated Area during the above hours unless cleared for such entry by or through a patrolling law enforcement vessel or event committee boat.

(2) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth. (46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)); 33 CFR 100.35)

Dated: November 16, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-31644 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD13 83-04]

Drawbridge Operation Regulations; Lake Washington, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard is changing the regulations governing the Evergreen Point Floating Bridge across Lake Washington, Washington, by permitting the draw to remain closed between the hours of 6:00 a.m. and 10:00 a.m., and between 2:00 p.m. and 7:00 p.m., Monday through Friday, except federal holidays, for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver

that is unable to pass under the fixed spans. This change is being made because the periods of peak vehicular traffic have increased. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on December 27, 1983.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: On April 28, 1983 the Coast Guard published a proposed rule (48 FR 19184) concerning this change. The Commander, Thirteenth Coast Guard District, also published this proposal as a Public Notice dated July 7, 1983. Interested persons were given until June 13, 1983 and August 8, 1983 respectively to submit comments.

Drafting Information

The drafters of this rule are: John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Two responses were received to the **Federal Register** and Coast Guard Public Notice. One response offered no objection and the other offered no comment to the proposal.

Some minor editorial changes for clarification have been made in this final rule.

Other than the Washington State Department of Transportation and a few navigation interests, there are no known businesses, including small entities, that would be affected by this change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. Users of the bridge for vehicular traffic and the Washington State Department of Transportation would benefit because the rule would eliminate a major cause of vehicular traffic delay and still provide for the reasonable needs of navigation.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. In addition, these final regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising the heading of § 117.801 and § 117.801(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.801 Lake Washington, Wash.; Evergreen Point Floating Bridge.

* * * * *

(f) The draw need not open between the hours of 6:00 a.m. and 10:00 a.m., and between the hours of 2:00 p.m. and 7:00 p.m., Monday through Friday, except federal holidays, for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver that is unable to pass under the fixed spans.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 9, 1983.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83–31645 Filed 11–23–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2439–4]

Approval and Promulgation of Implementation Plans; Nonattainment Area Plans for the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On February 3, 1983, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking (48 FR 5074) for the motor vehicle inspection and maintenance (I/M) legislation and implementation schedule which were submitted by the State of California on September 17, 1982.

As EPA proposed on February 3, 1983, today's notice takes final action to approve the I/M legal authority submitted on September 17, 1982, and incorporate the legislation into the SIP, and to approve the commitment of resources, the commitment to achieve a minimum level of program effectiveness, and the commitments to implement. Today's notice also takes final action to incorporate the I/M implementation schedule and a July 26, 1983 supplemental revision into the SIP for the South Coast, San Francisco Bay Area, and San Diego Air Basins, the Sacramento Metropolitan Area, and Ventura County, and conditionally approve the 1979 O_3 and CO plans for these areas. This notice takes no final action on plan approval for Fresno County.

This action removes the prohibition on the construction of major new and modified stationary sources of O_3 and CO in these areas, and retains the prohibition of construction of major stationary sources of O_3 and CO in Fresno County is a separate notice.

DATE: This action is effective on November 25, 1983.

ADDRESS: A copy of the September 17, 1982 and July 26, 1983 SIP revisions is located at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Jerry Clifford, Air Programs Branch (A–2), Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7655, (FTS) 454–7655.

SUPPLEMENTARY INFORMATION:

Background

The 1977 Clean Air Act Amendments [Act] required states to submit, by January 1, 1979, nonattainment area plans that insured attainment of the National Ambient Air Quality Standards by December 31, 1982. For areas that demonstrated they could not attain the ozone (O_3) or carbon monoxide (CO) standards by the 1982 deadline, even with the implementation of all reasonably available control measures, Section 172(a)(2) of the Act allowed EPA to extend the attainment deadline to no later than December 31, 1987.

States that received an extension of the O_3 or CO deadline were required by Section 172(b)(11)(B) to submit specific measures in the 1979 nonattainment area plan. One such measure is a schedule to implement a vehicle emission control inspection and maintenance (I/M) program. Under Section 172(b), the State was also required to submit evidence of legal authority to implement and enforce that program, commitments of necessary

resources, commitments to implement, and commitments to achieve a minimum level of program effectiveness. This notice addresses the six areas in California which requested and received extensions of the O_3 and/or CO standards beyond December 31, 1982 and were required to satisfy the I/M requirements of the 1979 SIPs. These six areas are the San Diego Air Basin, South Coast Air Basin, San Francisco Bay Area Air Basin, Ventura County portion of the South Central Coast Air Basin, the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin, and the Fresno County portion of the San Joaquin Valley Air Basin.

The 1979 nonattainment area plans for these six areas failed to include evidence, as required under Section 172(b)(10), of legal authority to implement and enforce an I/M program, and failed to include a schedule to implement as required under Section 172(b)(11)(B). These I/M deficiencies prevented EPA from approving or conditionally approving the 1979 O_3 and CO SIPs for these six urban areas.

On July 2, 1979, an automatic prohibition on the construction of major new or modified stationary sources of O_3 and CO became effective in these six areas because the SIPs for these areas were not approved or conditionally approved. Between January, 1981 and July, 1982, EPA published final rulemaking on the 1979 plans for these six areas. EPA deferred final action on the San Diego plan and disapproved the plans for the remaining five areas. The construction moratorium has been in effect since July 2, 1979 because the lack of adequate I/M legal authority and an approvable implementation schedule have prevented EPA from approving or conditionally approving the plans for these six areas.

On September 10, 1982, legislation authorizing I/M implementation was signed into law by the Governor of California. On September 17, 1982, the Executive Officer of the California Air Resources Board (ARB), the Governor's designee, submitted a revision to the SIP consisting of the legal authority to implement an I/M program and an implementation schedule. This revision to the 1979 SIP, Executive Order G–125–15, was intended to satisfy the remaining I/M requirements for approval of the 1979 SIP.

On February 3, 1983, EPA published a notice of proposed rulemaking on the I/M requirements for approval of the 1979 plans for the six urbanized nonattainment areas required to implement I/M. The February 3, 1983 notice described EPA's prior rulemaking actions on the 1979 SIPs, summarized the applicable Clear Air Act and EPA policy requirements for I/M programs and evaluated the September 17, 1982 submittal against the I/M requirements. EPA proposed to approve the legal authority, commitments to implement, resource commitments, and program effectiveness, and proposed to disapprove the schedule to implement.

The February 3, 1983 notice also addressed 1982 supplemental O_3 and/or CO SIP revisions for each of these six nonattainment areas. EPA is not taking any action, today, on any portion of these supplemental plan revisions. EPA will address the I/M requirements for approval of the 1982 SIPs in separate rulemaking actions.

EPA proposed to disapprove the schedule to implement because the start date of March, 1984 was inconsistent with established EPA policy requiring implementation of decentralized I/M programs on or before December 31, 1981. The February 3, 1983 notice and associated Technical Support Document (TSD) should be used as reference in reviewing today's action.

Supplemental Revisions

On July 26, 1983, after publication of proposed rulemaking on the September 17, 1982 submittal, the State submitted another I/M revision to the SIP. The July 26, 1983 revision updated the schedule to implement submitted on September 17, 1982 and included locally adopted resolutions and related documentation requesting the State to implement the I/M program in five of the required six urban areas. EPA's evaluation of the July 26, 1983 supplemental revision is contained in an addendum to the TSD, and is summarized below.

California's I/M legal authority requires the State to implement I/M in federally designated urban nonattainment areas upon the request of local air pollution control districts. The State, therefore, cannot implement I/M in a district unless the district makes such a request of the State.

The six urban areas required to implement I/M fall under the jurisdiction of eight air pollution control districts. Seven districts have requested the State to implement I/M in five of the required six urban areas. They are the South Coast Air Quality Management District (AQMD), San Francisco Bay Area AQMD, San Diego County Air Pollution Control District (APCD), Ventura County APCD, Sacramento County APCD, Placer County APCD, and the Yolo-Solano APCD. The Fresno County APCD is the only district responsible for an urban nonattainment area required to implement I/M, which has failed to request implementation. The requests were submitted to EPA on July 26, 1983 along with the revised implementation schedule.

The revised schedule updates certain interim milestone but retains the start-up date of March, 1984. The changes to those interim milestones more accurately reflect expected dates of completion. Minor delays encountered by the State affected completion of several interim milestones identified in the schedule submitted on September 17, 1982. For example, State relicensing of garages has been delayed from June, 1983 to November, 1983, and award of the quality control contract has been delayed from November, 1983 to December, 1983. Although these interim dates have been revised, the State remains committed to the expeditious March, 1984 start date.

The State has taken concrete steps following passage of authorizing legislation including hiring personnel to implement the program, notifying the garages of the program and schedule for implementation, initiating public information program, and issuing instrument specifications and notification of garages of instrument requirements.

EPA has determined that "good cause" exists (See Administrative Procedure Act, 5 U.S.C. 553(b)) to incorporate all of the above items into the SIP without providing further notice and opportunity to comment. Additional comment would serve no practical purpose since these revisions merely update the original implementation schedule and provide further documentation for local commitments to the I/M program.

Public Comments

During the public comment period, EPA received sixteen comments related to the I/M portion of the proposed rulemaking notice. Detailed summaries of the comments along with EPA's responses are included in the Response to Comments portion of the support document to this notice.

Substantive comments related to the major I/M issues in the 1979 plans are discussed below. Comments on the I/M requirements for approval of the 1982 SIP revisions will be addressed in separate final rulemaking action on the 1982 SIPs. Many of the comments concerned EPA's proposal to disapprove the I/M schedule to implement. In response to these comments, EPA has revised certain proposed actions. The comments and EPA's responses follow.

1. Approval of the I/M Legal Authority

Several comments were received in support of EPA's proposal to approve the I/M legal authority.

2. Disapproval of the Schedule To Implement and Continuation of the Construction Moratorium

Comment: Several commentors objected to EPA's proposal to disapprove the implementation schedule, and argued in favor of approving the schedule and removing the prohibition on construction of major new and modified stationary sources of O_3 and CO in the six urban nonattainment areas. Many of these commentors argued that California could not possibly comply with EPA's December 1981 start-up date for decentralized I/M programs because the legislature did not provide legal authority until September 1982. They requested EPA to revise its policy to provide an exemption for California.

Most commenters argued that EPA was unfairly penalizing California since the state was now making progress to implement a program on an expeditious schedule. The commentors noted that California is doing more to implement I/M than several other states that are not subject to construction bans.

One commentor argued that EPA should approve the SIP conditionally because the State was now in substantial compliance with the Part D requirements for 1979 plans. This commentor reminded EPA that it had previously found that the construction ban would not serve its statutory purposes in such circumstances. *See* 44 FR 38583 (July 2, 1979).

Response: EPA has found no reason to revise its 1981 deadline for start-up of decentralized I/M programs. This deadline was based on EPA's best estimates of the amount of time needed to implement a decentralized program. Moreover, there is no reason to believe that California would have been unable to meet this deadline but for the delay in obtaining legal authority. Accordingly, EPA is not willing to give full approval to the 1979 SIP revisions for these six nonattainment areas.

Despite this problem, EPA recognizes that California is now doing its best to comply with the Act and EPA's policy in five of the six nonattainment areas. EPA agrees that it retaining the construction ban is not likely to induce these areas to do more. Accordingly, EPA believes that the failure to meet the policy in these areas should be considered *de minimis*. In addition, the issue will be moot once California's program begins operating.

EPA, however, is not willing to approve these plans fully prior to full implementation of the program. Consequently, EPA has decided to approve the plans for all five of the areas that are making progress on condition that they meet all milestones in the revised I/M implementation schedule and start I/M testing no later than March 1984. Conditional approval will enable EPA to disapprove plans and impose construction bans immediately if any area falls behind schedule.

Since EPA has not received evidence that Fresno County has taken similar concrete steps, EPA is retaining the overall plan disapproval for Fresno County, and will repropose action in a separate notice.

Comment: Six commentors consider EPA's proposed approval of the Massachusetts' I/M start-up date (April, 1983) and the Idaho I/M start-up date (December, 1983) to be inconsistent with EPA's proposed disapproval of the March, 1984 I/M start-up date for California.

Response: EPA disagrees. The 1979 SIP submittal for Massachusetts, which was approved by EPA on September 16, 1980, included a January 1, 1982 start-up date for I/M. At a later date, Massachusetts elected to include computerized, tamper-resistant analyzers and requested an extension, under established EPA policy, to April 1983. (EPA policy dated September 24, 1980.) Consistent with this policy, the State requested the extension to allow sufficient lead-time necessary to procure the new emission analyzers. EPA did not propose action on the revised schedule until the February 3, 1983 notice. The Massachusetts I/M program became operational in April, 1983.

For Idaho, the Boise-Ada County carbon monoxide nonattainment area was less than 200,000 population and was not specifically required by EPA to implement I/M. Although the SIP for Boise-Ada County includes I/M as a CO control measure, EPA's requirement to implement by a specific deadline does not apply.

Comment: One commentor suggested that EPA should approve the schedule to implement and withhold disapproval action unless the State fails to adhere to the commitments specified in the schedule.

Response: EPA's final rulemaking is consistent with this course of action. Conditionally approving the plan (resulting in removal of the construction moratorium) on the condition the state adheres to the submitted schedule allows EPA to withdraw conditional approval and reimpose the construction moratorium if the State fails to meet the commitments specified in the implementation schedule.

Comment: One commentor suggested that disapproving the schedule to implement for Fresno County and continuing the construction moratorium was not severe enough since the Fresno County Board of Supervisors rejected the proposal of the air pollution control district to adopt the state I/M program. It was further suggested that restrictions on funding for sewage treatment projects and Federal highway construction be imposed.

Response: EPA agrees. The State enabling I/M legislation authorizes the State to implement an I/M program in any federally designated urban nonattainment area where the local air pollution control district has requested the State to implement the program. Each of the eight air pollution control districts, having jurisdiction in the six urban areas required to implement I/M, must make such a request to the State before I/M can be implemented. Seven districts have made requests and the State is proceeding to implement I/M according to the July 26, 1983 SIP submittal. (Copies of each district's request was attached to the July 26, 1983 SIP submittal.) The Fresno County Board of Supervisors voted against adoption of the I/M program on March 15, 1983. EPA is, therefore, taking final action to conditionally approve the plans for only those areas which have requested the State to implement the I/M program.

Since the February 3, 1983 notice did not mention that Fresno County did not request implementation of I/M, EPA will repropose to disapprove the plan on this basis. The construction moratorium will remain in effect since plan approval or conditional approval is required to remove the construction moratorium. EPA will propose to apply federal air program grant and highway construction funding limitations under Section 176(a) of the Clean Air Act at the same time we repropose action on the Fresno County nonattainment area plan. Restrictions on federal funding for sewage treatment projects under Section 316 of the Act may also be proposed at this time.

EPA Actions

Based upon EPA's review of the September 17, 1982 SIP revision, consideration of public comments received on the February 3, 1983 notice of proposed rulemaking, and review of July 26, 1983 supplemental SIP revision, EPA takes final action to:

1. Incorporate the following into the SIP under Section 110 of the Act: (a) the I/M legal authority and Executive Order

G–125–15 submitted on September 17, 1982; and (b) the revised I/M implementation schedule, Executive Order G–125–33, and the requests of seven California air pollution control districts to have the State implement I/M within their jurisdictions as submitted on July 26, 1983.

2. Approve, as meeting the Part D requirements of the Clear Air Act, the I/M legal authority, the commitment of resources and the commitment to achieve a minimum level of program effectiveness for all six urban nonattainment areas required to implement I/M, and the commitments to implement for all areas except Fresno County.

3. Remove the 1979 nonattainment area plan disapprovals for the South Coast Air Basin, San Francisco Bay Area Air Basin, and Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin for O_3 and CO, and the Ventura County portion of the South Central Coast Air Basin for O_3 since these plans now substantially satisfy the Part D requirements for I/M programs. This action removes the prohibition on construction of major new or modified stationary sources of O_3 and CO in these four areas.

4. Conditionally approve the above mentioned plans as well as the O_3 and CO nonattainment area plans for the San Diego Air Basin on the condition that the State adhere to the revised schedule to implement submitted on July 26, 1983 and under Executive Order G–125–33. This action removes the prohibition on construction of major new or modified stationary sources of O_3 and CO in the San Diego Air Basin.

EPA is deferring action on the Fresno County nonattainment area plan based upon consideration of public comment and the July 26, 1983 supplemental submittal. EPA intends to repropose action on the Fresno County plan in the near future. Until final action is published to remove the existing plan disapproval for Fresno County and approve or conditionally approve the plan, the prohibition on the construction of major new or modified stationary sources of O_3 and CO remains in effect.

Conditional Approval Procedure

Conditional approval of the plans requires the State to adhere to the implementation schedule submitted on July 26, 1983. There will be no extensions granted to the interim milestones or the final implementation date of March, 1984.

EPA will periodically evaluate the State's progress in meeting the milestones identified in the schedule. If the State fails to make reasonable progress in implementing the program according to the schedule, EPA will publish a **Federal Register** notice announcing that (1) the conditional approval is withdrawn, (2) the plans are disapproved, and (3) of Section 110 (a)(2)(I) prohibition on stationary source construction is in efffect. In addition, EPA will propose to withhold federal air program grant and federal highway construction funding under Section 176(a) of the Clean Air Act.

Regulatory Process

Since the State has submitted the necessary I/M legal authority, an expeditious schedule to implement, and local requests to have I/M implemented in five nonattainment areas, EPA is taking final action to conditionally approve these plans for the five areas.

In those areas for which the State of California has submitted approvable or conditionally approvable SIPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible to lift the construction moratorium. Since the O_3 and/or CO SIPs for five areas required to implement I/M are conditionally approvable, EPA finds that good cause exists for making this action immediately effective. This action is therefore effective on the date of publication of this notice.

Under the Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 1983. This action may not be challenged later in procedures to enforce its requirements.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1981.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110, 129, 171–178 and 310(a), Clean Air Act, as amended; 42 U.S.C. 7410, 7429, 7501–7508 and 7601(a))

Dated: November 4, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart F—California

Section 52.220 paragraph (c) is amended by adding paragraphs (133) and (134) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(133) The enabling legislation, Chapter 892, Statutes of 1982, (Senate Bill No. 33) for a California motor vehicle inspection and maintenance program and the California Air Resources Board's Executive Order G–125–15 submitted on September 17, 1982 by the Governor's designee.

(134) A schedule to implement the California motor vehicle inspection and maintenance (I/M) program, the California Air Resources Board's Executive Order G–125–33, and local resolutions and requests from the Bay Area Air Quality Management District, Sacramento County APCD, Placer County APCD, Yolo-Solano APCD, San Diego County APCD, South Coast Air Quality Management District and Ventura County APCD to have the State implement the I/M program, submitted on July 26, 1983 by the Governor's designee.

* * * * *

2. Section 52.223 paragraph (b) is amended by revising paragraphs (3), (4), (6)(ii), and (9), by adding paragraphs (7) (iv) and (v), and by removing and reserving paragraph (c) to read as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(3) South Coast Air Basin for O_3, CO, NO_2, and PM.

(4) San Diego Air Basin for O_3, CO, and TSP.

* * * * *

(6) * * *

(ii) Ventura County for O_3, CO and TSP.

(7) * * *

(iv) Sacramento AQMA for O_3.

(v) Sacramento County Metropolitan Area for CO.

* * * * *

(9) San Francisco Bay Area Air Basin for O_3, CO and TSP.

* * * * *

(c) [Reserved].

* * * * *

3. Section 52.232 paragraph (a) is amended by adding paragraph (14)(ii) to read as follows:

§ 52.232 Part D conditional approvals.

(a) * * *

(14) * * *

(ii) For the San Francisco Bay Area Air Basin (O_3 and CO), Sacramento Nonattainment Area (O_3 and CO), San Diego County Nonattainment Area (O_3 and CO), South Coast Air Basin (O_3 and CO) and Ventura County (O_3) Nonattainment area:

(A) The California motor vehicle inspection and maintenance program must be implemented according to the schedule submitted on July 28, 1983.

* * * * *

4. Section 52.237 paragraph (a) is amended by removing and reserving paragraphs (1), (2), (4) and (5) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(1) [Reserved]

(2) [Reserved]

* * * * *

(4) [Reserved]

(5) [Reserved]

* * * * *

[FR Doc. 83-31587 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[Docket No. 82-828; FCC 83-534]

Assignments of Narrow-Band Direct-Printing (NB-DP) Frequencies in the Maritime Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a Report and Order to amend the present method of assignment of narrow-band direct-printing (NB-DP) frequencies in the maritime mobile services. This action was prompted by a petition for reconsideration in Docket 20813 and by the Commission's receipt of applications for these frequencies. It is intended to improve assignment and utilization of these frequencies.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telegraph.

Report and Order: Proceeding Terminated

In the matter of licensing and availability of narrow-band direct-printing radioteletypewriter frequencies; PR Docket No. 82-828.

Adopted: November 9, 1983.

Released: November 15, 1983.

By the Commission.

Introduction

1. The Notice of Proposed Rule Making in this proceeding, FCC 82-575, released December 30, 1982, (48 FR 847 January 7, 1983) proposed to change the method of assigning and licensing narrow-band direct-printing (NB-DP) frequencies to public coast radiotelegraph (PCRT) stations in the maritime mobile service.

2. Licensing and operation of land radiocommunications stations in the maritime mobile service is governed by Part 81 of the Commission's rules. There, the Commission separates these stations into two categories: public coast stations and limited coast stations.

3. Public coast stations are licensed to entities which provide common-carrier, ship-to-shore, communication services to third parties on a profit-making basis. Public coast stations are allowed to interconnect with the public switched networks (PSN) and can be authorized to provide international voice and telegraphy communication services. Public coast stations must file tariffs and the Commission must approve the rates charged for the communication services provided.

4. Limited coast stations are licensed to entities which provide radio service for the operational and business needs of U.S. ships. Limited coast stations are licensed for voice communications only. They are permitted radiotelephone communications concerning a specific scope of service. Many of these stations use the PSN for message forwarding. Their communications must be associated with the operational and business needs of the ships they serve. They are not authorized to provide communication services to third parties. Therefore, limited coast stations do not file tariffs.

5. In the International Radio Regulations, frequencies in the 4, 6, 8, 12, 16 and 22 MHz bands are paired and grouped in series and allocated on a global basis for NB-DP communications, a form of radioteletype. Propagation characteristics enable frequencies in these bands to be used for long range communications, from a few tens of miles to world-wide. The same frequencies are available to 155 signatory countries, which are urged by the ITU Radio Regulations to coordinate their use of NB-DP frequencies. Stations using the same frequencies must be separated by distances varying with the band in order to prevent co-channel and adjacent channel interference.

6. In the U.S., the Commission has assigned the available NB-DP frequencies, other than those used by Government stations, for use by PCRT stations providing high-seas telegraphy service. The current method of assigning these frequencies is reflected in § 81.204(c) of the rules which assigns frequencies by series to specific PCRT stations at specific geographical locations. Assigning frequencies in this manner (by rule) has not proved satisfactory because many of the stations listed either did not inaugurate teleprinter operations or have closed and ceased operations altogether. To change frequency assignments, it is necessary to amend or waive the rule. For example, PCRT station KLC has applied for two series listed for station WPA, which has filed a closure application pursuant to Section 214 of the Communications Act. To transfer those series from WPA to KLC would require rule amendment or waiver under the current rule. Mobile Marine Radio (MMR) has sought to have the rule changed.

7. In addition, Brown and Root and other operators of limited coast stations have sought NB-DP frequencies for private, business operations.

The Proposal

8. In the Notice, the Commission proposed to assign NB-DP frequencies by series only to PCRT stations on a first-come, first-served basis with a priority to be given to PCRT stations which have not previously provided the service. The Commission also proposed an eight month period within which licensed frequencies must be placed in operation or they would be forfeited and the station license modified accordingly. The Commission proposed not to permit limited coast NB-DP operations, at least until all PCRT requirements are satisfied. The Commission did, however, expressly invite comment on this point.

The Comments

9. Comments were received from RCA Global Communications, Inc. (RCA Globcom), Rockwell International Corporation (Rockwell), WJG Telephone

Company, Inc. (WJG), TRT Telecommunications Corporation (TRT), Mobile Marine Radio, Inc. (MMR) and Harris Corporation (Harris). MMR filed reply comments. Three of the commenters (MMR, RCA Globcom and TRT) offer common carrier telegraphy service; one (WJG) offers common carrier telephony service on the Mississippi River; and two (Harris and Rockwell) manufacture and supply equipment; Rockwell also operates two substantial limited coast stations.

Deletion of the Current Rule

10. All of the comments, except those of TRT, agreed that the current assignment method is unsatisfactory and should be changed although for differing reasons. WJG supported the proposed change in the context of its application to become a Class I–A (high seas radiotelegraph) station. Rockwell and Harris supported the change to enable NB–DP frequencies to be authorized to limited coast stations. MMR supported changing the existing assignment scheme but suggested modifications to the method proposed in the Notice. Both MMR and RCA opposed any rule amendment which would permit assignment of NB–DP frequencies to limited coast stations.

11. TRT opposed changing the existing rule at this time and objected to the proposed method of assigning these frequencies on a first-come first-served basis out of a "pool" of available frequencies. TRT suggested the Commission study NB–DP operations based on traffic data which the Commission should require carriers to submit under § 43.71 of the rules. In any event, TRT advocated a stronger showing of need before available frequencies were licensed to new or existing NB–DP service providers.

12. Based on our experience with the existing rule and with frequency grants to date, it does not appear that amendment of the rule should await further study. The current rule assigns frequencies to several stations which have closed. To date some series remain unused. These will be pooled and made available to any stations able to use them. However, we agree that a stronger showing of need is warranted, particularly by new providers, and the rule is modified accordingly.

Priority for New Providers

13. Under the existing rules, all series are assigned to stations which existed at the time the rule was adopted. No particular showing of need is required in order for a station to apply for use of its frequencies. Under our proposal, PCRT stations which had not previously provided service would have been given automatic priority over an existing provider in applying for stations from the pool.

14. Besides TRT, MMR strongly opposed the proposal to give an automatic assignment preference to public coast stations which have not previously offered NB–DP service. This was originally proposed in order to maximize the number of service providers to foster competition. MMR argues that the proposed preference is too broad, discriminates against existing PCRT stations and violates the requirement for something more than mere competition to satisfy the public interest, convenience and necessity requirement imposed on the Commission by Section 309 before a license may be granted. *See FCC v. RCA Communications, Inc.*, 346 U.S. 86 (1953). MMR points out that in a given case technical or service variables might outweigh the fact that a given applicant was a new entrant.

15. None of the commenters specifically supported the proposed assignment preference. WJG, a potential new provider, generally supported the rule as proposed but, significantly, it did not address this point. MMR pointed out that the Commission should consider quality versus quantity of a service in making a public interest determination. As an example of such a case, if an existing station were to apply and propose greatly superior equipment, superior numbers of and quality of operators, superior operating hours and superior financial resources than those of a marginal new applicant, the Commission should not automatically prefer the new applicant. We agree that diversity of service ought to be an evaluative factor but not necessarily the sole factor. For these reasons the proposed priority is not adopted in the final rule.

Eight Month Rule

16. The proposed rule would require an existing or new NB–DP service provider to place authorized frequencies in operation within eight months of receipt of authority or forfeit them. As indicated in our notice, this rule was meant to deter speculative application for these frequencies and remedy such if it occurs. This rule would ensure the prompt return of unused frequencies to a pool of frequencies available for licensing. All who commented on this proposal favored it. We are adopting it as proposed.[1]

Limited Coast Use of NB–DP Frequencies

17. Rockwell and Harris argued that limited coast stations should be given reasonable access to NB–DP frequencies. Rockwell argues that in other marine services private operations are not barred until common carrier needs are met. Notwithstanding these arguments, limited coast operation on the NB–DP frequencies listed in Section 81.204 of the rules will not be licensed at this time for two reasons. First, based on the comments of RCA and MMR, it is not clear that there are enough frequencies to satisfy all existing or future demand by public coast stations. While it appears there are enough series to satisfy current and future requests of public coast stations, it is by no means certain. One reason for doubt is, as MMR points out, the fact that considerable interference from and to foreign PCRT stations exists but the full effect of the interference will not be known until additional operations provide more information on the scope of this interference. Secondly, limited coast stations can be accommodated in other bands. In General Docket 80–739, the Final Acts of the World Administrative Radio Conference, Geneva, 1979 (WARC 79) are being implemented. Among other things, the WARC 79 makes available, on a shared basis, certain frequency bands which could accommodate limited coast radioteletype operations.[2] The Commission will be issuing a notice of proposed rule making specifically addressed to this requirement in response to the petitions for rule making filed by Northwest Instrument *et al.* in RM numbers 4534, 4535 and 4536. Accordingly, we decline to open up eligibility to these frequencies to limited coast stations at this time.

Order

18. These rule amendments are designed to make NB–DP frequencies available to PCRT stations in a manner more efficient than that now employed. Consequently, these amendments should not adversely impact these stations. Furthermore, PCRT stations are not, by and large, licensed to small entities. Consequently, in accordance with Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), the Commission hereby certifies that

[1] TRT suggested there would be a rush to get frequencies under the proposed method. Since our Notice of Proposed Rulemaking there has not been a rush for frequencies indicating, perhaps, that speculation is being deterred.

[2] Those frequency bands are: 2107–2170 kHz, 2194–2490 kHz, 3155–3400 kHz, 4438–4650 kHz, 4750–4850 kHz, 5060–5450 kHz, 5730–5950 kHz, 7300–8100 kHz (secondary).

these rules, as promulgated, will not have a significant economic impact on a substantial number of small entities.

19. Regarding questions on matters covered in this document contact Robert DeYoung (202) 632-7175.

20. For the reasons stated above, it is ordered, That under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), § 81.204 of the rules, is amended in accordance with the attached appendix effective December 22, 1983.

21. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

22. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE

In § 81.204, paragraph (c) is revised, and paragraph (d) is added to read as follows:

§ 81.204 Assignable frequencies—Narrow band direct-printing radiotelegraph and data transmission systems.

* * * * *

(c) Subject to the provision of paragraphs (a) and (b) of this section, public coast stations will be licensed NB-DP series on the following basis:

(1) NB-DP series will be assigned to public coast applicants based on the date of the Commission's receipt of such applications.

(2) Series will be assigned to public coast station applicants for new or additional NB-DP frequencies who make a substantial showing of need based on the following factors:

(i) The schedule of service of each currently licensed or proposed series of frequencies;

(ii) The number of minutes each series is in use or is unavailable for use due to interference by other stations or other use; and

(iii) How many of the minutes shown in paragraph (c)(2)(ii) above were used by existing licensees for message set-up time and how many of the minutes were used for message handling; and

(iv) Any other facts supporting a need for the proposed service.

(d) Licensed NB-DP series which are not placed in operation within eight months of authorization cancel automatically. The station license will be modified accordingly.

[FR Doc. 83-31561 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 228
Friday, November 25, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations; extension of comment period.

SUMMARY: This extends from October 26, 1983, to December 5, 1983, the period for submitting comments on the proposed rules for administration of the salary offset authority in 5 U.S.C. 5514 published at 48 FR 43687, September 26, 1983. This extension is being granted in response to requests and inquiries received from interested parties who indicated that additional time was necessary in order for them to respond.

DATES: Comments on FR Doc. 83-26205 will be considered if they are received by December 5, 1983.

ADDRESS: Send comments to Jerome D. Julius, Assistant Director for Pay and Benefits Policy, Compensation Group, P.O. Box 57, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Particia A. Rochester, (202) 632-4634.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-31850 Filed 11-23-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Licensing of Sugar Exempt From Quotas for Purpose of Production of Polyhydric Alcohol

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish procedures and conditions for the issuance of license which will permit the importation of sugar exempt from the quotas on sugars sirups and molasses as modified by Presidential Proclamation 4941 of May 5, 1982, as amended. Sugar imported under such a license must be used solely for the production (other than by distillation) of polyhydric alcohol, except that it may not be used for the production of polyhydric alcohol for use as a substitute for sugar in human food consumption.

DATES: Comments must be received on or before December 9, 1983.

ADDRESS: Mail comments to: Chief, Sugar Group, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, 12th & Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James A Truran, Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture, Tel: (202) 447-2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4941 of May 5, 1982 modified the import quota for sugars, sirups and molasses as provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) in order to carry out a provision in the Geneva (1967) Protocol of the General Agreement on Tariffs and Trade (Note 1 of Unit A, Chapter 10, Part 1 of Schdule XX; 19 U.S.T., Part II, 1282) and the International Sugar Agreement, 1977 (T.I.A.S. 9664, 31 U.S.T. 5135). Presidential Proclamation 5002 of November 30, 1982, amended Proclamation 4941 in part to read as follows:.

> The Secretary may exempt the entry of articles described in items 155.20 and 155.30 from the requirements or limitations established pursuant to this headnote on the condition that such articles: (1) Be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption; or (2) be re-exported in refined form or in sugar containing products. Such articles shall be entered under licenses issued pursuant to regulations promulgated by the Secretary
> * * *.

Under the proposed rule, licenses will be issued for the entry, exempt from quota, of sugar to be used in the production (other than by distillation) or polyhydric alcohol, except sugar to be used in the production of polyhydric alcohols for use as a substitute for sugar in human food consumption. The certificate of eligibility requirements contained in 15 CFR Part 2011 would not apply to this sugar. Separate rules will provide for the entry, exempt from quota, of sugar to be re-exported in refined form and for sugar exported in sugar containing products.

Polyhydric alcohols are organic solvents containing two or more hydroxyl groups. Polyhydric alcohols are used in the production of other chemicals.

Under the proposed rule, an import license may be issued only to a manuacturer of plyhydric alcohols. The license shall be effective for no more than one year and is not assignable or transferable. However, the manufacturer many employ an agent to import sugar under the license on behalf of the manufacturer.

In order to guarantee that sugar imported under the license is used for the production (other than by distillation) of polyhydric alcholos, except plyhydric alcohol for use as a substitute for sugar in human food consumption, it is required that a bond be posted for each license that is issued. Sugar imported under a license must be used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, within 180 days after the entry of the sugar. Cetificates of use are to be filed within one month of use, but in no case later than 180 days after the expiration of the import license. These time limitations may be extended at the discretion of the Licensing Authority.

It is anticipated that licenses will ordinarily be issued on a yearly basis and that succeeding licenses shall be issued effective the day following the expiration of the previous license. A manufacturer may apply for a license prior to the expiration of a previously issued license, however, the prior license shall be deemed to have expired upon the effective date of the succeeding license. Thus, no more than one effective license may be issued and outstanding to any one manufacturer at any one time.

The public is invited to submit to the above address written comments,

suggestions, or objections regarding the proposed regulations. Each person submitting comments, suggestions, or objections regarding the proposed rule shall include his/her name and address and should give reasons for suggested changes. Copies of all written communications received will be available for examination by interested persons in Room 6091 South Building, U.S. Department of Agriculture, during regular business hours.

The relatively short comment period of 14 days for this proposed rule is felt adequate because many of the sections of this proposed rule are identical to the final rule entitled "Section 22—Import Fees; Licensing Entry of Sugar Exempt from Fee," published in the **Federal Register**, July 28, 1978, pages 32726–32728.

This proposed rule has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major" since the proposed rule, if made final, would not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service (FAS), certifies that this proposed rule will not, if promulgated, have significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The public is invited to comment on the impact of this proposed rule on small entities, and the Administrator, FAS, will review this determination in light of those comments.

The proposed rule should yield benefits to the public by increasing employment in the field of manufacturing and related industries. Costs should be minimal since the licensing system has been designed to conform as closely as possible to current commercial practices.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this proposed rule. The environmental assessment is available for review in room 6091, South Building, USDA during normal business hours.

The paperwork requirements imposed by this rule will not become effective until they have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects in 7 CFR Part 6

Alcohol, Foreign trade, Imports, Licenses, Polyhydric alcohol, Quotas, Sugar.

In accordance with the above, it is proposed to amend 7 CFR Part 6 by adding to the subpart entitled "Subpart-Importation of Sugar Free From Quota" the following center heading and §§ 6.120–6.129:

PART 6—[AMENDED]

Sugar for Production of Polyhydric Alcohol

Sec.

6.120 Definitions.
6.121 Issuance of an import license.
6.122 Transferability of an import license.
6.123 Entry of sugar.
6.124 Entry of sugar by an agent.
6.125 Application for an import license.
6.126 Bond requirements.
6.127 Default.
6.128 Certificate of Use.
6.129 Enforcement.

Authority: Presidential Proclamation No. 5002, 47 FR 54269.

§ 6.120 Definitions.

As used in this program:

(a) "Agent" means a licensed customhouse broker or other person designated by the license holder.

(b) "Appropriate customs official" means the district or area Director of Customs, his designee, or any other customs officer of similar authority and responsibility, for the customs district in which the port of entry is located.

(c) "Department" means the U.S. Department of Agriculture.

(d) "Import license" means a license issued by the Secretary permitting the entry of sugar exempt from the quota provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, on condition that such sugar will be used solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human consumption.

(e) "Licensing Authority" means the Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture.

(f) "Manufacturer" means a person that is engaged in the production (other than by distillation) of polyhydric alochols from sugar.

(g) "Person" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(h) "Program" means the licensing program provided for in these regulations (7 CFR 6.120–6.129).

(i) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated the authority or to whom authority may hereafter be delegated to act in the Secretary's place.

(j) "Sugar" means sugars, sirups, and molasses as defined in items 155.20 and 155.30 of the Tariff schedules of the United States.

§ 6.121 Issuance of an import license.

(a) An import license may be issued to a manufacturer that complies with the provisions of this program. The license shall state the time period during which the license shall be effective and the maximum amount of sugar which may be imported under the license. In no case shall the effective period of a license exceed 1 year, nor shall the maximum amount of sugar which may be imported under the license exceed the anticipated requirements of the manufacturer for the 12-month period following the effective date of the license. The license may contain such other conditions as the Licensing Authority, in his/her discretion, deems necessary.

(b) No more than one effective license may be issued and outstanding at any one time to any one manufacturer. In order to insure a dependable and orderly supply of sugar, a manufacturer may apply for a license prior to the expiration of a previously issued license. The previously issued license shall be deemed to have expired on its stated expiration date, or on the effective date of the succeeding license, whichever is earlier. A succeeding license may not be issued until the previously issued license has been returned to the Licensing Authority.

§ 6.122 Transferability of an import license.

An import license may not be transferred or assigned by the manufacturer to any other person. Any attempt to transfer or assign an import license shall be null and void and shall constitute grounds for the revocation of the license by the Licensing Authority.

§ 6.123 Entry of sugar.

(a) A manufacturer or its agent may enter sugar into the United States exempt from the quota contained in 155.20 and 155.30 of the Tariff Schedules of the United States under an import license issued pursuant to this program. The import license must be presented to the appropriate customs official at the time of entry. Entry of the sugar exempt from quota shall be allowed only in

conformity with the conditions of the import license, if any.

(b) The appropriate customs official shall enter on the license: (1) The amount of sugar entered; (2) the date of entry; and (3) the customs entry number.

(c) A copy of the license, as marked by the appropriate customs official, shall be transmitted to the Licensing Authority by the license holder within 10 business days after each entry of sugar. The Licensing Authority may extend the 10 day period upon request of the license holder for good cause.

§ 6.124 Entry of sugar by an agent.

(a) In those cases where sugar is to be entered by an agent of the manufacturer, the agent shall produce for inspection by the appropriate customs official a written authorization by the manufacturer designating such person to act as the agent of the manufacturer for the purpose of entering sugar.

(b) A copy of such authorization shall be attached to the copy of the import license that is transmitted to the Licensing Authority pursuant to section 6.123(c) of this program.

§ 6.125 Application for an import license.

(a) Only manufacturers are eligible to receive an import license.

(b) Each application for an import license shall contain the following information:

(1) Name and address of the manufacturer.

(2) A statement of the anticipated requirements of the manufacturer for sugar to be used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, during the effective period of the license.

(3) The anticipated amount of sugar to be imported during the specified effective period.

(4) The effective period of the import license (not to exceed one year).

(c) Each application for an import license shall contain a certification that the manufacturer shall use the quantity of sugar entered under an import license solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

§ 6.126 Bond requirements.

(a) Sugar entered under an import license shall be subject to all customs bond requirements (see 19 CFR Parts 113, 141, 143 and 144). The appropriate customs official may assess liquidated damages under the customs entry bond for violation of any provision of the import license or this program.

(b) The amount of the bond shall be equal to 1.5 times the difference between the daily "spot" price per pound of raw sugar as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange, multiplied by the weight of the sugar entered under the license. The Number 12 and Number 11 contract prices shall be computed as of the last market day before the entry of the sugar or the last market day prior to the expiration of the 180-day period during which the sugar was to be but was not used in the production of polyhydric alcohols, whichever is greater. If the New York Coffee, Sugar and Cocoa Exchange does not report a Number 11 or Number 12 contract price for the last market day before the entry of the sugar or the expiration of the 180-day period, then the Licensing Authority may use such price as he or she deems appropriate.

(c) The appropriate customs official will release all or part of the obligation under a bond for sugar for which a certificate of use has been properly and timely filed under § 6.128.

(d) The appropriate customs official may release all or part of the obligation under a bond if the Licensing Authority determines that the destruction or other disposition of a quantity of sugar entered under an import license renders performance under the bond impossible or inequitable. In such case the Licensing Authority shall notify the appropriate customs official of his/her determination. The determination shall be treated as a certificate of use which has been properly and timely filed.

§ 6.127 Default.

For each entry of sugar under a license, upon failure to use the total amount of such sugar in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human consumption, within 180 days of the date of entry, payment of the obligation under the bond covering that part of sugar not used for that purpose shall be made to the appropriate customs official.

§ 6.128 Certificate of use.

(a) The certificate of use shall be a certification by the manufacturer that a quantity of sugar entered under an import license has been used for the purpose stated in § 6.120(d). Certificates of use shall be transmitted to the appropriate customs official and the Licensing Authority within one month after use of the sugar. In no case shall a certificate of use be accepted more than 180 days after the expiration of the import license under which the sugar was imported, unless the Licensing Authority, in his/her discretion, extends the time period in which a certificate may be filed.

(b) The certificate of use shall be signed by the manufacturer and shall contain the following certification:

> The undersigned hereby certifies that between ———, 19—, and ———, 19—, the undersigned has used ——— pounds of sugar for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The undersigned further certifies that the quantity of sugar shown on this certificate of use does not include any sugar previously covered by another certificate of use.

§ 6.129 Enforcement.

(a) If at any time after receiving the certificate of use described in § 6.128 of this subpart and release of the bond under § 6.126 of this subpart the Licensing Authority determines that a quantity of sugar corresponding to the amount of sugar entered under the license was not used for the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols used for human food consumption, the Licensing Authority may hold the license holder liable for up to 1.5 times the difference between the Number 11 and Number 12 daily "spot" price per pound of raw sugar described in § 6.126(b) of his program (or such other price determined appropriate by the Licensing Authority in the event no Number 11 or Number 12 price is reported) in effect on the last market day before entry of the sugar or the last market day prior to the expiration of the 180-day period during which the sugar was to be but was not used in the production of polyhydric alcohols, whichever is greater, times the amount of sugar, raw value, that should have been, but was not, used for the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols used for human consumption.

(b) If at any time the Licensing Authority determines that a license holder has failed to comply with the requirements of this program, the Licensing Authority may, after notice to the license holder, suspend or revoke the license issued to the license holder pursuant to this program and/or refuse to issue future licenses to that manufacturer.

(c) The determination of the Licensing Authority under paragraphs (a) and (b) of this section may be appealed to the Director, Horticultural and Tropical Products Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The request for reconsideration shall be presented in writing specifically stating any reason as to why such determination should not stand. The Director, Horticultural and Tropical Products Division, FAS, will provide such person with an opportunity for an informal hearing on such matter. A further appeal may be made to the Administrator, FAS, within five working days of the notification of the decision of the Director, Horticultural and Tropical Products, FAS.

(d) Notice of failure to comply with the requirements of this program shall be given to the manufacturer and to the Customs Service.

Signed at Washington, D.C. on November 22, 1983.

Richard A. Smith,

Administrator, Foreign Agricultural Service.

[FR Doc. 83-31771 Filed 11-22-83; 4:04 pm]

BILLING CODE 3410-10-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

8 CFR Part 292

[AG Order No. 1037-83]

Requests for Recognition; Accreditation of Representatives

AGENCY: Executive Office for Immigration Review Board of Immigration Appeals, Department of Justice.

ACTION: Proposed regulation.

SUMMARY: Under the present provisions of 8 CFR 292.2(b) and (d), requests for recognition of organizations and applications to accredit representatives of recognized organizations to practice before the Service and the Board are filed with a district director, regional commissioner or the Commissioner of the Immigration and Naturalization Service. The request or application is then forwarded by the Service to the Board of Immigration Appeals with a recommended action. The present regulations do not set forth a time period for the forwarding of such requests and applications to the Board, do not specifically reference conducting an investigation by the Service, do not require the Service to serve a copy of its recommendation on the organization, and do not authorize any oral argument before the Board. The proposed regulation is designed to restructure the procedures by requiring the filing of applications for recognition or accreditation directly with the Board, with proof of service of a copy of the application on the relevant district director. Thereafter, the district director has 30 days to submit a recommendation with the reasons therefor to the Board, or to request a specific amount of time in which to conduct an investigation. The Board may approve the request for time to conduct an investigation or, in its own discretion, may direct that such an investigation be conducted. The district director must serve a copy of all submissions to the Board on the organization concerned and the organization is authorized 30 days to respond to any district director submission, other than a favorable recommendation. The proposed rule authorizes oral argument before the Board in its discretion. Further, the proposed rule would permit recognized organizations to seek accreditation of representatives to practice solely before the Service where an individual only has the requisite knowledge and experience for such practice. Where full accreditation is sought, the Board is authorized to approve an application for accreditation in whole or in part.

DATES: Written comments must be received by December 27, 1983.

ADDRESS: All written comments should be addressed to the Chairman, Board of Immigration Appeals, Department of Justice, 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: David B. Holmes, Chief Attorney Examiner, Board of Immigration Appeals (703/756-6170).

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Further, the rule is not a major rule within the definition of E.O. 12291 and is not subject to a regulatory impact analysis.

List of Subjects in 8 CFR Part 292

Administrative practice and procedure, Aliens.

PART 292—[AMENDED]

Accordingly, it is proposed to revise 8 CFR 292.2 (b) and (d) as follows:

§ 292.2 Organizations qualified for recognition; requests for recognition; withdrawal of recognition; accreditation of representatives; roster

* * * * *

(b) *Requests for recognition.* An organization having the qualifications prescribed in paragraph (a) of this section may file an application for recognition on a Form G-27 directly with the Board, along with proof of service of a copy of the application on the district director having jurisdiction over the area in which the organization is located. The district director, within 30 days from the date of service, shall forward to the Board a recommendation for approval or disapproval of the application and the reasons therefor, or request a specified period of time in which to conduct an investigation. The district director shall include proof of service of a copy of such recommendation or request on the organization. The organization shall have 30 days in which to file a response with the Board to a recommendation by a district director that is other than favorable, along with proof of service of a copy of such response on the district director. If the Board approves a request for time to conduct an investigation, or in its discretion directs the district director to conduct an investigation, the organization shall be advised of the time granted for such purpose. The Service shall promptly forward the results of any investigation to the Board, along with its recommendations for approval or disapproval and the reasons therefor, and proof of service of a copy of the submission on the organization. The organization shall have 30 days from the date of such service to file a response with the Board to any matters raised therein, with proof of service of a copy of the response on the district director. Requests for extensions of filing times must be submitted in writing with the reasons therefor and may be granted by the Board in its discretion. Oral argument may be heard before the Board in its discretion at such date and time as the Board may direct. The organization and Service shall be informed by the Board of the action taken regarding an application. Any recognized organization shall promptly notify the Board of any changes to its name or address.

* * * * *

(d) *Accreditation of representative.* An organization recognized by the Board under paragraph (b) of this section may apply for accreditation of persons of good moral character as its accredited representatives. An organization may apply to have a

representative accredited to practice before the Service alone or the Service and the Board (including practice before immigration judges). An application for accreditation shall fully set forth the nature and extent of the proposed representative's experience and knowledge of immigration law and procedure and the category of accreditation sought. No individual may submit an application on his or her own behalf. An application shall be filed directly with the Board, along with proof of service of a copy of the application on the district director having jurisdiction over the area in which the requesting organization is located. The district director, within 30 days from the date of service, shall forward to the Board a recommendation for approval or disapproval of the application and the reasons therefor, or request a specified period of time in which to conduct an investigation. The district director shall include proof of service of a copy of such recommendation or request on the organization. The organization shall have 30 days in which to file a response with the Board to a recommendation by a district director that is other than favorable, with proof of service of a copy of such response on the district director. If the Board approves a request for time to conduct an investigation, or in its discretion directs the district director to conduct an investigation, the organization shall be advised of the time granted for such purpose. The district director shall promptly forward the results of any investigation to the Board, along with a recommendation for approval or disapproval and the reasons therefor, and proof of service of a copy of the submission on the organization. The organization shall have 30 days from the date of service to file a response with the Board to any matters raised therein, with proof of service of a copy of the response on the district director. Requests for extensions of filing times must be submitted in writing with the reasons therefor and may be granted by the Board in its discretion. Oral argument may be heard before the Board in its discretion at such date and time as the Board may direct. The Board may approve or disapprove an application in whole or in part and shall inform the organization and the district director of the action taken with regard to an application. The accreditation of a representative shall be valid for a period of three years only; however, the accreditation shall remain valid pending Board consideration of an application for renewal of accreditation if the application is filed at least 60 days before the third anniversary of the date of the Board's prior accreditation of the representative. Accreditation terminates when the Board's recognition of the organization ceases for any reason or when the representative's employment or other connection with the organization ceases. The organization shall promptly notify the Board of such changes.

* * * * *

(8 U.S.C. 1103 and 1362)

Dated: November 15, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-31538 Filed 11-23-83; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0491]

Bank Holding Companies and Change in Bank Control; Regulation Y; Nonbanking Activity: Elimination of Rate Reduction Requirement From Credit Life and Credit Accident and Health Insurance Underwriting

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Board is seeking public comment regarding a revision of 12 CFR Part 225 of the Board's Regulation Y by removing footnote 10a from § 225.4(a)(10). That note requires an applicant seeking approval to engage in the activity of credit life and credit accident and health insurance underwriting to provide rate reductions or increased policy benefits for such insurance.

This proposed rulemaking is a result of the suggestions of several commentors to the Board's recent proposal to revise Regulation Y, who advocated elimination of the rate reduction requirement from the regulation. Accordingly, the instant proposal seeks public comment regarding the elimination of this specific requirement from activity 10 of Regulation Y. The generalized net public benefits test, of course, would still apply to all applicants seeking approval under section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8), to engage in any activity listed in Regulation Y.

DATE: All comments should be received by the Board no later than January 24, 1984.

ADDRESS: All comments, which should refer to Docket No. R-0491 should be mailed to Williams W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to room B-2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Associate General Counsel (202/452-3430); or Michael J. O'Rourke, Attorney (202/452-3288), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: The Bank Holding Company Act of 1956, as amemded 12 U.S.C. 1841 *et seq.* ("BHC Act"), generally prohibits a bank holding company from engaging in nonbanking activities or acquiring voting securities of a nonbanking company. However, section 4(c)(8) of the BHC Act establishes an exception for activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Under authority of this section, the Board has found by regulation that 15 nonbanking activities are closely related to banking within the meaning of section 4(c)(8). These activities are specified in the Board's Regulation Y, 12 CFR Part 225. Among the activities approved by the Board in Regulation Y is acting as underwriter for credit life and credit accident and health insurance that is directly related to extensions of credit by the bank holding company system. 12 CFR 225.4(a)(10). The Board's decision in 1972 to amend Regulation Y to add this activity followed consideration of the record of a hearing on the subject of credit insurance underwriting, together with the Board's prior experience in the field of bank holding company insurance activities.

In addition to requiring that activities be closely related to banking, section 4(c)(8) of the BHC Act also imposes a net public benefits test on bank holding companies seeking to engage in activities listed in Regulation Y. That is:

> In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company 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. 12 U.S.C. 1843(c)(8).

In its 1972 decision adopting as a permissible nonbanking activity the underwriting of credit life and credit accident and health insurance, the Board determined that there were potential adverse effects associated with its performance by bank holding companies. Therefore, in order to outweight these adverse effects, and to satisfy the net public benefits test contained in the BHA Act, the Board required by regulation that bank holding companies desiring to engage in the activity provide rate reductions or increased policy benefits. The Board's regulation states:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing will be made by a projected reduction in rate or increase in policy benefits due to bank holding company performance of this service. 12 CFR 225.4(a)(10) n.10a.

In 1976, the Board issued an interpretation of Regulation Y that imposed upon bank holding companies engaged in credit life and credit accident and health insurance underwriting the obligation to maintain these rate reductions or increased policy benefits on a continuing basis. 12 CFR 225.135(d). To implement these requirements, Board staff has published schedules of the rate reductions required in specified states in order to obtain the Board's approval.

As a result of these actions, all applications to engage in credit insurance underwriting approved by the Board since 1971 have contained rate reductions.[1] However, in connection with the Board's recent proposal to revise Regulation Y, several commentors suggested that the Broad eliminate the requirement imposed by note 10a of Regulation Y that bank holding companies engaging in this activity provide rate reductions or increased policy benefits. These commentors alleged that this requirement placed bank holding company providers of this service at a competitive disadvantage to other participants in the market and that no significant evidence of the potential adverse effects considered by the Board eleven years ago has come to light.

[1] At least two applications also have contained commitments to increase policy benefits by an actuarily-assigned value in substitution for a larger rate reduction amount. As indicated above, the Board specifically authorized such increases in policy benefits in lieu of a rate reduction.

Consequently, on November 1, 1983, the Board announced in connection with its approval of the application under the Bank Service Corporation Act by Louisiana National Bank to underwrite credit life and credit accident and health insurance, that the Board promptly would publish for comment a proposal to eliminate this requirement from Regulation Y. The proposed rulemaking effectuates the Board's announcement.

Regulatory Flexibility Act Analysis

The Board certifies that adoption of this proposal would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605(b)). Indeed, to the extent that a rate reduction is not required in order to demonstrate net public benefits, the proposal may have a positive economic impact on any company wishing to engage in the activity. This proposal would liberalize the requirements to engage in this activity for all bank holding companies; yet no bank holding company could commence this activity without first applying to the Board under the procedures and safeguards of section 4(c)(8) of the BHC Act.

List of Subjects in 12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding companies, Securities, Reporting requirements.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

For the reasons set out in the preamble, and pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C 1843(c)(8) and 1844(b)), the Board proposes to revise 12 CFR Part 225 of the Board's Regulation Y by removing footnote 10a from §225.4(a)(10), to read as follows:

§ 225.4 Nonbanking activities.

(a) * * *

(10) Acting as underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system.

By order of the Board of Governors of the Federal Reserve System, November 18, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-31548 Filed 11-23-83; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 618

Technical Assistance and Financially Related Services; General Provisions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration ("FCA"), by its Federal Farm Credit Board ("Federal Board"), publishes for comment proposed amendments to its regulations concerning financially related services and technical assistance. The amendments combine FCA Regulations §§ 618.8000, 618.8010, and 618.8020 into one regulation, 618.8000, which requires related Farm Credit district board and bank policy guidelines, and sets forth the FCA approval requirements for such programs.

In order to respond to the changing agricultural and financial environment, System institutions must be able to be innovative and develop new products to meet the assistance and services needs of their constituency. The proposed regulation is designed to afford System institutions the flexibility to develop and implement assistance and service programs, pursuant to district policies.

DATES: Written comments must be received on or before January 24, 1964.

ADDRESSES: Submit any comments in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received will be available for examination by interested parties in the Office of the Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Charles E. Baker, Financially Related Services Section, (202) 755-5943

or

Kenneth L. Peoples, Office of the General Counsel, (202) 755-2143, Farm Credit Administration, 490 L'Enfant Plaza East SW., Washington, D.C. 20578.

SUPPLEMENTARY INFORMATION: Under various provisions of the Farm Credit Act of 1971, as amended ("Act"), Farm Credit System ("System") institutions are authorized to extend technical assistance and financially related services to System borrowers, applicants, members, and persons eligible to borrow. In order to respond to the changing agricultural and financial environment, System institutions must be able to be innovative and develop new products to meet the assistance and

services needs of their constituency. The proposed regulation is designed to afford System institutions the flexibility to develop and implement assistance and service programs, pursuant to district policies. The proposal is consistent with the Federal Board's policy of decentralization and deregulation.

List of Subjects in 12 CFR Part 618

Agriculture, Archives and records, Banks, Banking, Rural areas.

As stated in the preamble, it is proposed that Part 618 of Chapter VI, Title 12 of the Code of Federal Regulations, be amended as follows:

PART 618—GENERAL PROVISIONS

Subpart A is revised to read as follows:

Subpart A—Technical Assistance and Financially Related Services

Sec.
618.8000 Policy guidelines.

Authority: Sec. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252).

Subpart A—Technical Assistance and Financially Related Services

§ 618.8000 Policy guidelines.

(a) Banks and associations are authorized to provide technical assistance and to make available to borrowers, members, applicants, and other persons eligible to borrow, financially related services appropriate to their onfarm and aquatic operations as may be authorized under policies adopted by district and bank boards.

(b) District and bank boards are authorized to establish policies governing the development, implementation, marketing, and offering of technical assistance and financially related services programs. These policies require the approval of the Farm Credit Administration and shall meet the following general guidelines:

(1) All assistance and services offered shall be on an optional basis. Where the bank or association requires the assistance or service as a condition to borrow, the bank or association must inform the borrower that he/she may purchase the assistance or service from the bank or association or from any other entity offering the same or similar service.

(2) All costs of assistance or services to the user shall be identified and disclosed separately from any interest charge that may be related to the transaction.

(3) The institutions of the Farm Credit System shall cooperate and coordinate in the offering of assistance and service programs. Banks and associations within a district shall offer assistance or services through a single program, or, at a minimum, through common programs within a district.

(4) Banks and associations shall maintain such detailed records as required by the bank to ensure compliance with this regulation and bank policies. Each supervisory bank shall conduct a review, at least annually, at the bank and association level of each technical assistance and financially related services program offered in the district. The results of the reviews shall be presented to the bank board.

(5) Each bank board shall evaluate the financial feasibility of each program based on annual reports from management. Cost effectiveness shall be determined by the board through a cost accounting system that records both direct and indirect costs. Indirect benefits may be included but must be determined in a systematic and consistent fashion. Costs and benefits of closely related programs may be combined in making the financial feasibility decision.

(c) Each technical assistance and financially related service program and the related bank policies must be approved by the farm Credit Administration. In developing new assistance or services, districts shall provide the following documentation to the Farm Credit Administration for approval.

(1) A complete description of the type of assistance or service(s) to be offered through the program; the persons or entities to be served by the program; the methods to be employed in marketing the program; the procedures by which the program would be administered at the bank and association levels; any contractual obligations to be established between the bank or association, the users, and third parties that may be involved in offering the assistance or service program; and the legal basis for offering the assistance or service program.

(2) Evidence that the bank and associations are providing and supervising a credit program of a high quality and on a competitive basis and that their respective operations can accommodate diversification through the development, implementation, and operation of a technical assistance or financially related services program.

(3) Evidence that an adequate level of coordination exists among the banks within the district so that the assistance or services programs will be offered by banks and associations on a joint basis through a single program, or, at a minimum, through common programs within a district.

Kenneth J. Auberger,

Acting Governor.

[FR Doc. 83-31522 Filed 11-23-83; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-85-AD]

Airworthiness Directives; Boeing Model 747 Airplanes With Rolls Royce Engines Using Bendix Integrated Drive Generator 28B362-2-A/B

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes a new airworthiness directive (AD) which would require inspection and modification of certain integrated drive generators used on Boeing Model 747 airplanes with Rolls Royce engines. This action is prompted by reports indicating that generators with a particular modification may have an increased likelihood of the rotor shaft fracturing. The proposed AD would require that all airplanes have at least two operative generators which do not have this potential problem. Fracture of the rotor shaft will result in a partial loss of electrical generation capability.

DATES: Comments must be received no later than January 13, 1984.

ADDRESSES: The applicable service bulletins may be obtained from The Boeing Company, P.O. Box 3707, Seattle, Washington 98124 and the Bendix Corporation, Electric Power Division, Eatontown, New Jersey 07724. These documents may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Vandermolen, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2943. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-85-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

As a result of a specific modification to the rotor shaft in the integrated drive generators used on Rolls Royce engines, there is increased likelihood that these generators may fail in flight. It has been reported that 25 generator rotor shaft fractures have occurred in airplanes with the integrated drive generator configuration used on Rolls Royce engines. Sixteen occurred in 1982 and five were reported during the first five months of 1983. Most of the shaft fractures occurred on generators having from 27 to 110 hours total time in service. In one instance, three fractures occurred on a newly delivered airplane during the first week of operation. Each of the three fractures occurred on separate consecutive flight legs. No operator has reported occurrence of more than one fracture on any one flight leg.

Preliminary analysis has indicated that shaft fractures are fatigue generated due to high stress concentrations and residual stresses at the drive end of the generator rotor shaft. Residual stresses and stress concentrations were increased as a result of a modification which increased the shrink fit of the spline adaptor on the rotor shaft. All generators and rotor assemblies with the increased shrink fit have been isolated to certain configuration levels which can be determined by operator review of overhaul and maintenance records or by physical examination of the generators. To minimize the possibility of multiple generator rotor shaft fractures on any given flight. The Boeing Company recommends, as an interim measure, that no more than two modified generators be installed on any one Model 747 airplane.

The loss of electrical power generation capacity has consequences that vary with the number of generators inoperative. The Federal Aviation Administration minimum equipment list allows one inoperative generator for flight dispatch with no reduction of loads. The flight operations manual outlines procedures to be followed when two or more generators are inoperative.

Forty-four Model 747 airplanes and six operators would be affected by this airworthiness directive. It is estimated that it would take approximately 20 manhours to remove and replace each integrated drive generator, and that the average labor cost would be $35 per manhour. Based on these figures, the cost impact per airplane of this AD is estimated to be $1,400. Manpower estimates for verification of generator configuration levels are not provided due to the variable nature of the task. Currently there are no U.S. registered Model 747 airplanes equipped with Rolls Royce engines; therefore, this AD would have no economic impact on U.S. operators. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to all Model 747 airplanes equipped with Rolls Royce engines. Compliance is required as indicated, unless already accomplished. To minimize the possibility to multiple generator rotor shaft fractures on any given flight, accomplish the following:

A. Within the next 500 hours time in service after the effective date of this AD.

1. Accomplish the actions outlined in Boeing Service Bulletin 747-24-2093 dated September 1, 1982.

2. Insure that all airplanes are dispatched with at least two generators operative which do not have rotor assemblies with increased shrink fit of the spline adapter on the rotor shaft as identified in Boeing Service Bulletin 747-24-2093.

B. Within one year following the effective date of this AD, modify all Integrated Drive Generators which have been identified in Paragraph A., above, in accordance with Bendix Service Bulletin 747-24-66.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Aircraft may be ferried to a base for inspection, maintenance, or repair in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

All persons affected by this proposal who have not already received these service bulletins from the manufacturers may obtain copies upon request to The Boeing Company, P.O. Box 3707, Seattle, Washington 98124 and the Bendix Corporation, Electric Power Division, Eatontown, New Jersey 07724. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Sec. 313(a), 314(a), and 601 through 610, and 1102, Federal aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on November 14, 1983.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 83-31551 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-102-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-10 and -30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes a new airworthiness directive (AD) which requires eddy current inspection of the non-ventral aft pressure bulkhead on certain McDonnell Douglas Model DC-9

airplanes. There have been reports of cracks in the webs. This action is necessary to detect fatigue cracks which could lead to possible structural failure and loss of cabin pressurization.

DATES: Comments must be received on or before January 11, 1984.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified under the caption "Availability of NPRMS." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-102-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During recent fatigue tests conducted on a test article at McDonnell Douglas, cracks were found in the non-ventral aft pressure bulkhead. The test article had accumulated 168,504 cycles. Subsequent inspection of non-ventral aircraft at different operators' facilities revealed two bulkheads with local fatigue cracks in the web under the splice plates immediately above the floor line. The two aircraft had accumulated approximately 71,315 and 68,965 landing cycles. The cracks were attributed to metal fatigue. A crack which is not corrected could progress and result in extensive structural damage and/or rapid decompression. Inspecting the bulkhead using eddy current non-destructive inspection (NDI) techniques will determine the condition of the bulkhead. Accomplishment of the inspections and crack repair as outlined in McDonnell Douglas DC-9 Service Bulletin 53-174, dated August 4, 1983, will assure the structural integrity of the bulkhead and minimize the possiblity of extensive structural damage.

Therefore, in consideration of the hazardous consequence of failure of the non-ventral aft pressure bulkhead, the proposed AD is considered to be necessary.

The estimated costs associated with the proposed AD are as follows: 391 U.S. registered airplanes would be affected; it would require approximately 386 manhours per airplane to accomplish the repair/rework and 356 manhours per airplane to accomplish the repetitive inspections. Average labor charge is $35 per manhour. The replacement parts could be obtained at an estimated $800.00 per unit assembly. Based on these figures, the inspection cost would be $4,871,860, and repair cost is $5,595,210. Therefore, the total expected economic impact would be $10,467,070. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The proposed amendment

Accordingly, The Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to certain McDonnell Douglas Model DC-9-10 and -30 series airplanes, certificated in all categories, which correspond to the factory serial numbers listed in McDonnell Douglas Service Bulletin No. 53-174, dated August 4, 1983, hereinafter referred to as S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Compliance required as indicated in the body of this AD, unless previously accomplished.

To detect fatigue cracks and prevent possible structural failure of the non-ventral aft pressure bulkhead and its interrelated structure and cabin pressurization, accomplish the following:

A. Upon the accumulation of 50,000 landings, or within the next 4,500 landings after the effective date of this AD, whichever occurs later, perform an initial eddy current inspection of the pressure bulkhead webs as shown on McDonnell Douglas Service Sketch 3483 of S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. If no cracks are found in aircraft Group I, as referenced in S/B 53-174, perform repetitive eddy current inspections at intervals not to exceed 14,000 landings until the crack preventative modification per S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, has been accomplished. After the accumulation of an additional 30,000 landings from the date the crack preventative modification was installed, resume the eddy current inspections at intervals not to exceed 17,500 landings.

C. If no cracks are found in aircraft groups II and III, as referenced in S/B 53-174, perform repetitive eddy current inspections at intervals not to exceed 17,500 landings until the crack preventative modification per S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, has been accomplished. After the accumulation of an additional 30,000 landings from the date the crack preventative modification was installed, resume the eddy current inspections at intervals not to exceed 17,500 landings.

D. If cracks are found in all aircraft groups (i.e., I, II, and/or III), repair the cracked area per the crack preventative modification in accordance with S/B 53-174. After the accumulation of an additional 30,000 landings from the date or repair, resume the repetitive eddy current inspections at intervals not to exceed 17,500 landings.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Upon request of operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to

operate the airplanes unpressurized to a base to comply with the requirements of this AD.

H. For the purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Direcor, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Precedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regultory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on November 10, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-31552 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-38]

Proposed Designation of Transition Area; Jefferson, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Jefferson, Georgia, transition area in the vicinity of Jackson County Airport. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Athens VORTAC facility, has been developed to serve the airport and additional controlled airspace is required for protection of IFR operations.

DATES: Comments must be received on before December 27, 1983.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-50-38." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Jefferson, Georgia, transition area to provide controlled airspace for protection of IFR operations in the vicinity of Jackson County Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to designate the Jefferson, Georgia, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Jefferson, GA—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Jackson County Airport (Lat. 34°11'00"N., Long. 83°33'00"W.).

((Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Note.—The FAA has determine that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of the regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on November 14, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-31550 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Ch. I

[CGD 83-008]

Guide Clearances for Bridges Across Navigable Waters of the United States

AGENCY: Coast Guard, DOT.

ACTION: Supplementary notice proposed adoption of Guide Clearances.

SUMMARY: The Coast Guard published a Notice of Proposed Adoption of Guide Clearances for Bridges across Navigable Waters of the United States in the March 28, 1983 **Federal Register.** As a result of the comments received, numerous changes have been made. These changes deleted obsolete Guide Clearances, deleted several proposed amendments, revised existing horizontal and vertical dimensions and corrected erroneous or misleading reference planes. This second notice publishes the revised list of Guide Clearances for additional public comment prior to adoption.

DATES: Comment must be received on or before December 28, 1983.

ADDRESS: Comments should be submitted to, and are available for examination at, the Marine Safety Council (G-CMC), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-CMC).

FOR FURTHER INFORMATION CONTACT:

Mr. A. T. Meschter, 202-426-0942.

SUPPLEMENTARY INFORMATION:

Guide Clearances are defined as the navigational clearances established by the Coast Guard for a particular navigable water of the United States which will ordinarily receive favorable consideration under the bridge permitting process (33 CFR Chapter 1, Subchapter J) as providing for the reasonable needs of navigation. The program of establishing Guide Clearances was initiated by the Corps of Engineers and later transferred to the Coast Guard. Under the Corps, Guide Clearances were called "Standard Clearances;" but the Coast Guard has since adopted the name "Guide Clearances" as more descriptive of the fact that these clearances are advisory, rather than mandatory. They are not intended to be regulatory in nature or to form a legal basis for approving or denying a bridge permit application. Under the circumstances of a particular case, greater or lesser clearances for a proposed bridge may be required or approved as meeting the reasonable needs of navigation for that particular location. For example, the particular character of the waterway and topography at the proposed location may justify a departure from the clearances specified for the waterway in the list of Guide Clearances.

Guide clearances proposed to be adopted or reaffirmed:

BILLING CODE 4910-14-M

Waterway	Bridge Type	Horizontal Clearance	Vertical Clearance	Reference Plane
1. Fore River, ME				
- Mouth to head of Navigation	Fixed	200'	135'	MHW
	Vert. Lift	200'	135'(open) 20'(closed)	MHW
	Swing or Bascule	200'	20'(closed)	
2. Penobscot River, ME				
- Mouth to Bangor	Fixed	400'	135'	MHW
	Draw RR	150'	10'	MHW
	Draw Hwy	150'	20'	MHW
	Vert. Lift	150'	135'(open)	MHW
3. Kennebec River, ME				
- Mouth to Augusta	Fixed	100'	40'	MHW
	Vert. Lift	100'	40'(open) 15'(closed)	MHW
	Swing or Bascule	100'	15'(closed)	
4. Connecticut River, CT,MA above Hartford	---	---	20'	Above River Level 16'
5. Hudson River, NY				
- George Washington Bridge to northern limits of Irvington	Fixed	1,500'	180'	MHW 8' Stage Albany Gage
- Irvington to northern limits of Newburg	Fixed	1,500'	155'	*
- Newburg to Castleton	Fixed	700'	138'	*
- Castleton to Albany	Fixed	700'	135'	*
- Albany to US Dam Troy	Fixed	500'	135'	*
	Vert. Lift	300'	135'(open) 40'(closed)	*
	Bascule	300'	40'(closed)	*
	Swing Span	180'	40'(closed)	*
- US Dam Troy to Waterford	Swing Span	180'	15'5"(closed)	*
6. Severn River, MD				
- Mouth to Spa Creek	Drawbridge	250'	10'(closed)	MHW
- Spa Creek to Round Bay	Drawbridge	70'	10'(closed)	MHW
- Round Bay to head of tide water	Drawbridge	40'	10'(closed)	MHW
7. South River, MD				
- Mouth to mile 5	Fixed	70'	53'	MHW
- Mile 5 to head of tide water	Drawbridge	50'	10'(closed)	MHW
8. Bohemia River, MD				
- Mouth to head of tide water	Drawbridge	40'	10'(closed)	MHW
9. Chester River, MD				
- Mouth to mile 26	Drawbridge	150'	10'(closed)	MHW
- Mile 26 to mile 33	Drawbridge	60'	10'(closed)	MHW
- Mile 33 to mile 42	Drawbridge	40'	10'(closed)	MHW
10. Elk River, MD				
- Mouth to Back Creek	Drawbridge	100'	10'(closed)	MHW
- Back Creek to Elkton	Drawbridge	60'	10'(closed)	MHW
11. Sassafrass River, MD				
- Mouth to Georgetown	Drawbridge	70'	10'(closed)	MHW
- Georgetown to head of tide water	Drawbridge	40'	10'(closed)	MHW
12. Choptank River, MD				
- Mouth to Cambridge	Drawbridge	150'	10'(closed)	MHW
- Cambridge to Dover	Drawbridge	100'	10'(closed)	MHW
- Dover to Denton	Drawbridge	80'	10'(closed)	MHW
- Denton to Greensboro	Drawbridge	40'	10'(closed)	MHW

13. Nantiooke River, DE, MD					
- Mouth to Quantico Creek	Drawbridge	150'	10'(closed)	MHW	
- Quantico Creek to Broad Creek River	Drawbridge	80'	10'(closed)	MHW	
- Broad Creek River to Seaford	Drawbridge	60'	10'(closed)	MHW	
- Seaford to Concord	Drawbridge	40'	10'(closed)	MHW	
14. Wicomico River, MD					
- Mouth to White Haven	Drawbridge	150'	10'(closed)	MHW	
- White Haven to Salisbury Prong	Drawbridge	100'	10'(closed)	MHW	
- Salisbury Prong to head of tide water	Drawbridge	50'	10'(closed)	MHW	
15. Pocomoke River, MD					
- Mouth to Pocomoke City	Drawbridge	100'	10'(closed)	MHW	
- Pocomoke City to Snow Hill	Drawbridge	70'	10'(closed)	MHW	
- Snow Hill to head of tide water	Drawbridge	40'	10'(closed)	MHW	
16. Potomac River, MD, DC					
- Mouth to Haines Point	Fixed	250'	135'	MHW	
	Drawbridge	250'	75'	MHW	
			135'(open)	MHW	
17. Patuxent River, MD					
- Mouth to Sheridan Point	Fixed	130'	135'	MHW	
	Drawbridge	130'	10'	MHW	
			135'(open)		
- Sheridan Point to Nottingham	Fixed	100'	10'	MHW	
			100'(open)		
18. James River, VA					
- Mouth to City Point	Fixed or V.L.	350'	145'	MHW	
	Swing or Bascule	350'	50'(closed)	MHW	
- City Point to Richmond	Fixed	400'	145'	MHW	
- Richmond to head of navigation	Fixed	400'	120'	MHW	
19. Appomattox River, VA					
- Mouth to Petersburg	Drawbridge	80'	15'(closed)	MHW	
20. Rappahannock River, VA					
- Mouth to Bowlers Rock light	Fixed	250'	100'	MHW	
	Drawbridge	250'	75'	MHW	
			100'(open)		
- Bowlers Rock light to Jones Point	Fixed	150'	100'	MHW	
	Drawbridge	150'	10'	MHW	
			100'(open)		
- Jones Point to Port Royal	Fixed	100'	100'	MHW	
	Drawbridge	100'	10'	MHW	
			100'(open)		
21. Black Water River, VA					
- Mouth to SAL RR bridge	Drawbridge	60'	5'(closed)	MHW	
- SAL bridge to Southern	Fixed	34'	15.5'	MHW	
22. Nottoway River, VA					
- Mouth to Smith Ferry Bridge	Drawbridge	60'	5'(closed)	MHW	
- Smith Ferry Bridge to Peters Bridge	Fixed	40'	8'(closed)	MHW	
23. Cape Fear River, NC					
- Wilmington mile 30 to mile 39	Fixed or V.L.	120'	135'	Max.HW	
	Swing or Bascule	120'	5'(closed)	Max.HW	
- Mile 39 to Fayetteville	Fixed or V.L.	100'	70'	Max.HW	
	Swing or Bascule	100'	5'(closed)	Max.HW	
24. Northeast River, NC					
- Mouth to mile 2.75	Fixed or V.L.	150'	135'	Max.HW	
	Swing or Bascule	150'	5'(closed)RR	Max.HW	
			30'(closed)Hwy	Max.HW	
- Mile 2.75 to Lanes Ferry	Fixed or V.L.	60'	50'	Max.HW	
	Swing or Bascule	60'	5'(closed)	Max.HW	
25. Neuse River, NC					
- New Bern to 2 miles above	Fixed or V.L.	80'	100'		
	Swing or Bascule	80'	5'(closed)RR	Max.HW	
			15'(closed)Hwy		
26. Chowan River, NC					
- Mouth to Winton	Drawbridge	80'	5'(closed)	MHW	
- Winton to Source	Drawbridge	60'	5'(closed)	MHW	
27. Meherrin River, NC					
- Mouth to Murfreesboro	Drawbridge	60'	5'(closed)	MHW	

28. Tar River, NC				
- Mouth to 2 miles above Washington	Fixed or V.L.	80'	100'	Max.HW
	Swing or Bascule	80'	5'(closed)RR 10'(closed)Hwy	
- 2 miles above Washington to Greenville	Fixed or V.L.	60'	50'	
	Swing or Bascule	60'	5'(closed)	
29. Roanoke River, NC				
- Mouth to Hamilton	Drawbridge	80'	5'(closed)	MHW
- Hamilton to Waldon	Fixed	40'	8'	MHW
30. Wacamaw River, NC, SC				
- Intracoastal Waterway to mile 41.5	Fixed or V.L.	90'	35'	MLW
	Swing or Bascule	90'	10'(closed)	Max. HW
- Mile 41.5 to mile 67	Fixed or V.L.	60'	35'	MLW
	Swing or Bascule	60'	10'(closed)	Max. HW
31. Santee-Cooper Project, SC				
- Cooper River above Charleston Harbor	Fixed or V.L.	100'	50'	MHW
	Swing or Bascule	100'	10'(closed)	MHW
West Branch Cooper River, SC and Tailrace Canal	Fixed or V.L.	100'	50'	HW(+8.5 MSL)
	Swing or Bascule	100'	10'(closed)	
Penopolis Reservoir, SC				
- Diversion Canal and Santee Reservoir to a point near the head of the Santee River where the bank full stage is higher than the maximum pool elevation.	Fixed or V.L.	100'	50'	Max. Pool elevation +75 MSL
	Swing or Bascule	100'	10'(closed)	
- Thence to confluence of Santee and Congaree Rivers	Fixed or V.L.	100'	50'	HW
	Swing or Bascule	100'	10'(closed)	HW
Congaree River, SC				
- Mouth to mile 46	Fixed or V.L.	100'	50'	MLW
	Swing or Bascule	100'	10'(closed)	Max. HW
- Mile 46 to mile 48	Fixed or V.L.	100'	35'	MLW
	Swing or Bascule	100'	10'(closed)	Max. HW
32. Savannah River, GA				
- From upper limit Savannah Harbor Project to New Savannah Bluff Lock and Dam	Fixed or V.L.	150'	55'	MLW
33. Altamaha River, GA	Fixed or V.L.	80'	30'	MLW
	Swing or Bascule	80'	10'(closed)	Max. HW
34. Oconee River, GA	Fixed or V.L.	75'	30'	MLW
	Swing or Bascule	75'	10'(closed)	Max. HW
35. Ocmulgee River, GA	Fixed or V.L.	60'	30'	MLW
	Swing or Bascule	60'	10'(closed)	Max. HW
36. Atlantic Intracoastal WW, VA to FL				
- Norfolk to Little River, SC	Fixed or V.L.	90'	65.0'	MHW
	Swing or Bascule	90'	5'(closed)RR 15'(closed)Hwy 120' in exposed locations	MHW MHW
- Little River, SC to Key West, FL	Fixed or V.L.	90'	65.0'	MHW
	Swing or Bascule	90'	21'(closed)	MHW
37. Cross Florida Barge Canal, FL	Fixed or V.L.	150'	65.0'	MHW
38. St. Johns River, FL Confluence with Barge Canal to Sanford, FL	Fixed or V.L.	90'	65'	MHW
	Swing or Bascule	90'	10'(closed)	
39. Okeechobee Waterway, FL	Fixed or V.L.	90'	55.0'	MHW
40. Miami River, FL				
- Mouth to mile 5.5	Fixed or V.L.	90'	75'	MHW
	Swing or Bascule	90'	25'(closed)	MHW
41. Escambia River, FL	Fixed or V.L.	90'	40.0'	OHW
42. Apalachicola River, FL, GA	Fixed or V.L.	150'	35.6'	OHW
43. Chattahoochee River, AL, GA, FL	Fixed or V.L.	150'	35.6	OHW
44. Coosa River, AL, GA	Fixed or V.L.	150'	42.5'	OHW
45. Flint River, GA	Fixed or V.L.	150'	35.6'	OHW

46. Alabama River, AL	Fixed or V.L.	250'	42.5'	OHW	
47. Black Warrior River, AL	Fixed or V.L.	200'	52.0'	OHW	
48. Mobile River, AL	Fixed or V.L.	300'	125'	OHW	
49. Locust Fork of the Black Warrior River, AL	Fixed or V.L.	200'	49.0'	OHW	
50. Mulberry Fork of the Black Warrior River, AL	Fixed or V.L.	200'	49.0'	OHW	
51. Tennessee-Tombigbee Waterway; Tombigbee River, AL, MS	Fixed or V.L.	300'	52.0' 40.0'	Normal Pool 1% Flowline	
52. West Pearl River, MS	Fixed or V.L.	125'	35.0'	OHW	
53. East Pearl River, MS	Fixed or V.L.	125'	35.0'	OHW	
54. Jefferson-Shreveport TX, LA	Fixed or V.L.	240'	52.0'	2% Flowline	
55. Calcasieu River Ship Channel, LA					
- Mile 4.3 to mile 29.7	Fixed	500'	175'	MHW	
- Mile 29.7 to mile 36.3	Fixed	400'	135'	MHW	
56. Atchafalaya River, LA					
- Berwick Bay	Fixed or V.L.	525'	73.0'	MHW	
- Above Berwick Bay	Fixed or V.L.	180'	50.0'	MHW	
57. Houston Ship Channel, TX					
- Up to mile 47.2	Fixed or V.L.	500'	175'	2% Flowline	
- Above mile 47.2	Fixed or V.L.	400'	135'	2% Flowline	
58. Trinity River, TX	Fixed or V.L.	300' between pier faces 250' between fenders	52'	2% flowline or top of conservation pools in reservoirs	
59. Sabine Neches Waterway, Sabine River and Neches River, TX	Fixed	600'	155'	MHW	
60. Lower Neches River, TX	Fixed	400'	143'	MHW	
61. Gulf Intracoastal WW, FL to TX					
- Caloosahatchee River to Tampa Bay	Swing or Bascule	90'	21'(closed)	MHW	
- Tampa Bay to Apalachee Bay	Fixed or V.L.	90'	65.0'	MHW	
- Apalachee Bay to Pensacola Bay	Fixed or V.L.	150'	65.0'	MHW	
- Pensacola Bay to Brownsville, TX, except Port of New Orleans, LA	Fixed or V.L.	125'	73.0'	MHW	
- Port of New Orleans	Fixed or V.L.	125'	100'	MHW	
62. Gulf Intracoastal WW, Port of New Orleans, LA					
- Mississippi River Gulf Outlet Portion to Inner Harbor Navigation Harbor	Fixed	500'	155'	MHW	
- Inner Harbor Navigation Canal Portion to Mississippi River	Fixed or V.L.	300'	155'	MHW	
- Harvey Canal	Fixed or V.L.	125'	100'	MHW	
- Algiers Canal	Fixed or V.L.	125'	100'	MHW	
63. Mississippi River					
- Upper limits New Orleans to Baton Rouge Harbor, LA	Fixed	750' Main Span 500' Aux. Span 2 Aux. Spans required	133'	Max. River level.	
- Baton Rouge Harbor to Vicksburg, MS	Fixed	---	64'	Max. River level.	
- Vicksburg to Cairo, IL	Fixed	---	55'	Max. River level.	
- Cairo to Illinois River, IL	Fixed	---	60'	2% Flowline	
- Illinois River to Lafayette Rd., St. Paul, MN	Fixed	---	60' 52'	Normal Pool 2% Flowline	

64. St. Croix River, MN					
- Mouth to Stillwater, MN	Fixed	---	60'	Normal Pool	
			52'	2% Flowline	
65. Allegheny River, PA					
- Elmsworth Pool	Fixed	---	40'	dam crest	
- Dam 2 to East Brady	Fixed		47'	dam crest	
66. Monogahela River, PA					
- Elmsworth Pool	Fixed	---	40'	dam crest	
- Dam 2 to Fairmont, WV	Fixed		47'	dam crest	
67. Ohio River, PA to IL	Fixed	---	69'	Avg. June flow	
			55'	2% Flowline	
68. Tennessee River, TN to AL	Fixed	---	57'	Normal Pool	
			47'	Regulated HW	
69. Clinch River, TN					
- Mouth to mile 48	Fixed	---	42'	Normal Pool	
			32'	Regulated HW	
- Mile 48 to mile 67	Fixed	---	35'	Normal Pool	
70. Emory River, TN					
- Mouth to mile 12.1	Fixed	---	42'	Normal Pool	
			32'	Regulated HW	
- Mile 12.1 to mile 13	Fixed	---	35'	Normal Pool	
71. Hiwassee River, TN	Fixed	---	42'	Normal Pool	
			32'	Regulated HW	
72. Little Tennessee River, TN					
- Mouth to mile 18.5	Fixed	---	42'	Normal Pool	
			32'	Regulated HW	
- Mile 18.5 to mile 29	Fixed	---	35'	Normal Pool	
73. Tellico River, TN					
- Mouth to mile 9	Fixed	---	35'	Normal Pool	
74. Cumberland River, TN,KY					
- Barkley Reservoir					
Main Stream	Fixed	---	57'	Normal Summer Pool	
			40'	Max. Flood Regulated	
Major Tributaries	Fixed	---	42'	Normal Summer Pool	
			25'	Max. Flood Regulated	
- Cheatham Reservoir					
Main Stream	Fixed	---	57'	Normal Summer Pool	
			40'	Max. Flood Regulated	
Major Tributaries	Fixed	---	42'	Normal Summer Pool	
- Old Hickory Reservoir					
Main Stream	Fixed	---	57'	Normal Summer Pool	
			40'	Max. Flood Regulated	
Major Tributaries	Fixed	---	42'	Normal Summer Pool	
			40'	Max. Flood Regulated	
- Cordell Hull Project					
Main Stream	Fixed	---	57'	Normal Summer Power Discharge	
			40'	Max. Flood Regulated	
Major Tributaries	Fixed	---	42'	Normal Summer Power Discharge	
			25'	Max. Flood Regulated	
- J. Percy Priest Reservoir					
Main Stream	Fixed	---	40'	Minimum Power Pool	
75. Chicago River, IL					
- Main Branch	Bascule		170'	17.9'(closed)	LWD 576.8
- North Branch	Fixed		40.4'	---	LWD 576.8
	Bascule		40.4'	6.6'(closed)	LWD 576.8
- North Branch Canal	Bascule		56.9'	8.4'(closed)	LWD 576.8
- South Branch	Bascule		125'	---	LWD 576.8
	Vert. Lift		125'	120'	LWD 576.8
			---	10.5'(closed)	LWD 576.8
- West Fork South Branch	Bascule		140.3'	22.4'(closed)	LWD 576.8
- South Fork South Branch	Fixed		90.0'	12.1'	LWD 576.8
76. Chicago Sanitary and Ship Canal, IL	Swing		45'	4.4'(closed)	LWD 576.8

77. Indiana Harbor Canal, IN				
- Main Channel	Bascule	61.7'	5.4'(closed)	LWD 576.8
- Calumet River Branch	Fixed	34.2'	3.2'	LWD 576.8
- Lake George Branch	Fixed	64.4'	5.6'	LWD 576.8
78. Calumet River, IL				
- Main River	Fixed or V.L.	135.7'	125'	LWD 576.8
			7.3'(closed)	
79. Little Calumet River West, IL	Fixed	52'	13.4'	LWD 576.8
80. Little Calumet River East, IL, IN	Fixed	200'	29.4'	LWD 576.8
81. Grand Calumet River, IL	Fixed	12'	5.5'	LWD 576.8
82. Calumet Sag Channel, IL	Fixed	188.5'	28.38'	LWD 576.8
83. Buffalo River, NY	Fixed	91.0'	---	LWD 568.6
	Bascule	91.0'	12.4'(closed)	LWD 568.6
84. Cuyahoga River, OH	Vert. Lift	100'	---	LWD 568.6
			8.4'(closed)	LWD 568.6
85. Maumee River, OH	Fixed	110'	---	LWD 568.6
	Swing	110'	17.3'(closed)	LWD 568.6
86. Rouge River, MI	Bascule	123'	6.4'(closed)	LWD 568.6
87. Saginaw River, MI	Fixed	66'	---	LWD 576.8
	Swing	66'	7.8'(closed)	LWD 576.8
88. Grand River, MI	Swing	54'	9.8'(closed)	LWD 576.8
89. Milwaukee River, WI	Vert. Lift	50'	27'(open)	LWD 576.8
	Swing	50'	7.3'(closed)	LWD 576.8
90. Menomonee River and Canals, WI, MI	Swing	45'	7.9'(closed)	LWD 576.8
91. Kennickinnic River, WI	Fixed	50'	---	LWD 576.8
	Swing	---	8.1'(closed)	LWD 576.8
92. Manitawoc River, WI	Fixed	60.8'		LWD 576.8
	Swing	---	6.0'(closed)	LWD 576.8
93. Fox River, WI				
- Mouth to DePere	Swing	75'	7.5'(closed)	LWD 576.8
- Above DePere	Swing	59.8'	3.5'(closed)	LWD 576.8
94. East River, WI	Fixed	40'	---	LWD 576.8
	Swing	---	6.0'(closed)	LWD 576.8
95. Illinois River, IL				
- Mouth to upper limits of Peoria	Fixed or V.L.	Width of Channel	55'	2% Flowline
			63'	Pool Stage. 8,000 cfs
- Peoria to Starved Rock	Fixed or V.L.	Width of Channel	50'	2% Flowline
			55'	Pool Stage
- Starved Rock to Joliet	Fixed or V.L.	Width of Channel	47'	Pool Stage 8,000 cfs
- Joliet to Lockport Lock and Dam	Fixed or V.L.	Width of Channel	35'	Computed HW
96. Minnesota River, MN				
- Mouth to Chaska	Fixed	---	55'	Normal Pool
			30.8'	above 1,681 HW elevation
97. Kaskaskia River, IL	Fixed	---	25'	Along line joining the 2% flowline at Athens or elevation at mouth equal to 38' on St. Louis gage
98. Missouri River				
- Mouth to Gavins Point Dam	Fixed	---	52'	2% Flowline
- Gavins Point Dam to Montana	Fixed	---	30'	above bridge reference plane
99. McClellan-Kerr Arkansas River Navigation System, AR, OK		---	52'	2% Flowline
100. Santa Bois Creek, OK	Fixed	---	30'	2% Flowline
101. Yazoo River, MS				
- Mouth to Greenwood	Fixed	---	83'	Project
	Movable	125'	---	Flowline

102. Black River, LA Ouachita River, LA, AR	Fixed Movable	--- 130'	50' ---	Max. HW prior to 30 June 1931	
103. Colorado River, CA, AZ NV	Fixed/ Removable Span	50'	25'	Normal HW	
104. Chehalis River, WA					
- Mouth to East City Limits of Cosmopolis	Fixed or V.L.	250'	140'	MHHW	
	Swing or Bascule	185'	12'(closed)Hwy	MHHW	
			8'(closed)RR	MHHW	
- Cosmopolis to Montesano	Movable	125'	8'(closed)	MHHW	
- Above Montesano	Fixed	100'	8'	MHHW	
105. Tacoma Harbor, WA					
- Blair Waterway	Fixed or V.L.	300'	140'(Hwy) 45'(closed)	MHHW	
- Hylebos and City Waterway above 11th St. Tacoma	Fixed or V.L.	150'	135'	MHHW	
	Swing or Bascule	150'	30'(closed)Hwy	MHHW	
			7'(closed)RR	MHHW	
- Puyallup Waterway above 11th St. Tacoma	Fixed or V.L.	125'	20'(closed)Hwy	MHHW	
	Swing	125'	5'(closed)RR	MHHW	
106. Duwamish Waterway, WA					
- Mouth to 1st Avenue	Fixed or V.L.	300'	140'(Hwy) 45'(closed)	MHHW	
- 1st Ave. to 14th Ave.	Fixed or V.L.	150'	135'	MHHW	
	Swing or Bascule	150'	30'(closed)Hwy	MHHW	
			7'(closed)RR	MHHW	
- Above 14th Avenue	Fixed or V.L.	125'	135'	MHHW	
	Swing or Bascule	125'	30'(closed)Hwy	MHHW	
			7'(closed)RR	MHHW	

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107. Coos Bay, OR				
- Mouth to Smiths Mill	Fixed	500'	135'	6' Stage on Marsh Field gage
	V.L. or Bascule	225'	125'	
108. Columbia and Snake River System, OR,WA,ID				
- Mouth to NP&S RR Bridge at Vancouver	Fixed	1,000'	180'	25' on Portland Gage
- Bonneville to Dallas	Fixed	450'	135'	600 kf PS Stage
- Dallas to Kennewick, Mile 328	Fixed	400'	60'	2% Flowline
- Mile 328 to mile 469	Fixed	400'	50'	2% Flowline
- 469 to mile 474.5	Fixed	250'	50'	2% Flowline
- Snake River mouth to mile 146.8	Fixed	400'	60'	2% Flowline
- Clearwater River mouth to head of pool	Fixed	400'	60'	2% Flowline
109. Willamette River				
- Mouth to Broadway Bridge	Fixed	1,000'	180'	25' stage Portland gage
- Broadway Bridge to Rose Island Bridge	Fixed	500'	140'	25' stage Portland gage
	Movable	250'	40'(closed)	25' stage Portland gage

Dated: November 14, 1983.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 83-31647 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Valley Forge National Historical Park, PA; Withdrawal of Proposed Rule on Alcoholic Beverages

AGENCY: National Park Service, Interior.

ACTION: Withdrawal of proposed rule.

SUMMARY: A proposed rule to establish restrictions on alcoholic beverages was published in the **Federal Register** on November 5, 1980 (45 FR 73518). On June 30, 1983, the National Park Service published a final rulemaking in the **Federal Register** (48 FR 30252-30296) revising the General Regulations for Areas Administered by the National Park Service. Language now found at 36 CFR 2.35 "Alcoholic Beverages and Controlled Substances" makes it no longer necessary to promulgate a Special Regulation for Valley Forge National Historical Park.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Wallace B. Elms, Superintendent, Valley Forge National Historical Park, Valley Forge, Pennsylvania 19481, Telephone (215) 783-7700.

Background

The implementation of 36 CFR 2.35 "Alcoholic Beverages and Controlled Substances" at paragraph (a)(3), provides the superintendent with the authority to close all or a portion of public buildings, structures, vessels, parking lots, picnic areas, overlooks, walkways, gravesites, commemorative areas, historic areas, or archeological sites within park ares to the consumption of alcoholic beverages. This limited closure authority must be conducted in accordance with § 1.5(b) and based upon two determinations: (1) That the consumption of alcohol would be inappropriate considering the purpose of the park area and the dignity atmosphere to be maintained; or (2) that incidents of aberrant behavior related to the consumption of alcohol are of such magnitude that the fair, impartial and diligent application of other provisions of this section and of § 1.5 (public use limits) and § 2.34 (disorderly conduct), do not alleviate the problem.

There is, therefore, no need to follow through with the final rulemaking to amend Section 7 and the proposed rule is hereby withdrawn.

Dated: October 17, 1983

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-31609 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-670]

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: This action grants in part motions for extension of time for filing comments in response to the *Notice of Proposed Rule Making* in MM Docket No. 83-670 (Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations). Although the Office of Communication of the United Church of Christ and the Citizens Communications Center requested extensions of 60 and 90 days, respectively, for filing comments, the Order grants a limited 19 day extension. The order explains that the Notice initially established a lengthy period for filing comments and reply comments, but that a limited extension was warranted in order to enable various parties to evaluate a recently released report of the National Science Foundation, which may be of significant value in addressing the issues raised in the proceeding.

DATES: Comments are now due by November 21, 1983, and replies by January 5, 1984.

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

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time For Filing Comments and Reply Comments

In the matter of the revision of programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations; MM Docket No. 83-670.

Adopted: November 2, 1983.

Released: November 3, 1983.

By the Chief, Mass Media Bureau.

1. On June 29, 1983, a Notice of Proposed Rule Making was adopted in the above-captioned proceeding, 48 FR 37239 (published August 17, 1983). The Notice provided that comments be filed by November 2, 1983, and that reply comments be filed by December 19, 1983.

2. Motions for extensions of these filing deadlines were filed by the Office of Communications of the United Church of Christ ("UCC") on October 20, 1983, and by Citizens Communications Center, *et al.* ("Citizens") on October 21, 1983.[1] UCC requests that the comment and reply comment due dates in the above-captioned proceeding be extended to December 30, 1983, and February 15, 1984, respectively. Citizens asks that the filing deadlines for comments and reply comments be extended to January 31, 1984, and March 30, 1984, respectively.

3. In support of their motions, both UCC and Citizens contend that the Commission's Notice raises numerous complex economic and legal issues, requiring various studies and time to incorporate the results of these studies into their comments. They point out that public interest groups have limited resources and have been unable to complete these studies because they have been involved in other Commission rule making proceedings with concurrent or contiguous deadlines for comments and reply comments. UCC also notes that it only recently has received a copy of the 1983 report by the National Science Foundation, "Educating Americans for the 21st Century," which assesses broadcaster performance in relation to educational objectives. UCC believes that this report may be of significant value in

[1] Other parties on whose behalf Citizens' motion was filed are Action for Children's Television, Black Citizens for a Fair Media, Chinese for Affirmative Action, Committee for Community Access, Media Access Project, National Association for the Advancement of Colored People, National Committee for Better Broadcasting, National Council of LaRaza, National Media Committee of the National Organization for Women, and Telecommunications Research and Action Center.

addressing the questions raised in this proceeding and that other commenters should be given sufficient time to acquire and study it.

4. We agree with UCC and Citizens that the deregulation of commercial television is a major proceeding, involving complex economic and programming-related issues. It is for this reason that the Notice established relatively long comment and reply comment periods at the outset (90 and 45 days, respectively). Although UCC and Citizens have requested extensions of 60 days and 90 days for filing comments, we believe that such substantial extensions woud be too disruptive of Commission processes and are not warranted in view of the considerable comment periods already afforded. Nevertheless, we do find that a limited extension is advisable so that parties may have sufficient time to consider and utilize the results of the above-referenced report by the National Science Foundation, which was not released until September of 1983. We emphasize, however, that having now permitted a total of 109 days of initial comments in this proceeding, we do not contemplate any further extensions.[2]

5. Accordingly, it is ordered that, the dates for filing comments and reply comments in the above-captioned proceeding are extended to and including November 21, 1983, and January 5, 1984, respectively. It is further ordered that, the Motions for Extensions of Time filed by Citizens Communications Center, et al., and Office of Communications of the United Church of Christ are granted to the extent indicated above, and in all other respects are denied. This action is taken by authority delegated by § 0.283 of the Commission's Rules, 47 CFR 0.283.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 83-31559 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

[2] We are aware that Citizens has indicated that, until recently, it was unable to obtain an economist to assist it in preparing comments in this proceeding. Similarly, UCC has noted that it is currently compiling information regarding local public affairs programming and public service announcements but that its study is unlikely to be completed until late November. However, we note that general Commission policy is not routinely to grant requests for extension of time. This is especially true where, as here, an extensive comment period has already been afforded to the parties.

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

Implementation of Federal Acquisition Regulation (FAR), General Services Administration Acquisition Regulations (GSAR)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the General Services Administration proposal to establish the General Services Administration Acquisition Regulations (GSAR) as Chapter 5 of the Federal Acquisition Regulations. The GSAR will supersede the current General Services Administration Procurement Regulations. The following part of the proposed GSAR is available for review and comment: Part 512—Contract Delviery or Performance.

DATES: Comments are due not later than December 27, 1983.

ADDRESS: Requests for copies of the proposals and comments should be addressed to the Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, Room 4026, 18th & F Streets NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523-4754.

SUPPLEMENTARY INFORMATION: .

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that these documents will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et. seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83-2.

List of Subjects in 48 CFR Chapter 5

General Services Administration Acquisition Regulations, Government procurement.

Dated: October 27, 1983.

Richard H. Hopf,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 83-31560 Filed 11-23-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

Northern Anchovy Fishery; Availability of Amendment to Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the Pacific Fishery Management Council has submitted Amendment 5 to the Northern Anchovy Fishery Management Plan for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the addresses below.

DATE: Comments on the amendment should be submitted on or before February 3, 1984.

ADDRESSES: All comments should be sent to Floyd S. Anders, Jr., Acting Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Room 2016, Terminal Island, California 90731.

Copies of the amendment are available upon request from Floyd S. Anders, Jr., 213-548-2575, or from Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, 503-221-6352.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter, National Marine Fisheries Service, Regional Fishery Management Plan Coordinator, 213-548-2518.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or plan amendment it develops to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment must immediately publish a notice that the plan or amendment is available for public review and

comment. The Secretary will consider the comments received in determining whether to approve the plan or plan amendment.

This amendment proposes changes to management measures affecting the anchovy fisheries in the fishery conservation zone off the coast of California. A draft supplementary environmental impact statement is integrated with this amendment and was filed with the Environmental Protection Agency on August 4, 1983.

Regulations proposed by the Council and based on this amendment are scheduled to be published in the **Federal Register** within 30 days.

Dated: November 21, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-31663 Filed 11-23-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 228
Friday, November 25, 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.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-015]

Television Receiving Sets, Monochrome and Color, From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On August 18, 1983, the Department of Commerce published preliminary results of its administrative review of the antidumping finding on television receiving sets from Japan. The review covered the 21 known Japanese manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and the period April 1, 1980 through March 31, 1981. These final results cover only Otake Trading Co., Ltd., the exclusive seller of television receiving sets produced by Orion Denki, Ltd.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results for Otake. The only comments received were from Otake and no changes in our preliminary results were requested. Based on our analysis, the final results of review for Otake are the same as those presented in the preliminary results.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen F. Munroe, Michael A. Hudak, or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") published in the **Federal Register** (48 FR 37506-37507) the preliminary results of its last administrative review of the antidumping finding on television receiving sets from Japan (36 FR 4597, March 10, 1971). The Department has now completed that review with respect to Otake Trading Co., Ltd.

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image. We have reached no decision on whether or not "component televisions" are within the scope of this finding and therefore will consider this issue (raised in Zenith Radio Corporations' submission of March 16, 1983) during the next administrative review of this finding.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received only comments from Otake concurring with the preliminary results of review.

Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that weighted-average margin for Otake is 0.03 percent.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries during the time period involved. The Department will issue appraisement instructions directly to the Customs Service.

The Department waives the cash deposit requirement, provided for in § 353.48(b) of the Commerce Regulations, for Otake because the weighted-average margin for Otake is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes.

This waiver is effective for all shipments of Japanese television receiving sets exported by Otake entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 21, 1983.

[FR Doc. 83-31832 Filed 11-23-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 31028-211]

Habitat Conservation; Policy for National Marine Fisheries Service (NMFS)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of effective NMFS habitat conservation policy.

SUMMARY: NOAA issues a policy for the National Marine Fisheries Service (NMFS) which provides a focus for NMFS' habitat conservation activities, while at the same time integrating habitat conservation considerations throughout the major programs and activities of the Agency. The policy also encourages greater participation by the Regional Fishery Management Councils, the States and others in habitat conservation matters. This action is necessary in order to allow NMFS to focus its habitat conservation activities on those species for which NMFS is

primarily responsible or which are the subject of a NMFS program. The effect of this policy will be to make NMFS' habitat conservation activities more responsive to the goals and objectives of the Agency as set forth in the NMFS Strategic Plan, and to allow priorities to be set and defended.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Herbert L. Blatt, Chief, Policy Group, NMFS, 202–653–7551, or Kenneth R. Roberts, Chief, Habitat Conservation Division, NMFS 202–634–7490.

SUPPLEMENTARY INFORMATION:

Background

The NMFS has primary Federal responsiblity for the conservation, management, and development of living marine resources and for the protection of certain marine mammals and endangered species under numerous Federal laws. The Agency also has responsibilities to the U.S. commercial and marine recreational fishing industry, including fishermen, and to the States and the general public. These responsibilities are inherent in NMFS' mission which is "To achieve a continued optimum utilization of living marine resoures for the benefit of the Nation." NMFS is vitally concerned about the habitats that support living marine resources since the well-being of these resources and the fishing industry depends upon healthy and productive habitats.

The U.S. commercial and marine recreational fishing industry makes an important contribution to the Nation's economy. The commercial fishing segment of the industry produces food and industrial goods that contribute $7 billion annually to the gross national product. Including fishing vessels and shoreside businesses, the commercial fishing segment employs nearly 300,000 persons. Marine recreational fishing provides opportunities for recreation as well as a substantial quantity of food for 15 to 20 million anglers in the United States. Catch by marine recreational fishermen accounts for an estimated 30 to 35 percent of the total U.S. finfish harvest used for food. Expenditures by these fishermen, the value of associated industries (such as tackle, boat, and trailer manufacturers, and the party and charter boat industries), and the value of the recreational fishing experience itself are significant components of the U.S. economy. Direct expenditures by marine recreational fishermen are estimated to be at least $5 billion annually, not to mention the indirect economic impacts generated from these expenditures.

Marine mammals and endangered species are also important to the Nation in terms of their domestic and international significance—aesthetic, recreational, ecological and economic.

Coastal and estuarine areas and their associated wetlands are vitally important as spawning and nursery grounds for both commercial and marine recreational fishery resources. Approximately two-thirds of our important fishery resources depend upon these areas which also serve as habitat for many species of marine mammals and endangered species. However, population shifts to coastal areas and associated industrial and municipal expansion have accelerated competition for use of the same habitats. By 1990, 75 percent of the U.S. population will live within 50 miles of the coastlines. Increasing efforts to develop new or alternate sources of energy are further stressing important living marine resource habitats. As a result, these habitats have been substantially reduced and continue to suffer the adverse effects of dredging, filling, coastal construction, energy development, pollution, waste disposal, and other human-relatd activities. In the case of wetlands, from 1954 to 1978 there was a average annual loss of 104,000 acres which was a ten-fold annual increase in acreage lost between 1780 and 1954.

Recognizing the importance of habitat to the management and conservation of living marine resources, NMFS proposed a new habitat conservation policy for the Agency. The notice of proposed policy, published in the **Federal Register** on July 19, 1983 (no. 139), at 48 FR 32847, solicited public comments.

Response to Public Comments

During the comment period, twenty-five letters were received from other Federal agencies, State governments, Regional Fishery Management Councils, and organizations representing millions of citizens. The commenters, in general, supported the proposed policy, stating it is long overdue and commending the approach. However, certain of the commenters had specific concerns which are set forth below along with NMFS' response.

Policy

Comment: Implicit in the goal and mission statement of NMFS is the assumption that populations concerned would be usable. This should be clarified.

Response: NMFS agrees that the policy should make clear that the habitat conservation activities of the agency are to maintain or enhance the capability of the environment to, among other things, produce fish and shellfish that are safe and wholesome. The wording has been amended accordingly.

Comment: Several commenters caution against too narrowly defining scope of policy. It should signify the need to give priority attention to those species for which direct managment presently is Agency responsibility and it should *clearly* state that NMFS has stewardship responsibility for all living marine resources under Federal jurisdiction.

Response: NMFS does not believe the language needs modification. While NMFS has overall responsibilty for living marine resources, it is necessary to focus NMFS' habitat conservation activities on those resources over which it can influence management regimes throughout the range of the species. NMFS' activities with respect to one species could benefit other species that depend on a particular habitat.

Policy Framework

Comment: Suggest clarifying paragraph 1, Policy Framework, to indicate NMFS also has management responsibility for species for which no Fishery Management Plans are planned, such as squid or herring in the Gulf of Mexico. This could be accomplished by rewording clause "(1) covered or to be covered" to "(1) covered or subject to being covered."

Response: For clarity, NMFS agrees to suggested change.

Implementation

Comment: The coordination mechanism for policy's implementation is not described. It is also not clear how interested public and conservation groups will be able to interact and have input into this important decision.

Response: The coordination mechansim will be developed by each region, following national guidelines, during the implementation phase. It is expected that NMFS Regional and Center Directors will discuss their programs with their constituents in order to make determinations with respect to priorities.

Comment: In Implementation Strategy No. 4, second sentence, urge addition of "artificial impoundments" to list of activities which have potential for habitat degradation.

Response: NMFS agrees to this addition.

Comment: Under Implementation Strategy No. 7, suggest policy cover catadromous as well as anadromous species.

Response: Suggestion refers to NMFS' involvement in fresh water. While catadromous species are not excluded, NMFS intends to focus on anadromous species.

Comment: Implementation Strategy No. 3(a) implies that fishermen may be a threat to fishery habitats. Statement should be clarified to address possible conditions under which fishing poses a threat to habitat.

Response: Under certain conditions, fishermen can cause damage to habitats, e.g., bottom gear fishing, vessel discharges, etc. The Regional Fishery Management Councils may deal with such under the Magnuson Fishery Conservation and Management Act (Magnuson Act), but may not control actions by others. There was no intention to single out fishermen as a threat to habitat as they realize the importance of healthy habitats and are beneficiaries of such.

Comment: Implementation Strategy No. 3(a) states that Fishery Management plans should include "proposal of measures to preserve, protect and restore habitat." Should be clarified to indicate range of "measures" which could be implemented. Should also indicate that no measures may be required in many fisheries where habitat issues are not significant.

Response: The range of measures is intentionally left up to each Regional Fishery Management Council, depending on needs of the fishery. The Councils will have the same prerogatives regarding habitat conservation that they have with respect to any other management measure contained in the Fishery Management Plans. The language of 3(a) has been modified to indicate that measures will be proposed only where appropriate.

Role of Regional Fishery Management Councils

Comment: Implementation Strategy No. 3(a) imposes strict requirements on the Regional Fishery Management Councils above and beyond the requirements of the Magnuson Act. Talk of a partnership between NMFS and the Councils is contradicted by a clear threat to disapprove Fishery Management Plans that do not meet requirements proposed by NMFS. Moreover, this strategy is an attempt to reduce the responsibilities of the Councils assigned by Congress.

Response: Implementation Strategy No. 3(a) strengthens, not weakens or reduces, the role of the Councils regarding habitat conservation. This strategy does not impose requirements beyond the Magnuson Act, since habitat is an important element in fishery management.

Comment: It would be appropriate to refine the planning and implementation strategies to assure the Councils a partnership level role in any actions taken under the policy once it is implemented. If workshops to further develop the policy format are being considered, the Councils would appreciate an opportunity to participate.

Response: The Councils are intended to have an important partnership role and NMFS expects to contact them from time to time during policy implementation planning and development.

Comment: Minimum Fishery Management Plan descriptions called for could impose an impractical burden on plan development. For example, 80% of salmon catch in Alaska includes fish from habitat areas outside Alaska. The Councils are conscious of importance of habitat and need to protect it, but the Councils are not in a position to carefully review the work of everyone on the coasts and oceans and assess or restate the assessments of other agencies which do monitor the impact those actions may have on the environment.

Response: NMFS believes an erroneous impression was created by wording in Implementation Strategy No. 3(a) which stated "The Regional Fishery Management Councils should address habitat considerations in their Fishery Management Plans, where applicable, based on the best available information *from all sources which can be coordinated by NMFS/NOAA.*" The underlined words have been deleted to make clear the Councils will be obliged to review only information made available to them by NMFS/NOAA and others during their plan deliberations. This will be an evolutionary process and will not impose an impractical burden on the Councils in plan development. NMFS will work closely with the Councils to make them aware of habitat conservation matters they might need to consider.

Comment: Several commenters stated that Implementation Strategy No. 3 outlines the development of a potentially powerful framework for building a constructive partnership between the Councils and NMFS for habitat conservation. Although the Councils presently may become as involved in maintenance of habitat as their authorities allow, they have played a minor role in habitat conservation to date. If this strategy is to be implemented successfully, NMFS will have to be highly responsive to Council needs with technical assistance and information delivered both timely and adequately. Parhaps Implementation Strategies Nos. 1 and 2 should make an even stronger reference to development of research priorities and programs in response to Council needs.

Response: NMFS expects that Implementation Strategy No. 3(b) will result in NMFS providing the Councils with needed information and support. Again, this will be an evolutionary process so as not to place an undue burden on the Councils. The products resulting from implementation of Strategies Nos. 1 and 2 will provide the basis for the information provided to the Councils.

Comment: Suggest following change in Implementation Strategy No. 3(a), second paragraph: "Where appropriate, existing FMPs *should* be amended to meet these standards."

Response: NMFS agrees to recommended change.

Comment: Caution against over reliance on Councils as their desires may not always lead to non-overfishing or non-resource exploitation policies that NMFS supports in conjunction with wetlands protection and fisheries management.

Response: NMFS has every confidence that the Councils, in partnership with NMFS, will not undertake actions that will lead to overfishing or over exploitation of the resource.

NMFS' Role Vis-a-Vis Regional Fishery Management Councils and States

Comment: Several commenters believe that a number of statements within the policy convey the impression that NMFS intends to inject itself into an active role of fishery management in the Fishery Conservation Zone (which is the responsibility of the Regional Councils) and within the territorial seas (which is under States' jurisdictions). Overall conclusiom is that the policy, as written, suggests the intention of assigning to NMFS a role in fishery management which heretofore has ben filled by the Councils and concerned coastal States.

Response: The policy recognizes a partnership between NMFS and the Councils under the Magnuson Act and does not create any greater role for NMFS or the Councils than that which is currently required under the Act. The policy is not intended to usurp the Council's responsibilities. It provides the bsis for considering habitat during the Councils' development of Fishery Management Plans. Moreover, the policy does not provide for NMFS' intervention in State management of State resources in State waters. It indicates that NMFS

and the Councils have an interest in conservation of the habitats of species managed under the Magnuson Act.

Comment. The policy should provide for recognition of States' roles in habitat conservation and for more definitive mechanisms for working with States in this regard. Several opportunities exist: (a) Under Implementation Strategy No. 1, Regional Directors should include State programs in their inventory of strategies to address habitat issues. There should be formal consultation with, and opportunity for comment by, States prior to adoption of regional habitat protection plans; (b) existing grant programs should recognize the validity of habitat conservation matters; and (c) procedures for NMFS' coordination with the States regarding Fish and Wildlife Coordination Act reviews should be adopted.

Response: Implementation of the policy will be in full recognition of States' roles in habitat conservation. The policy in no way evisions a reduction of State activities. It is expected that States will be consulted during planning and implementation. It is expected that NMFS' grant programs, as well as other programs, will consider habitat as part of the integration process.

Interactions With Other Agencies

Comment: One State commented that the Corps of Engineers has been traditionally recognized as the Federal agnecy for coastal habitat protection. The Corps' working relationship with coastal States is a long proven process. Implementation of the policy will add another layer of Federal involvement to what is already in place.

Response: The policy does not provide for replacement of the Corps of Engineers or any other agencies having interests in habitat conservation. NMFS, under the Fish and Wildlife Coordination Act, will continue to provide recommendatons to the Corps regarding its issuance of permits for construction which could have an impact on living marine resources. The Corps will continue to make final decisions on issuance of permits.

Comment: Several commenters stated that NMFS should coordinate its habitat conservation programs not just with other elements of NOAA, but also with other key Federal and State agencies which have interests in or responsibilities for habitat conservation.

Response: In this regard, NMFS has every expectation of building in other Federal and State agencies. Implementation Strategy No. 6 specifically addresses this concern.

Comment: Suggest development of interagency memorandum between NMFS and the Fish and Wildlife Service, perhaps with Army involved also, to remove duplication of effort when commenting on Corps of Engineers water resource projects and permit applications.

Response: If needed, such a memorandum could be one of many provided for in Implementation Strategy No. 6.

Benefit of Proposed Policy to Other Wildlife

Comment: Recommend inserting at appropriate place, language that states that migratory birds will benefit from policy.

Response: NMFS agrees. Language has been added to reflect that implementation of the policy will be beneficial to other wildlife resources, including migratory birds.

Impact of Energy Development

Comment: Quoting a statement in the Background section that coastal habitats "have been substantially reduced and continue to suffer the adverse effects of . . . energy development . . .," one commenter suggested that unless NMFS could fully document the statement, it should be deleted.

Response: The impacts of energy development on living marine resource habitats were listed along with impacts of other human-related activities such as dredging, filling, coastal construction, pollution and waste disposal. In the case of wetlands, actual loss figures were quoted from *The Coastal Almanac for 1980—The Year of the Coast* (Ringold and Clark, 1980).

Predator-Prey and Ecosystem Relationships

Comment: Recommend adding language that specifically addresses the predator-prey relationship.

Response: The proposed policy implicitly recognized the importance of prey species which support species of importance to man. However, for clarity, the policy has been revised to specifically recognize the importance of the predator-prey relationship by using the language recommended by several of the commenters.

Comment: Several commenters stated that marine life is part of an aquatic ecosystem where food and nutrient sources are so interwoven as to make precise determination of relationships between managed and non-managed species extremely difficult. Proposed policy seems not to provide explicit credence to value of ecosystems in maintaining diversity of species.

Response: The importance of ecosystem planning and research is clearly recognized and dealt with in Implementation Strategies Nos. 1 and 2. This matter is also addressed in the amendment to the policy with respect to the predator-prey relationship.

Funding/Resources

Comment: Several commenters stated that for effective implementation of the policy, an adequate funding base for habitat research and conservation activities must be maintained. Moreover, while delegation of authority to States may be appropriate, lack of money may prevent it from working properly.

Response: Implementation of the policy is not premised upon an increase in funding, but better utilization of funds available. Recognizing that State and local governments also face budget constraints, NMFS expects they will set priorities regarding utilization of resources. The Federal Government will help to the extent it can, such as acting as a catalyst.

Comment: The policy would demand a redirection of NMFS' effort. With no mention of funding for increase in habitat conservation effort, development programs and interests must necessarily diminish as environmental protection programs and emphasis expand.

Response: Although the policy is not intended to significantly diminish specific programs, NMFS cannot forecast the effect on such programs with adoption of the policy. NMFS will deal with the direction of habitat conservation and other activities during its strategic planning efforts.

Research

Comment: Applaud scientific/research thrust, but would like to see requirement for sharing research findings with a variety of non-Federal organizations concerned with habitat conservation.

Response: Implementation Strategy No. 2 has been amended to clearly reflect NMFS' obligation to disseminate information to the public.

Comment: NMFS' role in research activities should receive greater emphasis than is implied in proposed policy statement.

Response: Implementation Strategies Nos. 1, 2 and 3(b) reflect NMFS' desire to give greater emphasis to habitat research activities.

International Habitat Activities

Comment: Regarding NMFS' participation in international habitat activities in support of obligations of the

U.S. under international agreements, it occurs that negotiations with foreign nations who are seeking fishing rights in U.S. waters, may offer opportunities for international habitat protection activities. Foreign nations with the best habitat protection records might be given preferential treatment in the fisheries allocation process.

Response: The policy does not preclude this suggestion. NMFS will bring it to the attention of the Department of State with which NMFS cooperates in making allocation determinations. Implementation Strategy No. 6 recognizes the need for interagency cooperation and agreements.

For the reader's benefit, the modified Statement of Policy follows.

Policy Framework

Traditionally, the habitat conservation activities of NMFS have been based primarily on the policies developed in response to the Fish and Wildlife Coordination Act (FWCA) and the National Environmental Policy Act (NEPA). These laws give NMFS an important advisory role, primarily with respect to reviewing and commenting on proposed Federal projects, licenses, permits, etc. which could affect living marine resources. Because of this advisory role, NMFS' habitat conservation activities have been determined largely by the policies, actions, and deadlines of others. For the most part, these activities have dealt primarily with general concerns of habitat loss and degradation and not with specific habitat problems relating to the species of living marine resources for which NMFS has primary management responsibilities, i.e. species (1) covered or subject to being covered under Fishery Management Plans developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and (2) assigned to NMFS under the Marine Mammal Protection Act and the Endangered Species Act. Within this framework these activities have been successful in carrying out the objectives of the FWCA and NEPA. However, evolving mission and programs require the Agency to focus its activities on habitats important to the species referred to above.

In addition to the need for a change resulting from the foregoing, a number of events have occurred that give NMFS the opportunity to enhance substantially its overall role in habitat conservation. These include opportunities to use all of NMFS' legislative authorities to take an active role in habitat conservation and to ensure that it is appropriately considered in all of NMFS' programs, and opportunities to make the program more effective through strategic planning. Additional events include changing Federal and State roles under Administration policies and reduced Federal budgets.

Although NMFS' past role in habitat conservation was largely determined by the FWCA and NEPA, significant recent legislation, particularly the Magnuson Act gives NMFS broader authority and more opportunities for achieving habitat conservation objectives. This Act also provides comprehensive authority to integrate habitat conservation throughout the Agency's conservation, management, and development programs. This can be accomplished through the Agency's strategic planning process which is the mechanism for setting priorities based on NMFS' resources and responsibilities.

Changes in traditional Federal and State roles are expected to occur as a result of sorting out responsibilites among Federal, State, and local governments and shifting decisionmaking and responsibility for a variety of policy, budgetary, and regulatory matters to State and local governments. Implementation of this policy will give State and local governments more control over activities that may be more appropriately conducted at those levels and, as a consequence, reduce direct Federal expenditures and involvement.

With respect to living marine resources and their habitats, the sorting out of responsibilities between State and Federal governments is complex. Generally, the States have overall responsibility within their inland and coastal waters (0–3 miles from shore) for management of living marine resources with the exception of marine mammals and endangered species. NMFS has been assigned the Federal management responsibility, in partnership with the Regional Fishery Management Councils, for fishery resources in the U.S. Fishery Conservation Zone (generally 3–200 miles). However, the Magnuson Act recognizes a need for management throughout the range of the species. Moreover, many of the species of living marine resources for which NMFS is responsible spend a portion of their life cycles in habitats primarily located in State waters such as rivers, wetlands, and estuaries. Many of these common property resources cross State as well as international boundaries. Therefore, consistent with the Magnuson Act, NMFS clearly has a role with respect to certain living marine resource habitats located in State, interstate and international waters. NMFS also has a long history of cooperation and interaction with the States on State/Federal fisheries activities under number authorities other than the Magnuson Act.

Policy

Habitat conservation activities will be responsive to the mission and programs of NMFS. The goal of NMFS' habitat conservation activities will be to maintain or enhance the capability of the environment to ensure the survival of marine mammals and endangered species and to maintain fish and shellfish populations which are used, or are important to the survival and/or health of those used, by individuals and industries for both public and private benefits—jobs, recreation, safe and wholesome food and products.

NMFS will direct its habitat conservation activities to assist the Agency in (1) meeting its resource management, conservation, protection, or development responsibilities contained in the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act; and (2) carrying out its responsibilities to the U.S. commercial and marine recreational fishing industry, including fishermen, and the States pursuant to programs carried out under other authorities.

Since most of NMFS' programs under its broad mandates are influenced by habitat considerations, habitat conservation will be considered and included in the Agency's decisionmaking in all of its programs. NMFS will bring all of its authorities to bear in habitat conservation. These authorities include those which give NMFS an active, participatory role and those, particularly the Fish and Wildlife Coordination Act, which give NMFS an advisory role.

In carrying out its programs, NMFS' activities will be conducted in a fashion designed to achieve necessary, orderly coastal development in a timely fashion, while the renewability and productivity of the Nation's living marine resources are maintained or, where possible, enhanced. This action will also benefit other wildlife resources, such as migratory birds.

Also, NMFS will use its scientific capabilities to carry out the research necessary to support its habitat conservation objectives.

Implementation

Implementation of the policy will be governed by general Federal policies such as the multiple use of coastal areas. Also, implementation will be

governed by the principle that the Federal Government has an obligation to conserve the habitats of living marine resources for which it has primary management responsibility or which are the subject of NMFS program, whether such habitats are under State or Federal jurisdiction. This will require close cooperation and coordination by NMFS with other NOAA elements, Federal and State agencies, the Regional Fishery Management Councils, and the commercial and recreational fishing constituencies. It is particularly important that NMFS and the States work cooperatively to define their respective roles with each directing its habitat conservation activities according to its responsibilities and capabilities.

While this policy emphasizes NMFS' domestic habitat conservation responsibilities, it does not preclude NMFS' participation in international habitat activities in support of obligations of the U.S. under international agreements. International habitat issues will continue to be addressed on a case-by-case basis depending upon the demands of the United States under the provisions of the governing treaty or convention.

Implementation Strategies

In consultation with its Regions and Centers, NMFS' Central Office will prepare guidance for the policy implementation recognizing that each Region has unique resource and/or development issues that require flexibility in addressing particular problems. The following implementation strategies will be used.

1. Each Region, working with the appropriate Center, and the Central Office, will establish a formal planning and coordinating mechanism to implement this policy on a continuing basis. At a minimum, this mechanism will be use to: (1) Identify the living marine resources of importance and the major habitat threats to these resources; (2) enumerate the identified habitat issues in order of priority; (3) develop strategies to address these issues; and (4) oversee the integration of habitat considerations throughout all NMFS' programs. To accomplish the purposes of this planning and coordinating mechanism, NMFS will call on the Assistant Administrators of other elements of NOAA (e.g., Office of Ocean and Coastal Resource Management, Office of Oceanography and Marine Services), the States, the Regional Fishery Management Councils and others, as appropriate. The results of this mechanism will be incorporated into the objectives and subobjectives of NMFS' Strategic Plan as well as the performance contracts of its employees.

2. NMFS Research Centers will conduct environmental and ecological research, including long-term studies necessary to implement this policy. Research efforts will be coordinated with other elements of NOAA (e.g., National Ocean Service), the States and others, as appropriate. Research results will provide an integral part of the informational basis for MNFS' activities related to its conservation, management, protection, and/or development responsibilities. The needs of NMFS' decisionmakers will be the essential consideration in determining research priorities. Specific research objectives and activities will be determined through Regional and Center collaboration using the planning and coordinating mechanism described previously. Dissemination of information to the public is and will remain one of NMFS' major objectives.

3. Since the opportunities afforded by the Magnuson Act are important factors in developing and adopting this policy, in the future NMFS will rely to a greater degree on its partnership with the Regional Fishery Management Councils in habitat conservation as it affects those fisheries subject to Fishery Management Plans developed by the Councils. The Councils provide a unique mix of representatives from the commercial and recreational fishing industries, conservation groups, State and Federal Governments, and the general public. Under this partnership, NMFS will assist the Councils to the extent possible.

(a) The Regional Fishery Management Councils should address habitat considerations in their Fishery Management Plans, where applicable, based on the best available information. While threats to fishery habitat posed by sources other than fishermen are not subject to regulation under the Magnuson Act, an adequate description of the fishery, its maximum sustainable yield, or its optimum yield may require significant discussion of important habitat and threats to it.

At a minimum, Fishery Management Plans should include identification and descriptions of habitat requirements and habitats of the stock(s) comprising the management unit; assessment of the condition of these habitats, to the extent possible, as they relate to the continued abundance and distribution of the species; identification, where possible, of causes of pollution and habitat degradation; description of programs to protect, restore, preserve and enhance the habitat of stock(s) from destruction or degradation; and, where appropriate, proposal of measures intended to preserve, protect, and restore habitat determined to be necessary for the life functions of the stock(s). Failure to describe adequately the condition of the fishery habitat and any likely changes to it may raise questions under several of the national standards and under section 303(a)(1) of the Magnuson Act. Where appropriate, existing Fishery Management plans should be amended to meet these standards.

(b) NMFS must be prepared to respond to the Councils in an agreed upon time when support or information is requested. Section 304(e) of the Magnuson Act authorizes NMFS to acquire the basic knowledge necessary to meet the Councils' needs. Equally important, NMFS will establish a mechanism to systematically consider and follow up on the Councils' recommendations for habitat conservation. If Councils' recommendations are not accepted, NMFS will notify them of the reasons. If Councils' recommendations are accepted, NMFS will adopt them and keep the Councils informed on a continuing basis regarding the results of actions taken to implement the recommendations. If the Secretary does not have the authority to carry out the Councils' recommendations, the Secretary will submit the recommendations to the authorities having jurisdiction over the matter.

4. NMFS will continue to use procedures and options available under the FWCA and other advisory authorities to influence decisions about important habitats identified by NMFS. These activities will include addressing decisions regarding dredge and fill projects, OCS oil and gas development, ocean dumping, water diversion, artificial impoundments, energy facility siting, water quality degradation, and removal or degradation of tidal and intertidal wetlands.

5. NMFS will work closely with the States, the Interstate Marine Fisheries Commissions, and the Regional Fishery Management Councils to ensure that State/Federal Fishery Management Plans and the Councils' Fishery Management Plans are fully coordinated with regard to living marine resource habitat conservation. This coordination can be served through the Coastal Zone Management, or State/Federal Action plan process which could also provide mechanisms for sharing responsibilities and costs.

6. Since other Federal, State and local agencies are involved in living marine resource habitat matters, NMFS will

support existing or new interagency operating arrangements to help define and assign appropriate roles and responsibilities. These arrangements may be informal or formal.

7. NMFS will focus its freshwater habitat activities on anadromous species. This does not preclude NMFS' involvement in a freshwater project if the project could adversely affect living marine resources for which NMFS has primary management responsibility or which are the subject of a NMFS program.

8. Where possible, NMFS will become more actively involved with governmental agencies and private developers during preapplication or early planning stages. This involvement will allow NMFS to better anticipate problems, identify alternatives for achieving objectives, reduce possibility of conflict, and minimize adverse effects on living marine resources and their habitats. In the case of essential public interest projects where practical alternatives are unavailable, NMFS will recommend measures to mitigate habitat losses. Also, when appropriate, NMFS will recommend habitat enhancement measures including rehabilitation.

9. As habitat considerations are integrated across all program lines, each major program office of NMFS will review its authorizing legislation and implementing regulations in conjunction with the Office of General Counsel to determine if these adequately provide for consideration of habitat. Legislative or regulatory changes will be recommended as needed.

10. Recognizing NOAA's broad responsibilities for ocean management, NMFS will continue to cooperate with other NOAA program elements in environmental activities conducted by these elements and will emphasize those activities affecting living marine resources for which NMFS has primary responsibility. NMFS will also seek assistance from other NOAA elements with expertise in areas relating to living marine resources and their habitats.

11. During the implementation of the Federal regulatory reform processes, NMFS, particularly its Central Office, will actively review and participate in the development of evolving Federal and State laws, regulations, policies and actions (e.g., Section 404 of the Clean Water Act) that affect habitats of species for which NMFS has primary management responsibility or which are the subject of a NMFS program to ensure that habitat conservation is appropriately considered.

12. To generate greater interest in perpetuating healthy living marine resource habitats, NMFS will emphasize greater communication of its habitat conservation activities to its constituency. This includes commercial and marine recreational fishing interests, academia, environmental groups, coastal residents, marine-oriented industries, the general public, and the Congress.

Dated: November 21, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-31641 Filed 11-23-83; 4:27 pm]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Charges for Certain Wool Textile Products From the Republic of Korea

November 21, 1983.

A CITA directive data August 24, 1983 (48 FR 39113) established a level of restraint of 30,065 dozen for women's, girls' and infants' wool coats in Category 435, produced or manufacured in the Republic of Korea and exported during 1983. That level is now filled. It has been determined, however, that 6,379 dozen have been improperly charged to the level. Accordingly, 6,379 dozen are being deducted from the charges made to the level established for Category 435 during 1983.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-31636 Filed 11-23-83; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: December 28, 1983

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 7510

Clip, Paper, Binder, Small: 7510-00-282-8201

SIC 0782

Grounds Maintenance: Social Security Administration Computer Center 6201 Security Boulevard Baltimore, Maryland.

SIC 4789

Operation of the USDA Central Shipping and Receiving Facility: U.S. Department of Agriculture, South Building, 12th and C Street, SW., Washington, D.C.

SIC 7369

Commissary Shelf Stocking and Custodial Service, Peterson Air Force Base, Colorado.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-31594 Filed 11-23-83; 8:45am]

BILLING CODE 6820-33-M

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 25, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145

SUPPLEMENTARY INFORMATION: On May 13, 1983, June 24, 1983 August 5, 1983, and August 19, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 21625, 48 FR 29038, 48 FR 35695, and 48 FR 37687) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to procurement List 1984:

Class 1680

Belt, Aircraft Safety: 1680-00-725-5927

Class 7920

Squeegee: 7920-00-577-4744, 7920-00-577-4745, 7920-00-577-4746

SIC 7349

Janitorial/Custodial: Main Building, Bureau of Engraving and Printing, 14th & C Streets SW., Washington, D.C.

SIC 7699

Repair Services of the following items at Fort Bliss, Texas only:
Bag, Sleeping: 8465-00-242-7855, 8465-01-049-0088
Case, Sleeping Bag: 8465-00-237-8719
Liner, Field Jacket: 8415-00-782-2888
Liner, Trousers, Field: 8415-00-782-2926
Bag, Barracks: 8465-00-530-3692
Bag, Duffel: 8465-00-141-0932

C. W. Fletcher,

Executive Director.

[FR Doc. 83-31585 Filed 11-23-83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

Follow Through Program

AGENCY: Department of Education.

ACTION: Application notice for fiscal year (school year 1984-85).

Applications are invited for continuation awards in the following categories under the Follow Through program:

(1) Grants for carrying out local Follow Through projects;

(2) Grants for demonstration (Sponsors); and

(3) Grants for expanded demonstration activity (Resource Centers).

Authority for these categories in contained in Sections 661-669 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 508-511.

(42 U.S.C. 9861-9868)

The purpose of these awards is to provide comprehensive services to low-income children in grades K-3.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a continuation award should be mailed or hand-delivered to the U.S. Department of Education by January 9, 1984.

If an application for a continuation award is late, the Department of Education may lack sufficient time to review it with other continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.014A (for Follow Through local projects), 84.014B (for sponsor awards), or 84.014D (for expanded demonstration activity), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail.

Applications delivered by hand: An applicant that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th & D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information: In formulating applications for continuation of local project grants, applicants should give special attention to 34 CFR 215.15 of the Follow Through regulations which explains the criteria used in awarding these grants.

In formulating applications for continuation of sponsor awards, applicants should give special attention to 34 CFR 215.52 of the Follow Through regulations which provides an explanation of the criteria used in awarding these grants. In the case of a sponsor application, the Secretary will award a grant only if a grant also is being made to at least one local project that implements the sponsor's approach.

In formulating applications for continuation of expanded demonstration activity awards (Resource Centers), applicants should give special attention to 34 CFR 215.15a of the Follow Through regulations which provides an explanation of the procedures and criteria used in evaluating these applications.

Intergovernmental review On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal reponsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutional and federally recognized Indian tribal governments,

are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and have selected this program for review:

Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	Northern Mariana Islands
Florida	Oklahoma
Georgia	Oregon
Illinois	Pennsylvania
Indiana	Rhode Island
Iowa	South Carolina
Kentucky	Tennessee
Louisiana	Texas
Maryland	Utah
Massachusetts	Vermont
Michigan	Virginia
Minnesota	West Virginia
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Puerto Rico
Nevada	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about and to comply with the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 8, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.014A, B, or D), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Available funds: The appropriation for this program for fiscal year 1984 is $14,767,000.

Applicants should be aware that the availability of funds for this competition is being contested in litigation in the United States District Court for the Northern District of Illinois, Eastern Division (*United States v. Board of Education of the City of Chicago*, Docket No. 80C5124). Any obligation of these funds is currently enjoined by the court.

Application forms: Application forms and program information will be ready for mailing on November 28, 1983.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through program, 34 CFR Part 215, published in the **Federal Register** on June 29, 1977 (42 FR 33146) and amended in the **Federal Register** on April 3, 1980 (45 FR 2237) and January 19, 1981 (46 FR 5375).

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 79.

Further information: For further information contact Dr. John F. Staehle, Acting Director, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3616, ROB–3), Washington, D.C. 20202. Telephone (202) 245–3081.

(42 U.S.C. 9861–9868)

(Catalog of Federal Domestic Assistance No. 84.014, Follow Through Program)

Dated: November 21, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-31634 Filed 11-23-83; 8:45 am]

BILLING CODE 4000-01-M

Grants to State Educational Agencies To Improve the Interstate and Intrastate Coordination of Migrant Education Activities

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Application Notice for Fiscal Year 1984 (Program Year 1984–85).

Applications are invited for new grants under the Migrant Education Interstate and Intrastate Coordination Program to improve the coordination of activities conducted under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (ECIA) (Pub. L. 97–35), Migrant Education Basic State Formula Grant Program.

The authority for this special coordination program is contained in Section 554(a) of Chapter 1, ECIA. (The text of Section 143 of Title I of the Elementary and Secondary Education Act (ESEA) (Title I, ESEA, as amended by Pub. L. 95.561 (20 U.S.C. 2763), contains the specific language authorizing the program. Section 554(a) of Chapter 1, ECIA, provides continued authority to make payments based on the amount of, and eligibility for, grants as determined under the applicable sections of Title I, ESEA.) Eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide grants to SEAs, which may apply individually or cooperatively (i.e., as a group or consortium), to plan and implement special projects designed to improve the interstate and intrastate coordination of migrant education activities. Applicants are notified that the Secretary of Education may select one or more proposals for award as cooperative agreements between the U.S. Department of Education and the applicant under Section 415 of the Department of Education Organization Act (Pub. L. 96–88) (20 U.S.C. 3475) and the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224) (41 U.S.C. 501 *et seq.*).

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 25, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.144, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (a) A private metered postmark; or (b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant SEA should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. Time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards grants under this program to SEAs to support special projects designed to promote and enhance the interstate and intrastate coordination of migrant education activities conducted under the Migrant Education Basic State Formula Grant Program. The basic program provides instructional and support services to meet the special educational needs of migratory children.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and have selected this program for review:

Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	Northern Marianas Island
Florida	Oklahoma
Georgia	Oregon
Illinois	Pennsylvania
Indiana	Puerto Rico
Iowa	Rhode Island
Kentucky	South Carolina
Louisiana	Tennessee
Maryland	Texas
Massachusetts	Utah
Michigan	Vermont
Minnesota	Virginia
Missouri	West Virginia
Montana	Wisconsin
Nebraska	Wyoming
Nevada	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about and to comply with the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice contact the single point of contact for each State and follow the procedures established in those State under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 26, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.144), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245-7913. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Available funds: The Secretary estimates that there will be $2,065,600 available for FY 1984 grants. The Secretary estimates that these fnds will support 12 projects with most awards between $80,000 and $200,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specificed by statute or regulations.

Application forms: The U.S. Department of Education's Migrant Education Programs office will mail application forms and program information packages to all eligible SEAs. An applicant SEA may obtain additional forms and program information packages by writing to Mr. Louis J. McGuinness, Director, Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202.

An applicant SEA must prepare and submit its application in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid the applicants in applying for assistance under this program. Nothing in the grant application package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary strongly urges that the narrative portion of an application not exceed 20 pages. The Secretary also urges that an applicant not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Migrant Education Interstate and Intrastate Coordination Program in 34 CFR Part 205 as published in the **Federal Register**, 48 FR 34646–34648 (July 29, 1983).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

Further information: For further information, contact Mr. Louis J. McGuinness, Director, Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202. Telephone (202) 245–9231.

(20 U.S.C. 3803(a))

(Catalog of Federal Domestic Assistance No. 84–144: Migrant Education/Interstate and Intrastate Coordination Program)

Dated: November 21, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-31633 Filed 11-23-83; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for fiscal year 1984.

SUMMARY: The Secretary of Education proposes funding priorities for research activities to be supported by the National Institute of Handicapped Research (NIHR) in Fiscal Year 1984. NIHR is required under the Rehabilitation Act of 1973, as amended, to develop a long-range research plan which identifies rehabilitation research that needs to be conducted and to determine funding priorities which will facilitate the support of these activities within available resources. These proposed priorities are derived from the NIHR Long-Range Plan and are articulated within the goals, objectives, and research activities specified in the Plan. NIHR final regulations (46 FR 45300, September 10, 1981) authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 351.32). A Notice of Proposed Rulemaking was published on October 6, 1983, 48 FR 45568–45572, which specifically provides for a program of Field-Initiated Research as well.

Authority for the research program NIHR is contained in Section 204 of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602.

Under this program, awards are issued to public and private agencies and organizatons, including institutions of higher education. NIHR is permitted to make awards for periods up to 60 months.

The purpose of the awards is for planning and conducting research, demonstrations, and related activities. These activities have a direct bearing on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially those with the most severe handicaps.

NIHR invites public comment on the merits of the proposed priorities both individually and collectively, including suggested modifications to the proposed priorities. Comments can include factors which support the importance of a priority to handicapped individuals and other interested parties.

Each priority is proposed under the program authority which NIHR believes to be most appropriate. These programs are described in the Supplementary Information section of this Notice. The public is also invited to comment on the appropriateness of the proposed program mechanism (i.e., whether certain research objectives are better accomplished by Centers or by other grantees as discrete projects.)

This Notice does not solicit application proposals or concept papers. The final priorities will be selected on the basis of public comment, the availability of funds, and any other relevant Departmental considerations. These final priorities will be announced in the form of an Application Notice in the **Federal Register.** That Notice will solicit grant applications and set the closing date.

DATE: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before the 30th day after publication of this Notice in the **Federal Register.**

ADDRESS: All written comments and suggestions should be sent to Betty Jo Berland, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue, S.W., Room 3511, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute of Handicapped Research. Telephone: (202) 472–6551 or TTY for the Deaf (202) 472–4217.

SUPPLEMENTARY INFORMATION: The following proposed priorities represent areas in which NIHR proposes to support research and related activities through grants or cooperative agreements. Research and other activities which NIHR intends to procure through contracts will be announced by Requests for Proposals published in the *Commerce Business Daily.*

The publication of these proposed priorities does not bind the United States Department of Education to fund projects in any or all of these research areas. Funding of particular projects depends on both the availability of funds and on responses to this Notice.

NIHR is authorized to support research and related activities in a variety of areas and through several program authorities. The priorities proposed in this Notice cover research and related activities to be conducted through Rehabilitation Research and Training Centers and Knowledge Dissemination and Utilization Projects. Following are brief descriptions of these two programs.

Research and Training Centers (RTCs) have been established to conduct coordinated and advanced programs of rehabilitation research, and to provide training to rehabilitation personnel engaged in research or the provision of services. RTCs must be operated in collaboration with institutions of higher education and must be associated with a rehabilitation service program. Ideally each Center conducts a program of research, evaluation, and training activities focussed on a particular rehabilitation problem area. Each Center is encouraged to develop practical applications for all of its research findings through a scientific evaluation process which tests and validates its findings, as well as related findings of other Centers. Center training programs generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as undergraduate and graduate texts and curricula, in-service training, and continuing education.

Knowledge Dissemination and Utilization Projects have been supported to insure that rehabilitation knowledge generated from projects and Centers funded by NIHR and others is fully utilized to improve the lives of handicapped persons.

Proposed Priorities

Research and Training Centers

Improved Rehabilitation of Psychiatrically Disabled Individuals

There are approximately 2,000,000 severely psychiatrically disabled persons living in communities and 900,000 in institutions. Nearly 200,000 severely psychiatrically disabled

persons are discharged into the care of their families each year. The rate of recidivism for psychiatric institutions is over 60 percent. Less than 10 percent of this population is employed and the employment prospects for this group are very poor.

There is a major need for additional knowledge and techniques to improve the vocational and independent living outcomes for these individuals, and to assist their families to contribute to successful adjustment outcomes. Studies have indicated the relation between vocational/independent living success and the specific skills of the disabled individual; recent research has revealed a positive impact from the direct teaching of coping and vocational skills.

Community living is further complicated for this group by uncertainties concerning eligibility for SSDI benefits, the criteria for assessing that eligibility, and alternatives for economic security.

A Research and Training Center is proposed which would:

- Identify the client and treatment variables which predict vocational outcomes.
- Design and test rehabilitation intervention strategies and models capable of improving employment outcomes for this population.
- Identify coping strategies for families and design a program to aid families to utilize those strategies. Development of more effective roles for professional staff and lay persons should be part of this program.
- Assess alternative criteria, and implementation measures for those criteria, for determining the eligibility of psychiatrically disabled individuals for income maintenace programs such as SSDI.
- Assess the relationship between employment, income security, and recidivism.

Improved Services for Seriously Emotionally Disturbed Children

Seriously emotionally disturbed children and youth are one of the most underserved disabled populations. No locus of responsibility has been set for the timely deliver of needed service to this group within the community. Identification of this population and assessment of the needs of these youth are likely to be in the context of their conflicts with other service delivery systems such as education or corrections. Thus youth whose behavior is not a problem in these systems are likely to have their serious emotional problems overlooked. Community mental health resources are focussed on chronically mentally ill persons, almost by definition adults, and community-based residential care for youth or services to support continued care in the family are lacking. "The development of mental health resources for children in the United States has not been exemplary. While services for children in the community mental health centers have been mandated, few centers have provided the volume and continuum of programs necessary to meet children's mental health needs. In many centers, identifiable children's programs are not evident; and children and adolescents with serious mental health problems are being inadequately serviced." (Source: Task Panel Reports Submitted to President's Commission on Mental Health, Volume III, 1978.) Thus it is believed that institutionalization in either mental health or correctional settings is likely to be overused for this population.

For that part of the population remaining in school, mandated services provided under Pub. L. 94–142 are likely to be the only available resource. In 1980–81, over 300,000 children aged 3–21 with a primary diagnosis of emotional disturbance were served under Pub. L. 94–142. Of these, less than half were served in regular classes and over 20 percent were served in special shools or in other environments outside the school system.

As the youth age beyond the limits of that law, there is no generally accepted system for delivery of services to meet their needs within the community setting. As reported by the Task Force, "Adolescence is a distinct and extremely vulnerable developmental stage. Yet, in terms of their mental health needs, adolescents are one of the most underserved population groups in the United States. Serious deficiencies exist in most areas, ranging from the availability of services to the state of research. . . . The problem is further complicated by a lack of coordination between agencies at Federal, State, and local levels. Communication between welfare agencies, juvenile courts, and schools is frequently lacking, with little or no planning for the young person's immediate and longer term needs." (Source: *Ibid*) The need to plan for the transition of this group out of the educational system and into employment and community living situations is particularly acute.

Again, according to the Task Force, "In the area of applied research, emphasis should be given to evaluating the effectiveness of both traditional and innovative approaches to treatment and combinations of treatment." However, at present not enough is known about the location, characteristics, and unmet needs of this population to plan and implement an adequate treatment and service delivery system.

Thus, a Research and Training Center in this area is proposed which would:

- Perform a definitive epidemiological analysis of this population including: Numbers, ages, characteristics, residential status, school status, source of identification as emotionally disturbed, age of onset, point of intake into the service system, types of services received, unmet needs, and other relevant factors.
- Determine any variation in how seriously emotionally disturbed children fare in our system as they age, with particular attention to adolescence and to the time when they are no longer under the aegis of Pub. L. 94–142.
- Determine what services are needed, what services are received at present from various sources, and what the unmet needs are.
- Identify exemplary service delivery models and "package" these models for demonstration and implementation.
- Develop new delivery strategies or treatment interventions for those problems or groups for which suitable prototypes do not exist. Include specific focus on adolescence, school to work transitions, and services which support community living and maintenance of family care.
- Demonstrate and document the suitability of two or more model programs.
- Develop protocols and disseminate service models for use in other communities, train service providers, and provide technical assistance on program implementation.

Knowledge Dissemination and Utilization Projects

International Research Utilization

- There is a need for the United States and other nations to be aware of advancements in new knowledge and methods for rehabilitation of handicapped individuals. The exchange of experts and the dissemination of knowledge obtained through research and practice in many nations are proven methods of enhancing use of knowledge.

A Utilization and Dissemination Project is proposed which would:

- Compile, produce, and distribute a significant publication covering exemplary programs and research results internationally.
- Compile and maintain a film library, and promote the effective use of that library, of films concerning noteworthy rehabilitation practices and programs.

International Exchange of Experts and Information

• To enhance the knowledge base of rehabilitation programs in the United States, it is vital to take advantage of whatever is known in other countries around the world. It is important to capitalize on new discoveries.

A Utilization and Dissemination Project is proposed which would:

• Provide opportunities for United States experts to study policies, practices, programs and research results in other nations.

• Provide for the preparation of monographs on rehabilitation research topics by foreign experts.

Resource Information for the Blind

Blind persons and their families, as well as rehabilitation professionals working with them, need timely information about currently available, low cost devices and techniques for use in daily living, vocational, or educational activities.

A Utilization and Dissemination Project is proposed which would:

• Provide information on resources available nationally and internationally and on devices and techniques which have some consumer validation. The materials should be published, should be disseminated internationally, and should include cost uses, advantages and disadvantages, evaluation of the device or technique, and availability of resources.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these priorities. Written comments and recommendation may be sent to the address given at the beginning of this document. All comments received on or before (the 30th day after publication of this document) will be considered before the Secretary issues final priorities. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period in Room 3614, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holiday.

(20 U.S.C. 761a, 762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: November 18, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-31635 Filed 11-22-83; 8:45 am]

BILLING CODE 4001-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5130-001]

Floyd N. Bidwell, Suspending 120-Day Period for Action on Hydro Exemption

November 18, 1983.

Floyd N. Bidwell filed an application for exemption for the proposed Project No. 5130-001, located in Shasta County, California. The application was filed pursuant to section 408 of the Energy Security Act of 1980 and § 4.109 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31622 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6146-001]

Gary C. Chiara; Surrender of Preliminary Permit

November 18, 1983.

Take notice that Mr. Gary C. Chiara, the Permittee for the Tower House Ditch Project No. 6146 has requested that his preliminary permit be terminated. The preliminary permit for Project No. 6146 was issued on January 6, 1983, and would have expired on June 30, 1984. The project would have been located on Crystal Creek in Shasta County, California.

The Permittee filed the request on October 17, 1983, and the surrender of the preliminary permit for Project No. 6146 is deemed accepted as of October 17, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31623 Filed 11-23-83; 8:45 a.m.]

BILLING CODE 6717-01-M

[Project No. 6934-001]

F and T Services Corp.; Surrender of Preliminary Permit

November 18, 1983.

Take notice that F and T Services Corporation, Permittee for the Lake Vernon Project No. 6934, has requested that its preliminary permit be terminated. The permit was issued on April 29, 1983, and would have expired on October 1, 1984. The project would have been located on the Vernon Lake in Vernon Parish, Louisiana.

The Permittee filed its request on October 24, 1983, and the surrender of the preliminary permit for Project No. 6934 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31621 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-654-001]

Lockhart Power Co., Order Denying Request for Rehearing

Issued: November 18, 1983.

On September 23, 1983, the Commission suspended for five months Lockhart Power Company's (Lockhart) firm power rates for service to the City of Union, South Carolina (Union) filed in this docket.[1] The Commission also summarily disposed of Lockhart's failure to synchronize its interest expenses for purposes of its income tax calculation with the interest portion of its imputed capital structure. Lockhart, which is a wholly-owned subsidiary of Milliken and Company, Inc., finances its capital needs exclusively through common equity. All of Lockhart's Common stock is owned by Milliken and Company. For purposes of its filing, Lockhart adopted a capital structure more typical of the utility industry consisting of 50% long-term debt and 50% common equity. The Company failed, however, to impute any interest expense for tax purposes consistent with the debt component of that capitalization.

On rehearing, Lockhart asserts that the Commission misread its filing by assuming that it was adopting a 50% debt/50% equity capital structure in its case. Lockhart contends that its filing is instead based upon a capital structure consisting of 100% common equity. Based upon this capitalization, Lockhart states that it does not have any debt

[1] "Order Accepting for Filing And Suspending Rates, Noting Intervention, Making Summary Disposition, And Establishing Hearing And Price Squeeze Procedures," 24 FERC ¶ 61,330.

and, therefore, no interest tax deductions to be reflected in its rates. The company further asserts that the Commission cannot summarily reject its use of a 100% equity-financed capital structure, citing Opinion No. 29, *Lockhart Power Company*, 4 FERC ¶ 61,337 (1978).

In addition, Lockhart has attached to its rehearing petition an affidavit of one of its witnesses which states, among other things, that the company does not assume or rely upon any debt costs or interest rates in its filing. The company also states that it intends to amend its testimony prior to hearing in order to eliminate "any ambiguity" that may exist in its testimony.

Discussion

It is a well-established Commission policy that a utility's income tax calculation must be consistent with the long-term debt component employed in its capital structure.[2] Lockhart has not sought reconsideration of this policy in its rehearing petition. Instead, Lockhart asserts that its rates were originally filed based upon a capital structure that consists of 100% common equity.

Upon review, the Commission finds Lockhart's position to be without merit. Lockhart claims on rehearing that its filing is based upon a 100% equity-financed capital structure. In support of its requested rate of return, however, Lockhart's chief witness, Leslie S. Anderson, states that "for purposes of this case . . . we have accepted the hypothetical capital structure employed by the [Commission] Staff in the past which assumes Lockhart's capitalization to be 50% long-term debt and 50% common equity." We read this statement to unambiguously confirm that the company has adopted the hypothetical capital structure in support of its filing. To accept Lockhart's assertion that its rates are based on the company's actual capital structure not only directly contradicts the company's testimony, but would require the above statement to be read out of the testimony altogether. We cannot accept such a strained interpretation that goes far beyond the plain language of the company's filed testimony.

The only argument that would offer a harmonious reading of the company's testimony with its rehearing petition is that Lockhart has adopted a hypothetical cost of debt solely for purposes of avoiding an adverse suspension decision or summary disposition, but wishes to employ its actual cost of debt (*i.e.*, zero) for purposes of calculating its tax allowance. This position was rejected in our original order, and we see no reason to alter it upon rehearing. A policy that would permit a utility to pick and choose from among various capital structures for different purposes is clearly unacceptable. Such a policy would allow a utility to manipulate the elements of its capital structure and costs strictly for its own advantage. This is a policy that we have not sanctioned in the past [3] and will not do so now.

We would observe that our reading of Lockhart's case-in-chief is confirmed by long-standing Commission policy. The Commission has stated in the past that, where a subsidiary issues no securities to the public, its capital structure and costs should not be used.[4] The obvious rationale for this policy is that, where no securities are issued to the public, the subsidiary's capital structure and cost of capital can easily be manipulated by the parent to maximize the benefits to the parent company's stockholders. This manipulation is particularly egregious where the parent, at its sole discretion, assigns its more costly common equity financing to its wholly-owned subsidiary which directly passes these costs on to ratepayers. The parent, however, retains for its own capital structure all of its less costly debt, and, resultingly, the beneficial tax consequences of the debt, such as the interest deductions.[5] To avoid setting rates on the basis of such contrived capital structures, we have therefore required utilities to impute a capital structure to the subsidiary that is representative of the subsidiary's business risks as perceived by the financial markets.[6] That capital structure must be based either upon the parent's capitalization, if the risks facing the parent and the subsidiary are similar [7] or, alternatively, upon a hypothetical capital structure. As we stated in *Kentucky West Virginia Gas Co., supra:*

> When the risk and profile of the parent and subsidiary are significantly different, we see no alternative to postulating a hypothetical capital structure for the subsidiary by referring to the average capital structure for comparable independent firms. 2 FERC ¶ 61,136 at 61,326.

Lockhart cites to Opinion No. 29, *Lockhart Power Co.*, 4 FERC ¶ 61,337 (1978), for the proposition that its capital structure consisting of 100% common equity cannot be summarily rejected inasmuch as that opinion explicitly affirms the use of Lockhart's actual equity capital structure in view of the company's special circumstances. The company's reference to Opinion No. 29, however, is rather disingenuous if not misleading. The "special circumstances" referred to in Opinion No. 29 related to the fact that insufficient information existed in the record to compare the business risks of Lockhart with its parent company, Deering-Milliken Corporation.[8] Because (1) no alternative capital structure was presented at hearing and (2) no party or staff objected to the proposed capital structure, the Commission felt compelled to use Lockhart's actual capitalization. Lockhart's quote from Opinion No. 29, however, neglects to include the one critical sentence from the paragraph to which it cites. That sentence unambiguously states that:

> Because of the special circumstances involved, the Commission's decision *should not be viewed as a precedent and should in no way be interpreted as a departure from the holding in Kentucky West Virginia.* 4 FERC ¶ 61,337 at 61,805. (emphasis supplied)

Lockhart's reliance upon Opinion No. 29 is misplaced and is therefore rejected.

Finally, it appears that the real intention of Lockhart's request for rehearing is to amend its filing (1) to include an affidavit of company witness Anderson which states that the company relies upon its actual capital structure in this case and (2) to delete that portion of Mr. Anderson's filed testimony which states that the company is adopting the capital structure employed by the Staff in Lockhart's prior rate case consisting of 50% debt and 50% equity. While Lockhart may desire to revise its filing, such revisions do not properly lie on rehearing, particularly since our suspension review is based upon the company's original filing and, under our regulations, intervenors are not entitled to respond to rehearing petitions. Any attempt to amend its case-in-chief must

[2] *See, e.g., Delmarva Power & Light Co.*, Opinion No. 185, 24 FERC ¶ 61,199 (1983); *Public Service Company of New Mexico*, Opinion No. 133, 17 FERC ¶ 61,123 (1981).

[3] Opinion No. 173, *Columbia Gulf Transmission Company*, 23 FERC ¶ 61,396, 61,869 (1983).

[4] *Kentucky West Virginia Gas Company*, Opinion No. 7, 2 FERC ¶ 61,139 at 61,326, reh. denied, 3 FERC ¶ 61,225 (1978); *Columbia Gulf Transmission Co.*, Opinion No. 173, 23 FERC ¶ 61,396 at 61,869 (1983); *Consolidated Gas Supply Corporation*, Opinion No. 180, 24 FERC ¶ 61,046 (1983).

[5] *Consolidated Gas Supply Corporation*, Opinion No. 180, 24 FERC ¶ 61,046 (1983).

[6] *Id.* at p. 61,135; Opinion No. 7, supra, 2 FERC ¶ 61,139 at p. 61,326.

[7] *Consolidated Gas Supply Corp.*, 10 FERC ¶ 61,029, at 61,051, (1980) *affirmed, Consolidated Gas Supply Corporation v. FERC*, 653 F.2d 129 (4th Cir., 1981).

[8] One of the reasons for this lack of information was that counsel for Lockhart objected at hearing to cross-examination pertaining to the relationship between Milliken and Lockhart.

be made in accordance with the Commission's regulations.

The Commission orders:

(A) Lockhart's request for rehearing is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31624 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-225-000]

Tennessee Gas Pipeline Co.; Informal Conference

November 18, 1983.

On March 9, 1983, Tennessee Gas Pipeline Company (Tennessee) filed pursuant to Section 7(b) of the Natural Gas Act and §§ 157.205 and 157.216(b) of the Commission's regulations, a request to abandon a part of its service to its affiliate, East Tennessee Natural Gas Company (East Tennessee). The application indicates Tennessee seeks to reduce its service to East Tennessee by lowering East Tennessee's annual volumetric limitation (AVL), as established by Opinion Nos. 712 and 712-A in Docket Nos. CP73-115 and CP74-27, by a total of 6.09 Bcf. Numerous adverse interventions, protests and requests for hearing have been received.

Take notice that on December 9, 1983, at 9:30 a.m. an informal conference will be held at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol St. NE, Washington, D.C. 20426. The informal conference is open to the public, however attendance at the conference will not confer party status on attendees. Any person wishing to become a party to this proceeding must file a Motion To Intervene in accordance with the Commission's Rules of Practice and Procedure.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31625 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-12-000]

Virginia Electric and Power Co.; Order Approving Sale of Facilities and Disclaiming Jurisdiction Over the Balance of Facilities

Issued: November 18, 1983.

On March 11, 1983, as amended on July 20 and August 31, 1983,[1] Virginia Electric and Power Company ("VEPCO") tendered for filing an application requesting authorization under section 203 of the Federal Power Act to sell transmission equipment [2] that is associated with, or necessary for, the operation of the North Anna Nuclear Power Station (Units 1 and 2) to Old Dominion Electric Cooperative ("ODEC"). The sale of transmission facilities is a small part of the overall sale to ODEC of an 11.6 percent undivided ownership interest in North Anna Units 1 and 2 and certain related facilities. As revised, VEPCO's application states that the sale price of the transmission portion of the facilities is $1,043,225.[3]

VEPCO also requests that the Commission disclaim jurisdiction over the balance of the facilities being sold because such facilities are generating facilities not subject to the Commission's jurisdiction.[4]

VEPCO is a public utility as defined in Part II of the Federal Power Act. The company engages primarily in the generation, transmission, and distribution of electricity both to retail and wholesale customers. The company transacts business in the States of Virginia, North Carolina, and West Virginia. ODEC is a generation and transmission cooperative whose fifteen members serve retail customers in Virginia, Maryland, Delaware, and West Virginia. ODEC is under the supervision of the Rural Electrification Administration and is not a public utility that is jurisdictional to the Commission.[5] The fifteen member cooperatives currently purchase all their power requirements from VEPCO.

Notice of the original filing was published in the **Federal Register,**[6] with comments due on or before April 18, 1983. No comments have been received.

Discussion

Before a public utility may sell, lease, or dispose of any of its jurisdictional facilities valued in excess of $50,000, it must obtain this Commission's approval pursuant to section 203 of the Federal Power Act. Under section 203(a), the Commission shall grant such approval provided that the transaction "will be consistent with the public interest . . ."

An analysis of the economic effects of this transaction indicate that benefits will accrue to both parties. VEPCO will immediately obtain a financial benefit from the sale and, in the future, may benefit from joint planning with ODEC. As a result of this transaction, the cost of power to ODEC members is expected to be lower than the projected cost of continued purchases from existing sources. In addition, through this transaction ODEC secures an initial source of generation which will help the cooperative to achieve its long-term plan to meet the full electric requirements of its members. The terms of the transaction also provide that VEPCO will continue to supply the balance of ODEC's future needs.[7] There of not appear to be any adverse impacts from this transaction on the operating costs or rate levels of VEPCO.

With respect to the proposed accounting treatment for this transaction, our review indicates that the company's proposal is appropriate. However, within six months from the date of the property sale, the company is is required to submit journal entries pursuant to the instructions in the Uniform System of Accounts, Account 102, Electric Plant Purchased or Sold.

After consideration of the matters discussed above, the proposed sale of facilities appears to be consistent with the public interest. Before the Commission may approve the proposed

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[1] On July 20, 1983, VEPCO amended its application by revising the description of the transmission facilities to be sold. On August 31, 1983, VEPCO again amended its application by reducing the percentage undivided interest for which authorization is sought from 12.5 percent to 11.6 percent of the transmission facilities due to the withdwawal of Central Virginia Electric Cooperative and Craig-Botetourt Electric Cooperative from membership in ODEC.

[2] This equipment consists of four 500 kV circuit breakers, two 500 kV busses, two 100 MVA, 500/34 kV transformers, two generator step-up transformer units, two spare transformers and associated switches, controls and other electrical equipment. Application of Virginia Electric and Power Company to Amend Application for Approval to Sell Transmission Facilities, Appendix A.

[3] The purchase price consists of the original cost less the accumulated provisions for depreciation on VEPCO's books of account, plus a negotiated payment and other payments including an amount sufficient to cover VEPCO's tax liability from this transaction.

[4] The transaction, other than the sale of transmission facilities, encompasses a sale of undivided interests in North Anna generating units 1 and 2, the nuclear fuel used or to be used for North Anna Units 1 and 2, common facilities and support facilities not serving a transmission function, major spare parts and operating inventory.

[5] *Dairyland Power Corp., et al., 37 FPC 68 (1967); aff'd 391 F.2d 470 (D.C. Cir. 1968), cert.* 37 FPC 12, 15 (1967); *Salt River Project Agricultural Improvement and Power District, et al., denied,* 393 U.S. 857 (1968).

[6] 48 FR 12824 (March 28, 1983).

[7] VEPCO will supplement ODEC's requirements for demand and energy that are not met by the North Anna Units 1 and 2 or other existing arrangements. The contractual arrangements presented in the application prescribe that ODEC may reduce its purchases of supplemental demand from VEPCO.

transaction, however, section 203 of the Federal Power Act provides that "notice and opportunity for hearing" be afforded. No comments have been filed requesting that the Commission hold a hearing and nothing in the record suggests that an evidentiary hearing would aid in our determination of whether the proposed transaction is in the public interest. In this case, the Commission finds that it can discharge its responsibilities under section 203 of the Federal Power Act without ordering a hearing. *Cf. Citizens for Allegan County, Inc.* v. FPC, 414 F.2d 1125, 1128 (D.C. Cir. 1969).

VEPCO's application also seeks a determination that the Commission's jurisdiction under section 203 of the Federal Power Act does not extend beyond the transmission facilities that are being sold, namely, the North Anna Units 1 and 2 and ancillary facilities. Section 201(a) of the Federal Power Act excepts "facilities used for the generation of electric energy . . ." from this Commission's jurisdiction. Our analysis of the facilities, other than the transmission facilities, to be sold indicate that they are related to the generation of electric energy. Insofar as the balance of the instant transaction involves the sale of facilities related only to electric generation, the Commission has no jurisdiction over them.[8]

In light of the above discussion, the Commission finds that the proposed transaction is consistent with the public interest and satisifies the standards of section 203 of the Federal Power Act.

The Commission orders:

(A) VEPCO's sale of the above-described facilities and properties is hereby approved upon the terms and conditions set forth in the application and subject to the provisions of this order.

(B) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service accounts, valuation, estimates or determinations of cost or any other matter whatsoever now pending or which may come before the Commission.

(C) VEPCO shall record the proposed transaction herein authorized and the facilities and properties described above as provided in the Commission's Uniform System of Accounts.

(D) VEPCO's request for disclaimer of jurisdiction is hereby granted as discussed above.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31626 Filed 11-23-83; 8:45 am]

BILLING CODE 6716-01-M

[8] *Arizona Public Service Co.*, 32 FPC 1525 (1964).

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of October 24 Through October 28, 1983

During the week of October 24 through October 28, 1983 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

McGraw Hill Publications, Inc., Oct. 28, 1983, HFA-0103

McGraw Hill Publications, Inc. filed an Appeal from a denial by the Director of the DOE's contract operations Division "B", Office of Procurement Operations of a Request for Information which the firm had submitted under the Freedom of Information Act) the FOIA). McGraw Hill sought access to DOE documents related to the DOE's August 1982 agreement to purchase Mexican crude oil from Pemex. In considering the Appeal, the DOE pointed out that the Director of the Office of Policy Planning and Coordination (OPPC Director) was designated to review the classified materials on appeal and reach a determination regarding their release. The DOE found that the OPPC Director properly determined that some of the material contained in the documents pertained to relations between the United States and Mexico and that their release might adversely affect relations between the two countries. The OPPC Director therefore found the material was properly classified as National Security Information, and was exempt from mandatory disclosure pursuant to Exemption 1 of the FOIA. The DOE found, however, that the balance of the documents did not contain National Security Information and that such unclassified portions should be released to the Appellant.

Jeffrey L. Turek, Oct. 26, 1983, HFA-0184

Jeffrey L. Turek filed an Appeal from a denial by the Acting Manager of the Savannah River Operations Office of a requested for information which he had submitted under the Privacy Act. Turek request information contained in his personnel file which evaluated his employment application. In considering the Appeal, the DOE found that the Acting Manager was correct in withholding certain documents pursuant to Exemption (k)(5), because release of those documents would reveal the identity of a source to whom an express promise of confidentiality had been given.

Request for Exception

Golden Eagle Refining Co., Oct. 28, 1983, BEE-1313

Golden Eagle Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought exception relief to alleviate the crude oil cost disparity that the firm allegedly incurred in 1980. In considering the request, the DOE found that the high costs for crude oil incurred by the firm reflected the high quality crude oil it purchased, and did not result from any inequity or unfairness in the DOE regulatory program. The DOE also found that the firm had failed to demonstrate that the cost disparity had a significant adverse impact on its operations. Accordingly, exception relief was denied.

Refund Application

Standard Oil Co. (Indiana)/Agway, Inc., et al., Oct. 28, 1983, RF21-2109 et al.

The DOE issued a Decision and Order concerning 6 Applications for Refund. Each of the applicants was a "cooperative association" (coop), and purchased Amoco middle distillates, motor gasoline, or natural gas liquids for resale to individual coop members or to local coops for further resale. Each applicant elected to apply for a refund based on the presumption of injury and the formulae set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). The coops were treated in the same manner as consumers in determining the level of relief to which they were entitled. The DOE concluded that each of the applicants should receive a refund based upon the volume of its eligible Amoco purchases. The refunds granted in this proceeding totaled $60,254.

Dismissals

The following submissions were dismissed:
Name and case No.:
Earle D. Hightower, HFA-0186.
Monarch Air Service, RF21-3464]

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 17, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-31568 Filed 11-23-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-240038; PH-FRL 2457-4]

State Registration of Pesticides; Alabama

Correction

In FR Doc. 83-29080 beginning on page 49547 in the issue of Wednesday, October 26, 1983, make the following correction:

On page 49547, middle column, under **ALABAMA,** EPA SLN No. AL 83 0015 (Penick Corp.), third line, "Butixide" should have read "Butoxide".

BILLIND CODE 1505-01-M

[OPP-50609 PH-FRL 2477-3]

Pesticides; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

36638-EUP-9. Issuance. Albany International, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 7.6 pounds of the biological insecticides (Z)-11-hexadecenal and (Z)-9-tetradecenal on tomatoes to evaluate the control of *Heliothis virescens* and *Heliothis zea.* A total of 1,500 acres are involved; the program is authorized only in the States of California, Florida, and South Carolina. The experimental use permit is effective from September 26, 1983 to September 26, 1984. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on tomatoes has been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

352-EUP-111. Issuance. E.I. du Pont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 450 pounds of the herbicide methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl] benzoate on barley and wheat to evaluate the control of weeds. A total of 30,000 acres are involved; the program is authorized in all 50 States except Alaska, Connecticut, Hawaii, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia. The experimental use permit is effective from September 14, 1983 to September 14, 1986. Temporary tolerances for residues of the active ingredient in or on barley and wheat grain have been established. (Robert Taylor, PM 25, Rm. 253, CM#2, (703-577-1800))

1471-EUP-65. Extension. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 320 pounds of the herbicide fluridone on drainage ditches to evaluate the control of aquatic weeds. A total of 100 acres are involved. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830)).

1471-EUP-66. Extension. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 450 pounds of the herbicide fluridone on drainage ditches to evaluate the control of aquatic weeds. A total of 150 acres are involved; this program and the one above are authorized only in the State of Florida. The permits are effective from October 6, 1983 to October 6, 1984. Both permits are issued with the limitation that the herbicide will not be applied to waters that will be used for drinking, domestic purposes, swimming, fishing, watering livestock, or irrigation of crops used for food or feed. The permits will use the same active ingredient but different formulations. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

11581-EUP-1. Issuance. Otsuka Chemical Co., Ltd., 200 Park Ave., New York, NY 10166. This experimental use permit allows the use of 20 pounds of the insecticide 2,3-dihdro-2,2-dimethyl-7-benzofuranyl-N-[N-[2-(ethoxycarbonyl) ethyl]-N-isopropylsulfenamoyl]-N-methylcarbamate on field corn to evaluate the control of corn insects. A total of 20 acres are involved; the program is authorized only in the States of Kansas and Nebraska. The experimental use permit is effective from September 16, 1983 to September 16, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Jay S. Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

707-EUP-103. Issuance. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 2,496 pounds of the herbicide oxyfluorfen using aerial application equipment on fallow lands to evaluate the control of weeds. A total of 5,000 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from October 14, 1983 to October 14, 1984. This permit is issued with the limitation that cotton and soybeans are the only crops permitted to be planted in treated fields 10 months following application. A permanent tolerance has been established for residues of the active ingredient in or on cottonseed and soybeans (40 CFR 180.381). (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

476-EUP-104. Issuance. Stauffer Chemical Company, 1200 South 47th St., Richmond, CA 94804. This experimental use permit allows the use of 100 pounds of the herbicide 1-(m-trifluoromethyl-phenyl)-3-chloro-4-chloromethyl-2-pyrrolidone on wheat to evaluate the control of various weeds. A total of 200 acres are involved; the program is authorized only in the States of Idaho, Montana, Oregon, and Washington. The experimental use permit is effective from September 26, 1983 to September 26, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: November 8, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-31590 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44003 BH-FRL 2477-4]

Toxic Substances Control; Alkyl Phthalates, Chlorinated Paraffins, 4-Chlorobenzotrifluoride, 2-Chlorotoluene, and Methyl Isobutyl Ketone; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions from negotiated testing programs under section 4 of the Toxic Substances Control Act (TSCA) during the third quarter of 1983. These submissions include (1) biodegradation studies and aquatic bioassays for a number of alkyl phthalates; (2) reports on the teratogenic properties of a long-chain chlorinated paraffin, short-term toxicity of a short-chain chlorinated paraffin, and environmental effects and environmental fate of various types of chlorinated paraffins; (3) subacute toxicity and genotoxicity reports and environmental studies on 4-chlorobenzotrifluoride; (4) reports on the reproductive effects of 2-chlorotoluene; and (5) a probe teratology study on methyl isobutyl ketone.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-769), Office of Toxic Substances, Environmental Protection Agency, Room E-547, 401 M Street, S.W., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Alkyl Phthalates

The Chemical Manufacturers Association (CMA), on behalf of the Phthalate Esters Program Panel, is conducting testing on the alkyl phthalates, alkyl diesters of 1,2-benzenedicarboxylic acid, which are primarily used as plasticizers. The CMA's proposal was accepted by the Agency in lieu of a test rule under section 4 of the Toxic Substances Control Act and is described in the **Federal Register** of October 30, 1981 (46 FR 53775).

Industry's proposal examines aquatic toxicity, environmental transport and fate, and biodegradation of the high production alkyl phthalates and butyl phthalate. The proposal also examines, in a more experimental approach, potential oncogenic and mutagenic effects of selected alkyl phthalates and benzyl butyl phthalate. Basically, CMA's health proposal is a multistage test program consisting of two first-stage components: (1) A battery of short-term mutagenicity tests; and (2) a 21-day *in vivo* test with rats. CMA will concurrently be performing extensive metabolism work on di-2-ethylhexyl phthalate. Long-term tests, such as 2-year bioassays, will also be performed depending on the results of the short-term tests for other phthalates.

1. Shake-flask biodegradation studies have been completed for all 14 of the test phthalate esters (dimethyl phthalate (DMP), diethyl phthalate (DEP), di-n-butyl phthalate (DBP), benzyl butyl phthalate (BBP), dihexyl phthalate (DHP), butyl 2-ethylhexyl phthalate (BOP), di(n-hexyl, n-octyl, n-decyl) phthalate (610P), di-2-ethylhexyl phthalate (DEHP), diisoctyl phthalate (DIOP), diisononyl phthalate (DINP), di(heptyl, nonyl, undecyl) phthalate (711P), diisodecyl phthalate (DIDP), diundecyl phthalate (DUP), and ditridecyl phthalate (DTDP)).

The test measures the relative biodegradability of the compounds, providing information on primary and ultimate biodegradability. All of the compounds tested showed extensive biodegradation under the conditions of the test. All of the compounds tested, except for benzyl butyl phthalate and ditridecyl phthalate, yielded primary degradation of 90 percent or greater, and ultimate degradation of greater than 55 percent. The half-life for ultimate degradation was less than 28 days for all of the phthalate esters tested. The following CO_2 evolution rate constants (days $^{-1}$) were reported: DMP (0.364), DEP (0.315), DBP (0.050), BBP (0.052), BOP (0.153), DHP (0.241), 610P (0.131), DIOP (0.082), DEHP (0.136), DINP (0.131), 711P (0.137), DIDP (0.088), DUP (0.115), and DTDP (0.029).

2. The Agency has also received the results of 96-hour static acute bioassays of 14 phthalate esters on fathead minnows and 13 phthalate esters on the bluegill. In these tests, only DMP, DEP and DBP were acutely toxic at levels below their limits of solubility. Reported results of the 96-hour, static test for the bluegill were [96-hour LC_{50} (mg/l)]: DMP (67), DEP (22), DBP (0.85), DHP (>0.22), BOP (>0.20), 610P (>0.18), DEHP (>0.32), D10P (>0.27), DINP (>0.17), 711P (>0.18), DIDP (>0.55), DUP (>1.0), and DTDP (>0.21). For the fathead minnow, the corresponding results were: DMP (120), DEP (17), and DBP (3.0). The results for the other compounds were the same as for the bluegill, except BBP was also tested on the fathead minnow with the 96-hour LC_{50} reported as exceeding the limits of solubility (>1.6 mg/l).

3. Flow-through, 96-hour acute bioassays of 13 phthalate esters on fathead minnows were also submitted. Reported results for this testing were as follows [96-hour LC_{50} (mg/l)]: DMP (39), DEP (17), DBP (0.92) and BBP (1.5). The LC_{50} values for the other nine compounds exceeded the compounds' water solubility limits. For DMP, DEP, and DBP the test was carried out to 144 hours; LC_{50} values calculated for that length of time were 38, 15 and 0.92 mg/l, respectively. In the static test with the bluegill and the flow-through test with the fathead minnow, BBP and 711P, respectively, were not tested because this testing had previously been performed by other investigators.

The studies submitted have been placed in the public file on alkyl phthalates and benzyl butyl phthalate (OPTS-42005).

II. Chlorinated Paraffins

The Consortium of Chlorinated Paraffins Manufacturers is conducting a negotiated testing program on chlorinated paraffins, substances used primarily as flame retardants and plasticizers. This testing program, described in full in the **Federal Register** of January 8, 1982 (47 FR 1017), was accepted by the EPA in lieu of a chlorinated paraffins test rule under section 4 of TSCA. The negotiated testing program is a two-level testing scheme on four chlorinated paraffins of differing chain length and degree of chlorination. All four of the chlorinated paraffins have been tested in some of the lower-level tests, while other studies will test fewer. These lower-level tests included metabolism, teratology, and mutagenicity tests in bacteria and mammals, and subchronic toxicity tests in both mammals and aquatic organisms. The upper-level tests use the compound considered the most toxic in the lower-level tests, and will include a 2-generation reproductive study in rats and a number of specialized aquatic studies. The American members of the Consortium are also performing a reproductive study in mallard ducks with the short-chain chlorinated paraffin of 58 percent chlorination.

The Consortium has recently submitted the following studies:

1. The final report for a teratology study in rabbits with the long-chain paraffin of 70 percent chlorination. The authors reported that no treatment-related statistically significant differences from control were observed in the incidence of fetal malformations at any of the three treatment doses. In addition, the treatment-related increase in post-implantation loss observed at 1,000 mg/kg/day (the high dose group) in two preliminary studies was not observed in this study.

2. A 5-day oral range-finding study in rats with the short-chain paraffin of 58 percent chlorination. The authors reported that no significant changes in body weight measurements occurred at any of the three dose levels of 1,000, 1,500, and 2,000 mg/kg/day, although "the number of rats with weight loss or reduced weight gain increased with increasing dosage." On the basis of the results of this study, 2,000 mg/kg/day was chosen as the high dose level for the future dominant lethal study in rats.

3. A series of reports containing the results of several environmental studies. All of the Phase I studies were included. These consisted of 60-day toxicity experiments with each of the four chlorinated paraffins in both mussels and rainbow trout, as well as a determination of the background contaminants present in the fish food, dilution waters, and test organisms used in the experiments.

Of the four chlorinated paraffins tested, only the shortchain paraffin with 58 percent chlorination showed significant toxicity to mussels. In that study the authors reported that significant mortality occurred at nominal concentrations of 0.1, 0.32, and 3.2 mg/liter. The 60-day LC_{50} for this compound was determined to be 0.074 mg/liter. No significant morality was observed at the lower nominal concentrations of 0.018 and 0.056 mg/liter.

Sixty-day toxicity studies were also conducted with the four chlorinated paraffins using rainbow trout. Again, the authors reported that only the short-chain paraffin of 58 percent chlorination elicited significant toxic symptoms. Significant mortality was observed at nominal concentrations of 0.32, 1.0, and 3.2 mg/liter, and the LC_{50} for this study was determined to be 0.34 mg/liter.

4. A background contamination study. Measurable amounts (about 0.5 mg/kg) of chlorinated paraffins were found in fish food, rainbow trout, and mussels, but not in either sea water or fresh water (analytical problems reduced the sensitivity of the method for the water analyses). Polychlorinated biphenyls (PCB's) and certain chlorinated hydrocarbon pesticides were also found in the trout, mussels, and fish food in concentrations totaling 0.08 to 0.3 mg/kg. PCB's were not found in either the salt or fresh water, and the presence of chlorinated hydrocarbon pesticides in the media was not determined. The results of this study will be used by the Agency in its interpretation of the 60-day toxicity studies.

Because the short-chain paraffin of 58 percent chlorination was determined in these studies to be the most toxic to mussels and rainbow trout (Phase I), this compound was used as the test substance in all Phase II aquatic toxicity tests.

5. Two studies examining the effect of the short-chain paraffin of 58 percent chlorination on the growth of one marine and one fresh water alga. The concentrations of chlorinated paraffin causing a 50 percent reduction in fresh water algal cell density (EC_{50}) were reported by the authors to range from about 3.7 to 1.3 mg/liter for 4- to 10-day exposure periods. The 10-day EC_{50} for the marine alga was about 0.05 mg/liter, although the authors described the inhibition of growth as being "short-term" and "transient."

6. An aerobic biodegradation test of the short-chain paraffin was submitted in three parts. Two of the parts directly addressed the biodegradability of the paraffin by the measurement of carbon dioxide evolution and by the measurement of oxygen uptake. No significant biodegradation was observed using either of these methods. The third part addressed the effect of the paraffin on aerobic sewage treatment. At the nominal concentration of 10 mg/liter (the only concentration tested), "no effect on the normal operation of the activated sludge process" was observed.

7. Anaerobic biodegradation tests were submitted in two parts. The study of the effect of the paraffin on anaerobic sewage treatment indicated that concentrations of chlorinated paraffin exceeding 3 percent (w/w) of the digester contents significantly inhibited this anaerobic sludge digestion process. The Consortium described technical difficulties encountered during the anaerobic biodegradation study of the chlorinated paraffin itself, and this second part was submitted in draft form. The draft report stated that no apparent anaerobic degradation of the chlorinated paraffin occurred under the conditions of the study. The Consortium indicated they will submit the report in final form following conclusion of their quality assurance inspection.

8. Solubility tests with the four chlorinated paraffins in distilled water. The maximum solubility of the short-chain chlorinated paraffin with 58 percent chlorination was reported to be 0.15 mg/liter. The solubility of the remaining three chlorinated paraffins was 0.05 mg/liter or less.

9. Toxicity study in midges using the short-chain paraffin with 58 percent chlorinaation.

At the two highest doses (121 and 394 ug/l) in the chronic portion of the study, no adult midges emerged. There were no adverse effects observed at the lower doses. In addition, no adverse effect was observed during the acute exposure of midges to concentrations ranging from 18 to 162 ug/l

10. Toxcity study in *Daphnia*—Draft. The Consortium submitted an interim report on the toxicity of the short-chain paraffin with 58% chlorination to *Daphnia sp.* This report was claimed to be "Confidential." The final report of this study will be placed in the public file upon receipt in the near future.

The Agency is evaluating these data and the conclusions that can be drawn from the data in regard to further testing under this program. Except for the one study claimed to be confidential, these studies have been inserted in the public file on chlorinated paraffins (OPTS-42004).

III. 4-Chlorobenzotrifluoride

Occidental Chemical Corporation has proposed a testing program for 4-chlorobenzotrifluoride (4-CBTF), a chemical used in the production of dinitroaniline herbicides. The testing scheme is a multi-level approach to both health and environmental effects testing with the EPA participating at a number of program review and decision points. In addition to the acute toxicity information currently available, Occidental has proposed a base set of health effects studies on 4-CBTF which includes subchronic effects, metabolism, mutagenicity and cell transformation. Decisions on additional testing are to be made when the base set tests are completed and have been reviewed. The environmental effects base set tests proposed by Occidental include: *Daphnia* life cycle, fathead minnow partial life cycle, bluegill flowthrough bioaccumulation, soil adsorption/desorption, volatilization from water, photolysis in water, and anaerobic aquatic metabolism. Because of these health and environmental effects testing schemes, the EPA made a decision, published in the **Federal Register** of July 18, 1983 (48 FR 32730), not to propose a test rule for 4-CBTF under section 4 of TSCA.

Elanco Products Company, a division of Eli Lilly and Company, has submitted a progress report on the base set of studies that are being conducted for Occidental by Lilly Research Laboratories. Data have been received on the following studies:

1. *Subchronic toxicity in rats.* A 14-day pilot study was conducted with doses of 0, 50, 100, 225, and 500 mg/kg of body weight given by daily oral gavage. Statistically significant increases in hepatic microsomal enzyme activity were seen in males at doses of 100, 225 and 500 mg/kg/day and in females at

doses of 225 and 500 mg/kg/day. Relative liver and kidney weight increases were seen at the higher doses. Based on these findings, a 90-day oral gavage study was conducted at doses of 10, 40, 150 and 500 mg/kg/day. Test results are being evaluated.

2. *In vitro cytogenetics.* Microbiological Associates tested 4-CBTF using cultured Chinese hamster ovary (CHO) cells with and without metabolic activation at six dose levels ranging from 130 to 29.99 nl/ml. The final report stated that toxicity was evident in both the activated and non-activated tests; however, there was no effect of treatment on chromosome aberrations.

3. *Cell transformation with activation.* Authur D. Little, Inc., tested 4-CBTF in an *in vitro* cell transformation assay with metabolic activation in Balb/C3T3 cells. Study concentrations of 300, 100, 30 and 10 ug/ml were used. 4-CBTF was reported to be toxic at the highest concentration but cell transformation was not evident in any of the cultures. A final report has not been submitted.

4. *Bioconcentration.* A report was submitted on a preliminary uptake and depuration study in bluegill in a static system. A bioconcentration factor of 58 was determined for 4-CBTF. A protocol for a definitive study was submitted for review.

5. *Aqueous photolysis.* No degradation of 4-CBTF was observed in aqueous solutions exposed to sunlight for up to 28 days or in solutions maintained in the dark for the same period. A final report has not been submitted.

The Agency is continuing its evaluation of the data and the conclusions that can be drawn from it in regard to further testing under the negotiated program. These studies have been inserted in the public file on 4-CBTF (OPTS–42026A).

IV. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene, a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. The testing scheme is multi-level in approach, with the EPA participating at a number of decision points. The toxicological areas being addressed by this program are metabolism, teratology, mutagenicity, chronic toxicity, and environmental toxicity. Because of Occidental's commitment to this testing scheme, the EPA decided that it would not propose a 2-chlorotoluene test rule under section 4 of TSCA. This decision was published in the **Federal Register** of April 28, 1982 (47 FR 18172). Occidental has submitted the following:

1. A final report, "Effect of 2-Chlorotoluene Vapour on Pregnancy of the New Zealand White Rabbit" prepared by Huntingdon Research Centre for Occidental. The report concludes that exposure to 2-chlorotoluene vapors at concentrations up to 10 mg/1 did not have a significant effect upon reproductive performance or fetal development in New Zealand White rabbits. The conclusions presented in the final report are the same as the conclusions reported in the draft report received during the first quarter of 1983, the receipt of which was noted in the **Federal Register** of May 4, 1983 (48 FR 20132).

2. A final report, "Effect of 2-chlorotoluene Vapour on Pregnancy of the Rat" prepared by Huntingdon Research Centre for Occidental. The report concludes that several fetuses of pregnant rats exposed to the highest dose (9 mg/1) showed skeletal abnormalities. The report also concludes that rats exposed to 1 or 3 mg/1 over equivalent exposure schedules showed "no notable or significant deviations from control values among litter parameters and incidences of malformations, anomalies and skeletal variants." The conclusions presented in the final report are the same as the conclusions reported in the draft report received during the first quarter of 1983 the receipt of which was noted in the **Federal Register** of May 4, 1983 (48 FR 20132).

The Agency is continuing its evaluation of the data and the conclusions that can be drawn from the data in regard to further testing under the negotiated program. These studies have been inserted in the public file on 2-chlorotoluene (OPTS–42011A).

V. Methyl Isobutyl Ketone

The Ketones Program Panel of the Chemical Manufacturers Association (CMA) is conducting a testing program on methyl isobutyl ketone (MIBK) and methyl ethyl ketone (MEK) to characterize their potential health effects. These two compounds are used as part of various mixed solvents in the coatings industry and in allied industrial applications (e.g., adhesives). The testing consists of five short-term tests on both compounds plus an inhalation teratology test and a 90-day subchronic study on MIBK. The short-term studies include the Ames test, mouse lymphoma assay, BALB/3T3 mouse embryo cell transformation, cytogenic study using mouse micronucleus *in vivo*, and unscheduled DNA synthesis.

The inhalation teratology test on MIBK will be run on two species, rat and mouse, at three dose levels along with a negative control. The 90-day subchronic study will be performed on male and female rats and mice using whole body inhalation exposure to MIBK vapor, 6 hours per day, 5 days per week for 13 weeks at doses of 50, 250 and 1,000 ppm. A 9-day vapor inhalation range-finding study was completed in June, 1982 and was included in submissions in response to the Proposed Negotiated Testing Agreement. Because of this proposed testing, EPA decided not to initiate rulemaking at this time to require testing for MIBK's and MEK's health effects. Notice of that decision was published in the **Federal Register** of December 29, 1982 (47 FR 58027).

The Ketones Program Panel has submitted the results of a probe teratology study conducted on rats and mice exposed to 3,000, 1,000 and 500 ppm of MIBK for 6 hours/day for days 6 through 15 of gestation. CMA reported that exposure of rats to 3,000 ppm produced maternal toxicity which appeared as reduced body weight gains, reduced feed consumption and elevated relative kidney weight. Other effects attributable to central nervous system depression were reported. Increased relative kidney weight gain was also observed at the 1,000 ppm dose level, and only slight, not statistically significant body weight differences were seen at the 500 ppm level. The observations in mice exposed to 3,000 ppm were similar to those reported for rats. Mice also had increased liver weights at 3,000 and 1,000 ppm. No adverse maternal effects were seen at 500 ppm MIBK in mice and no significant embryo or fetal toxicity was observed in rats or mice in this study. The CMA Ketones Program Panel stated that they expected to use dose levels of 1,000, 250 and 50 ppm for the teratology study. The Agency reviewed and evaluated the data and conclusions from this study and recommended to the CMA Panel that they use the probe study doses for the teratology study. The Panel decided after discussions with EPA to set the doses for the main teratology study, at 3,000, 1,000 and 300 ppm.

The probe study has been placed in the public file on MIBK/MBK (OPTS–42017).

VI. Public Record

EPA has established public records for the test data and other relevant actions pertaining to the chemicals. These records are available for public inspection in the OPTS Reading Room,

Rm. E-107, 401 M St., SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The material may be copied for a nominal fee.

Dated: November 7, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-31589 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51494; BH-FRL 2478-2]

Toxic Substances Control; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of ten PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-205, 84-206, and 84-207—February 7, 1984.

PMN 84-208, 84-209, 84-210, 84-211, 84-212, and 84-213—February 11, 1984.

PMN 84-214—February 12, 1984.

Written comments by:

PMN 84-205, 84-206, and 84-207—January 8, 1984.

PMN 84-208, 84-209, 84-210, 84-211, 84-212, and 84-213—January 12, 1984.

PMN 84-214—January 13, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51494]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-205

Manufacturer. The BF Goodrich Company.

Chemical. (G) Thermoplastic polyurethane.

Use/Production. (G) Non-dispersive formulation adhesive thermoplastic fabrication feedstock. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-206

Manufacturer. The BF Goodrich Company.

Chemical. (G) Thermoplastic polyurethane

Use/Production. (G) Non-dispersive formulation adhesive thermoplastic fabrication feedstock. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-207

Manufacturer. The BF Goodrich Company.

Chemical. (G) Thermoplastic polyurethane.

Use/Production. (G) Non-dispersive formulation adhesive thermoplastic fabrication feedstock. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-208

Manufacturer. Confidential.

Chemical. (G) Vegetable oil polyamide resin.

Use/Production. (S) Industrial polymeric vehicle for printing ink used for metal can, film and foil decorative coatings in flexographic and rotogravure ink systems. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 8 hrs/da.

Environmental Release/Disposal. Less than 20 kg/batch released to land. Disposal by landfill.

PMN 84-209

Importer. Confidential.

Chemical. (G) Pentasubstituted phenyl fatty acid ester.

Use/Import. (G) Open, non-dispersive use. Import range: 7,000-15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 84-210

Importer. Confidential.

Chemical. (G) 4-substituted benzoyl chloride.

Use/Import. (G) Site limited intermediate. Import range: Confidential.

Toxicity Data. Irritation: Skin—Negligible, Eye—Minimal.

Exposure. Import: inhalation, a total of 6 workers, up to 2 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. 16 kg/batch released with traces to land. Disposal by biological treatment system, incineration and landfill.

PMN 84-211

Importer. Confidential.

Chemical. (G) 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt.

Use/Import. (G) Site limited intermediate. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: a total of 6 workers, up to 6 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Less than 0.5 kg/batch released to water with less than 0.38 kg/batch to land. Disposal by incineration, waste water treatment facility and privately owned treatment works.

PMN 84-212

Manufacturer. Confidential.

Chemical. (G) 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt.

Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: a total of 12 workers, up to 7 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. Less than 5 kg/batch released to water with less than 0.38-0.5kg/batch to land. Disposal by biological treatment system, incineration, landfill and privately owned treatment works.

PMN 84-213

Manufacturer. Confidential.

Chemical. (G) 2,8-phenazinediamine, tetrasubstituted-5,10-dihydro-10-(substituted-phenyl)-5-(4-substituted) benzoyl.

Use/Production. (G) Coating on commercial use article. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 18 workers, up to 6 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. 0.25–0.3 kg/batch released to land. Disposal by biological treatment system, incineration, landfill and privately owned treatment works.

PMN 84–214

Importer. Kaneka Texas Corporation.

Chemical. (G) Reaction products of quinone and amine.

Use/Import. (G) Coating agent for polymerization reactor inner walls. Import range: Confidential.

Toxicity Data. Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

Dated: November 18, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 83-31591 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2477-8]

Availability of Environmental Impact Statements Filed November 14 Through November 18, 1983 Pursuant to 46 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities. General information (202) 382–5075 or (202) 382–5076.

EIS No. 830603, Final, OSM, PRO, State/Indian Reclamation Program, Title IV Grants, SMCR Act of 1977, Due: Dec. 27, 1983.

EIS No. 830604, Final, NRC, NC, Shearon Harris Nuclear Plant, Units 1 & 2, Licenses, Wake/Chatham Counties, Due: Dec. 27, 1983.

EIS No. 830605, , Draft, COE, AK, Unalaska Hydropower Development, Shaishnikof River and Pyramid Creek, Due: Jan. 9, 1984.

EIS No. 830606, , Draft, BLM, UT, PRO Utah Regional Combined Hydrocarbon Development, Leasing, Due: Jan. 18, 1984.

EIS No. 830607, , Draft, EPA, LA, MXG Atchafalaya R. Bar Channel, Dredged Disposal Site, Designation, Due: Jan. 9, 1984.

EIS No. 830608, , Final, MMS, ATL, 1984 North Atlantic OCS Oil/Gas Sale, Leasing, Atlantic Ocean, Due: Dec. 27, 1983.

EIS No. 830609, , Final, AFS, CA Devers Valley/Serrano Valley/Serrano Villa Park Trans, Lines, Permits, Due: Dec. 27, 1983.

EIS No. 830610, , Final, AFS, CO, Routt National Forest Land and Resource Management Program, Due: Dec. 27, 1983.

EIS No. 830611, , Draft, EPA, AK, Nome Harbor Dredged Material Disposal Sites, Designation, Bering Sea, Due: Jan. 9, 1984.

EIS No. 830612, Final, EPA, MN, Moose Lake-Windemere Sanitary District WWT System, Approval/Grant, Due: Dec. 27, 1983.

Amended Notice

EIS 830534, Draft, BLM, NV, Lahontan Resource Area, Resource Management Program, Published FR 10-07-83—Incorrect due date, Due: Jan. 3, 1984.

Dated: November 21, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-31666 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2477-5; Public Notice No. 83AL001]

Alabama; Modification of the National Pollutant Discharge Elimination System (NPDES) Program to Issue General Permits

November 30, 1983.

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The State of Alabama has submitted a request to the Environmental Protection Agency (EPA) for approval of a NPDES program modification which provides for issuance of general permits. The general permits will be issued by the Alabama Department of Environmental Management (ADEM) who administers the NPDES program. This notice provides for a comment period and an opportunity for interested persons to request a public hearing. The Administrator will approve or disapprove Alabama's request after taking into consideration all requests received according to EPA regulations.

DATES: Comments must be received on or before December 27, 1983.

ADDRESSES: Comments should be addressed to: U.S. EPA, Region IV, Water Management Division, 345 Courtland Street, N.E., Atlanta, Georgia 30365; Attn: Earline Hanson.

Alabama's proposed program modification may be examined and copied at the following locations:

U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Alabama Department of Environmental Management, 2721 Gunter Park Drive, Montgomery, Alabama.

400 Well Street, Rm. 210, Decatur, Alabama 35601.

4358 Midmost Drive, Mobile, Alabama 36609.

Unit 806, Building 8, 225 Oxmoor Circle, Birmingham, Alabama 35209.

FOR FURTHER INFORMATION CONTACT: James Patrick, Chief, Permits Section, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881-3012 or Sonja Massey, ADEM, 2721 Gunter Park Drive, Montgomery, Alabama, 205/277-3630.

SUPPLEMENTARY INFORMATION: EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate discharges of wastewater which result from similar operations, are of the same type wastes, require the same effluent limitations, require similar monitoring, and are more appropriately controlled under a general permit rather than by individual permits. Alabama was authorized to administer the NPDES program in October, 1979. Their program, as approved, does not include provisions for the issuance of general permits. There are several industrial categories which could appropriatly be regulated by general permits. This would significantly reduce the backlog of unissued NPDES permits and reduce the administrative burdens and costs of issuing individual permits. For this reason the ADEM has requested a modification of their NPDES program to provide for issuance of general permits. The industrial categories which have been proposed at this time for coverage under the general permit program include: Non-Contact Cooling Water, Water Treatment Plant Filter Backwash, Petroleum Bulk Storage Stations and Terminals, Mining, Coal, Mining and Processing, Rock and Stone or Sand and Gravel, Natural Gas Pipeline and other Hydrostatic Test Water, Offshore Oil and Gas Exploration and Production, Car Washes, Military Wash Racks and Similar Facilities.

Each general permit would be subject to EPA review and approval as provided by 40 CFR 123.44(a)(2). Public notice and opportunity to request a hearing must also be provided for each general permit.

The proposed revisions by ADEM consist of an Attorney General's statement, revised NPDES regulations (Chapter 5), new General NPDES Permit Regulations (Chapter 10), and a revised program description. ADEM held a public hearing on the changes to the regulations on May 26, 1982 in Montgomery, Alabama.

At the close of the comment period the Administrator of EPA will decide to approve or disapprove of the proposed modification to Alabama's NPDES program. This decision will consider all written comments received during the comment period. Upon approval or disapproval of the request, the Administrator will notify the State of Alabama, and publish notice in the **Federal Register**.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Alabama general permit program modification does not alter the regulatory control over any industrial category. It provides a simplified administrative process. No new substantive requirements are established by this action. Therefore, since this Notice does not have a significant impact on a substantial number of small entities, a Regulatory Flexibility Analysis is not needed.

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

Dated: November 16, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-31586 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-1214; File No. BPED-790914AC et al.]

Connecticut Educational Telecommunications Corp. et al.; Hearing

In re applications of Connecticut Educational Telecommunications Corporation, Stamford, Connecticut; MM Docket No. 83-1214, File No. BPED-790914AC; Req: 88.5 MHz, Channel 203A, 1.15 kW(H), 1.10 kW(V), 66 feet; Central School District #4(WPOB), Plainview, New York; MM Docket No. 83-1215, File No. BPED-791231BD; Has: 88.5 MHz, Channel 203D, .01 kW, feet; Req: 88.5 MHz, Channel 203A, .330 kW, 170 feet; Syosset Central School District (WKWZ), Syosset, New York; MM Docket No. 83-1216, File No. BPED-791231BU; Has: 88.5 MHz, Channel 203D, .01 kW, feet; Req: 88.5 MHz, Channel 203A, .330 kW, 170 feet; Fairfield University (WVDF), Fairfield, Connecticut.; MM Docket No. 83-1217, File No. BPED-801201AT; Has: 88.5 MHz, Channel 203D, .01 kW, feet; Req: 88.5 MHz, Channel 203A, .100 kW, (H&V) 50 feet; for construction permit for a new Noncommercial Educational FM station, and Modification of Facilities of Noncommercial Educational FM stations.

Hearing Designation Order

Adopted: October 28, 1983.
Release: November 17, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Connecticut Educational Telecommunications Corporation (CETC); Central School District #4 (Central); Syosset Central School District (Syosset); and Fairfield University (Fairfield). The Central and Syosset applications are not mutually exclusive with each other, since they have applied to continue their share-time operation at increased power. Thus, from an engineering standpoint, their applications constitute a single proposal.

2. *CETC.* Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no indication that CETC published the required notice. To remedy this deficiency, CETC must publish local notice of the application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

3. The material submitted by CETC in its application does not demonstrate the applicant's financial qualifications. CETC plans to finance construction and operation with funds from the State of Connecticut and from a bank loan. However, CETC has not shown that the amount to be received from the state is earmarked for the construction and operation of its proposed station. Also, the bank loan letter has expired. Accordingly, an issue will be specified.

4. CETC's application fails to indicate that the applicant will have less than five full time employees. The Commission requires that if there will be five or more full-time station employees, the applicant must complete and file Section VI of FCC Form 340, and supply a statement detailing hiring and promotion policies even though there may be only a few members of minorities residing within the proposed service area. Accordingly, CETC will be required to file this Section VI information within 30 days of the release of this Order with the presiding Administrative Law Judge.

5. Since no determination has been received from the Federal Aviation Administration as to whether the antenna proposed by CETC would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

6. Examination of the engineering portion of CETC's proposal indicates that the applicant incorrectly calculated its height above average terrain (HAAT) by omitting portions of the 90 and 225 degree radials over land. Accordingly, the applicant will be required to amend its engineering data in respect to the above, and file it with the presiding Administrative Law Judge within 30 days of the release of this Order.

7. *Central.* Applicants for station modifications are required to publish or broadcast local notice of the filing of their applications. We have no evidence that Central has given the required notice. To remedy this deficiency Central must publish or broadcast local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

8. *Fairfield.* We also have no evidence that Fairfield has given local notice of the filing of its application. Therefore, Fairfield must also publish or broadcast local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

9. *Other Matters.* Section 73.509 of the Commission's Rules states that no educational FM application will be accepted for filing if the requested facility would receive interference within its proposed 1 mV/m contour. Central and Syosset operate with the same facilities under an existing sharetime agreement. Their proposal will receive interference from first-adjacent channel WVHC(FM), Hemstead, New York, and they have requested a waiver of § 73.509. They allege that the interference to be received is less than 0.5 per cent of the proposed 1 m/Vm contour and that channel 203 is the only frequency available for use by a Class A station in the area. Due to the small amount of interference to be received by the proposal, and the lack of an alternative frequency we believe that adequate justification has been provided to warrant a waiver.[1]

10. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

11. We have no indication that attempts have been made to negotiate a

[1] The Mass Media Bureau was given authority to waive small amounts of interference received by noncommercial educational FM proposals in Public Notice FCC 81-332 released July 17, 1981.

share-time arrangement. Therefore, an issue will be specified to determine whether share-time arrangements between any of the applicants would be the most effective use of the frequency thus better serving the public interest, and, if so, the terms and conditions thereof. *Granfalloon Denver Educational Inc.*, 43 FR 49560, published October 24, 1978. It should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement themselves.

12. Except as indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether CETC has sufficient funds available to meet its estimated construction and operation costs and, in light thereof, whether the applicant is financially qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by CETC would constitute a hazard to air navigation.

3. To determine the number of other primary noncommercial educational FM services (1.0 mV/m or greater) available in the proposed service area of CETC and the areas and populations served thereby.

4. To determine the areas and populations which may be expected to gain or lose primary noncommercial educational FM service (0.1 mV/m or greater) from the proposed operations of Central/Syosset and Fairfield, and the availability of other primary noncommercial educational FM services to such areas and populations.

5. To determine whether a share-time arrangement between the applicants would result in the most effective use of the channel thus better serving the public interest, and, if so, the terms and conditions thereof.

7. To determine in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operations and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted

14. It is further ordered, That within 30 days of the release of this Order, CETC shall inform the Administrative Law Judge as to whether local notice of the filing of the application has been published.

15. It is further ordered, That within 30 days of the release of this Order, CETC shall submit Section VI information in accordance with the requirement of § 73.2080(c) of the Commission's Rules to the presiding Administrative Law Judge.

16. It is further ordered, That the Federal Aviation Administration is made a party to this proceeding with respect to the air hazard issues only.

17. It is further ordered, That within 30 days of the release of this Order, CETC shall provide the presiding Administrative Law Judge with an amendment to its engineering data pursuant to paragraph 6 above, correctly calculating its HAAT.

18. It is further ordered, That within 30 days of the release of this Order Central and Fairfield shall inform the Administrative Law Judge as to whether local notice of the filing of the applications have been published or broadcast.

19. It is further ordered, That § 73.509 of the Commission's Rules is waived with respect to the Central and Syosset applications.

20. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

21. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Audio Services Division, Mass Media Bureau.

Appendix

22. The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by the below listed applicants. Accordingly, it is further ordered, That the following issue is specified:

6. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Central and Syosset.

[FR Doc. 83-31558 Filed 11-23-83; 8:45 am]
BILLING CODE 6712-01-M

National Industry Advisory Committee, Common Carrier Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Common Carrier Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Thursday, December 8, 1983. The meeting will consist of two parts, as follows:

- At 9:30 A.M. the Common Carrier Communications Subcommittee will join the Emergency Broadcast Subcommittee at the Board Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, D.C. This joint meeting will be briefed by Commission staff on emergency communications functions.

- At 2:00 P.M. the Common Carrier Communications Subcommittee will convene at AT&T Long Lines, 1120 — 20th Street, NW., Washington, D.C. in Conference Room A/B on the 10th Floor. The purpose and agenda of this afternoon session are as follows:

Purpose: To consider emergency communications matters.

Agenda

1. Opening remarks by Chairman.

2. Review of morning joint meeting and determination of recommendations to be presented to Long Range Planning Committee.

3. Report by the National Communications System (NCS) concerning a study of potential revision

of the restoration priority (RP) system for private line services.

4. Determination of a Subcommittee position concerning RP systems for private line services.

5. Other business.

6. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Anyone wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-31564 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Plant Accounts Subcommittee Meeting; Meeting

Pursuant to Section 120(a)(2) of the Federal Advisory Committee (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Thursday and Friday, December 8 and 9, 1983. The meeting will begin on December 8 at 10 a.m. in the offices of MCI Telecommunications Corporation, 1133 19th Street, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report of Subcommittee Members
IV. Discussion of Instructions for Telephone Plant Accounts
V. Discussion of Appendix A of Part 31
VI. Further Assignments
VII. Other Business
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (703) 486–4168 at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-31563 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

Meeting of the Telecommunications Industry, Advisory Group Steering Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee scheduled to meet on Wednesday, December 7, 1983. The meeting will begin at 9:30 AM and will be held at the offices of the Department of Health and Human Resources, Room 548J (Brown Building), 1200 19th Street, N.W., Washington, D.C. The meeting will be open to the public. The agenda is as follows:

I. Review of Minutes of Previous Meeting
II. General Administrative Matters
III. Review of Reports to be submitted to the TIAG Assembly
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of the Chairman, Gerald P. Vaughn, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman ((202) 634–1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-31565 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82–564; FCC 83–529]

Regarding Petitions of Henry Geller and the National Association of Broad casters and the Radio-Television News Directors Association To Change Commission Interpretation of Certain Subsections of the Communications Act

AGENCY: Federal Communications Commission

ACTION: Report and Order.

SUMMARY: This document expands the Commission's prior interpretation of the exemption from equal opportunities requirements in the Communications Act for political debates and other bona fide news events. It keeps unchanged the Commission's interpretation of the exemption in the Act for news documentaries. This action is taken in response to petitions filed for interpretation of the Communications Act.

FOR FURTHER INFORMATION CONTACT: Milton O. Gross, Chief, Fairness/Political Broadcasting Branch, Mass Media Bureau, Washington, D.C. 20554, (202) 632–7586.

In the matter of petitions of Henry Geller and National Association of Broadcasters and the Radio-Television News Directors Association to change Commission interpretation of Subsections 315(a) (3) and (4) of the Communications Act; BC Docket No. 82–564.

Report and Order

Adopted: November 8, 1983.
Released: November 16, 1983.

By the Commission: Commissioner Quello issuing a separate statement; Commissioner Rivera absent.

1. On August 18, 1982, the Commission issued a Notice of Inquiry concerning its interpretation of subsection 315(a) of the Communications Act of 1934, as amended, 47 U.S.C. 315(a).[1] That provision provides as follows:

> If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidiate on any—
>
> (1) Bona fide newscast,
>
> (2) Bona fide news interview,
>
> (3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
>
> (4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto), shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

2. The Commission's Notice of Inquiry was issued in response to petitions by Mr. Henry Geller and the National Association of Broadcasters and the Radio-Television News Directors Association (NAB-RTNDA) requesting

[1] 47 FR 41421, released September 20, 1982. Comments were due October 15, 1982. Reply comments were due November 15, 1982.

that the Commission establish through rule making or declaratory ruling the following:

(1) That broadcast of a debate between legally qualified candidates may be with in the section 315(a)(4) exemption even if the debate is sponsored by the broadcaster;

(2) That the section 315(a)(4) exemption includes delayed broadcasts or rebroadcasts of bona fide news events, such as debates, even if aired later than one day after the event; and

(3) That the section 315(a)(3) exemption includes a bona fide new documentary even if a candidate's appearance in it is significant, if such appearance is incidental to the presentation of the subject or subjects of the documentary.

3. As explained below, we have decided that the requested interpretations of subsection 315(a)(4) fully comport with the terms and legislative history of this provision. We also believe these interpretations will remove unjustified hinderances to achieving the purpose of the provision; namely, to maximize broadcast coverage of political events by permitting increased broadcaster discretion in providing such coverage. However, we have decided not to adopt the requested interpretation of section 315(a)(3), but to continue instead our present practice of examining, case-by-case, any documentary whose eligibility for the exemption is challenged.

Comments of Parties [2]

4. The Notice of Inquiry requested, *inter alia*, comments on whether exemption of broadcaster-sponsored debates would be consistent with the pertinent legislative history, statutory language, and case law. Most of the parties appear to be in agreement that neither the legislative history nor the statutory language squarely addresses the issue. Henry Geller and Donna Lampert state that the legislative history and the statute "[afford] the Commission considerable leeway as to the issue," citing *Aspen Institute Program on Communications, etc.*, 60 FCC 2d 697 (1975). CBS cites *Aspen* for the proposition that the Commission has "considerable discretion" to interpret and apply the news exemptions. Many of the supporting parties point out that the legislative history and the statute do not differentiate between debates sponsored by broadcasters and nonbroadcasters. Most of the comments in favor of petitioners' proposal also cite the court of appeals' statement in *Chisholm v. FCC*, 538 F.2d 349, 360 (D.C. Cir. 1976), that the legislative history reflects:

> The broad intent of Congress to maximize broadcast coverage of political events and to increase broadcaster discretion, as well as Congress' expressed willingness to take some risks with the equal time philosophy in order to achieve these goals and to grant the Commission some leeway in interpreting the exemptions * * *.

In contrast, the UCC states that the legislative history can be construed to exclude broadcaster-sponsored debates from the type of programming Congress intended to exempt from equal opportunities obligations. John B. Anderson interprets the legislative history to "reflect Congress' intent to limit broadcasters' power to discriminate among candidates and to favor some candidates at the expense of others" and believes it precludes the interpretations requested by Mr. Geller and NAB–RTDNA.

5. Several of the commenting parties discussed the definition of the terms "bona fide" and "on-the-spot coverage" included in the statutory language. ABC states that "the statute is only concerned with whether the broadcaster's judgment that the event is newsworthy is reasonable and made in good faith (i.e., 'bona fide')," concluding that the statutory phrase "bona fide" means no more than the exercise of bona fide news judgment. Cosmos suggests that the standard for interpreting "bona fide" for a broadcaster-sponsored debate should be based solely on "news judgment as opposed to furthering a particular candidacy." NBC points out that nothing in the statutory language "mandates exemption only for debates arranged by nonbroadcasters." Henry Geller and Donna Lampert state that the term "on-the-spot coverage of a bona fide news event" can be easily interpreted to cover broadcaster-sponsored debates. John B. Anderson, however, states that the term "bona fide" must be read to mean an event that is not "staged" or "created" by the broadcaster. He believes that a "news event" must be "covered" by the broadcaster rather than "created."

6. Many of the comments supporting the petitions contend that a debate between candidates is no less newsworthy because the sponsoring entity happens to be a broadcaster. MW&K states that both the *Aspen* and *Chisholm* rulings are based on a "policy recognition" that the public interest is served by allowing broadcasters "to contribute to a more informed electorate," citing *Aspen* at page 706. Several of the comments stress that state or local contests may not find third parties to sponsor debates, leaving the public less informed than if broadcasters were allowed to arrange the debate without equal opportunities considerations.

7. In its comments, the FEC addressed only the issue of broadcaster sponsorship of debates. It suggested that if this Commission were to alter its interpretation of section 315(a)(4) to permit exemption of broadcaster sponsored debates from equal opportunities requirements, the FEC might be required to reconsider its regulations on corporate-broadcaster-funding of candidate debates (11 CFR Parts 100, 110, and 114). It said that in creating in these regulations an exemption to permit certain nonprofit and news media organizations to stage nonpartisan federal candidate debates the FEC had relied heavily on its belief that sufficient safeguards as to the nonpartisanship of debates staged by broadcasters was set forth in the Communications Act and existing regulations and interpretations of the FCC, including the equal time obligation imposed on broadcasters who stage and sponsor candidate debates. Several reply commenters argued, in essence, that the FEC's comments are legally questionable and, in any event, irrelevant to this Commission's proper interpretation of the section 315(a) exemptions.

8. A majority of the comments supporting the petitions urge the Commission to abandon the guidelines enunciated in *Delaware Broadcasting Company* [3] and *John F. Donato* [4] and to give broadcasters the discretion to use their good faith news judgment to determine when to broadcast or rebroadcast, in its entirety, a debate between candidates. Several of the comments contend that our current interpretation is mandated neither by the legislative history nor the statutory language of Section 315. A few of the

[2] The following parties submitted comments in this proceeding: CBS; Henry Geller and Donna Lampert; American Broadcasting Companies, Inc. (ABC); RTNDA, Gannett Co., Inc., and The Society of Professional Journalists, Sigma Delta Chi (RTDNA); NAB; Public Broadcasting Service (PBS); Griffin Television, Inc., Hubbard Broadcasting, Inc., King Broadcasting Company, Leake TV, Inc., and Puerto Rico Broadcasting, Inc. (Griffin); McKenna, Wilkinson & Kittner (MW&K); National Public Radio (NPR); Cosmos Broadcasting Corporation, Cox Communications, Inc., Multimedia, Inc., and WHP, Inc. (Cosmos); NBC, Inc.; Federal Election Commission (FEC); League of Women Voters Education Fund; League of Women Voters of California; Office of Communication of the United Church of Christ (UCC); Stuart N. Brotman, Esq.; and John B. Anderson. Reply comments were submitted by ABC; CBS; NBC; NAB; Joel Scott Reish; League of Women Voters of California; RTDNA; and Geller and Lampert.

[3] 60 FCC 2d 1030 (1976).

[4] 66 FCC 2d 599 (1977)

comments assert that a debate will not lose its newsworthiness after a 24-hour period, and that the passage of time will not create a climate for broadcaster discrimination. NPR and PBS point out that the current standard does not allow stations the flexibility to schedule such events based on the needs of the audience, particularly those noncommercial stations that provide a service "uniquely attuned to the many audiences they serve." UCC points out that in addition to maximizing the potential audience for delayed debate broadcasts, such debates rebroadcast during the closing days of a campaign may "enable the audience to determine the extent to which the candidates had changed their positions." However, John B. Anderson states that the current standard stated in *Delaware* and *Donato* "squarely rejected the very arguments" petitioners urge here, and states that petitioners' interpretations of "on-the-spot" is inconsistent with congressional intent.

9. Our Notice of Inquiry requested comments regarding Mr. Geller's proposal that candidate appearances in exempt documentaries may be significant, while remaining incidental to the topic addressed in the documentary, with the nature and amount of the appearance left to the good faith judgment of the licensee. Griffin suggests that "incidental" be interpreted as a candidate appearance that "cannot reasonably be judged, viewing the documentary as whole, as a significant purpose of the documentary." CBS states that a restrictive interpretation of candidate appearances infringes on broadcasters' journalistic discretion without preventing "political favoritism." CBS asserts that the legislative intent behind Section 315 was to permit news coverage of campaigns and issues without the constraints of equal opportunities obligations. CBS interprets "incidental" not as a quantitative measure, but as an appearance related but secondary to the topic addressed in the documentary. ABC and MW&K suggest that "incidental" should be interpreted as an appearance by a candidate which is not the central or predominant theme of a given program. NBC suggests that the length of a candidate appearance is "merely an indication of the broadcaster's good faith and reasonableness," and that the Commission should look to the intent of the broadcaster. However, Cosmos believes that Mr. Geller's proposal is "too abstract" and would be "impossible to define adequately and is unnecessary." John B. Anderson suggests that "significant appearances are not incidental, almost by definition." UCC states that there is "substantial risk" that adoption of the proposed interpretation would "create confusion, considerable litigation, and be inconsistent with congressional intent * * *."

Discussion

10. Before addressing the matters raised by the commenters, it may be useful to review briefly the current status of Commission policy concerning the statutory provisions under consideration. As noted by many of the parties to this proceeding, the section 315(a) exemptions were added to the Communications Act in 1959 in reaction to the Commission's then recent *Lar Daly* decision.[5] In that ruling, the Commission held that an appearance by a candidate in a regular newscast was a "use" triggering the requirement in section 315(a) that "equal opportunities" be afforded other qualified candidates for the same office. The purpose of the exemptions added to section 315(a) "was to reverse the Commission's construction [*in Lar Daly*] of the equal opportunities requirement. Congress feared that the Commission policy would deter broadcast licensees from covering political news by inspiring 'a parade of aspirants' to seek free air time following any coverage of political campaigns." *UCC v. FCC*, 590 F.2d 1062, 1067 (D.C. Cir. 1978).

11. In *Chisholm, supra*, the court of appeals upheld a decision of this Commission that reversed a statury interpretation of over ten years duration and held that debates between qualified political candidates could be bona fide news events exempt from the equal opportunities requirement of section 315(a). However, the Commission required that to qualify for the exemption the debates be initiated by nonbroadcast entities. In *UCC, supra*, the court also upheld a Commission decision that a broadcast otherwise exempt under section 315(a)(4) was not denied exemption as "on-the-spot coverage" simply because it was broadcast on a delayed basis. Nevertheless, in *John F. Donato, supra*, we determined that a debate rebroadcast 2½ days after the event was not exempt, absent unusual circumstances.

12. We do not believe that the Commission's rulings described above represent the outer limits of permissible interpretations of the Section 315(a) exemptions, as some of the parties to this proceeding seem to suggest. Rather, after a careful re-examination of these matters, we have concluded that the less restrictive interpretations of § 315(a)(4) requested by Mr. Geller and NAB–RTNDA more accurately reflect both the letter and purpose of the 1959 amendments.

A. Discretionary vs. Mandatory

13. It is abundantly clear from the legislative history and the express delegation provision of Section 315(d) that the Commission has broad discretion in interpreting and implementing the Section 315 exemptions. Congress recognized that the task of defining the delineated exemptions would be difficult and thus refrained from specifying their scope. Instead, it conferred this responsibility upon the agency with expertise in broadcasting matters and familiarity with programming.[6] Further, the entire thrust of the 1959 amendments and their legislative history evidence a congressional intent to enhance the exercise of broadcasters' good faith news judgements to enable more extensive coverage of political issues,[7] balancing the important goals of equal treatment of candidates and the public's need to be apprised of newsworthy issues. Accordingly, as the court in *Chisholm* observed, although the legislative history is rather vague, *id.* at 357, it is clear that Congress intended to give broadcasters great discretion in their news programming decisions, *id.* at 351, 358–60, and to give the Commission great leeway in its interpretation and application of the exemptions, *id.* at 351, 357. Specifically, the court stated:

> In creating a broad exemption to the equal time requirements in order to facilitate broadcast coverage of political news, Congress knowingly faced risks of political favoritism by broadcasters, and opted in favor of broader coverage and increased broadcaster discretion. Rather than enumerate specific exempt and non-exempt "uses", Congress opted in favor of legislative generality, preferring to assign that task to the Commission.

Id. at 366. As will be discussed in greater detail below, we believe the Commission's current interpretations of Section 315(a) (3) and (4) come within the scope of its discretionary authority and are not congressionally mandated. Moreover, as the court in *Chisholm* pointed out, subsequent congressional

[5] *Columbia Broadcasting System (Lar Daly)*, 18 R.R. 238, recon. den., 26 FCC 715 (1959).

[6] S. Rep. No. 562, 86th Cong., 1st Sess. at 12; 105 Cong. Rec. 14439 (July 28, 1959) (Pastore); *id.* at 14455 (Pastore); *id.* at 16227 (August 18, 1959) (Celler); *id.* at 17778 (Harris).

[7] 105 Cong. Rec. 14439 (Pastore); *id.* at 16236 (Flynt); *id.* at 16240 (Cunningham); *id.* 17832 (Pastore).

acquiescene does not necessarily indicate that the Commission's interpretations of the Section 315 exemptions are the "only, or the best" interpretation, but is merely consistent with Congress' intent to delegate to the Commission the responsibility of applying the exemptions to specific formats. *Id.* at 362. In exercising that authority, we now conclude that our previous interpretations do not comport with the overriding objective of the exemptions to encourage broadcast coverage of political issues.

B. Station-Sponsored Debates

14. For purposes of Section 315(a)(4), the Commission currently requires a broadcast debate, among other things, to be sponsored and controlled by a third party not associated with the licensee. This restriction is based upon a belief that to exempt broadcaster-controlled debates would create too great a risk that a broadcaster might be able to favor certain candidates in contravention of the spirit and purpose of the Section 315 equal opportunities provision. Thus, to qualify for the exemption, the "licensee must decide independently to cover an existing event" and must assume the role of an "observer and reporter, who is in no way responsible for selection of the event's content, format and participants." *Chicago Educational Television Association*, 58 FCC 2d 922, 923 (B/C Bur. 1976). Consistent with this policy, in *Socialist Workers Campaign*, 88 FCC 2d 349, 352 (B/C Bur. 1981), the Broadcast Bureau explained that the critical factor in determining whether a debate is exempt is the "role and intent of the broadcaster" in covering the event, so that the broadcaster's control would remove the broadcast debate from the exemption. This interpretation, however, is not persuasive in light of the legislative history of the exemptions.

15. It is true that during passage of the 1959 amendments to Section 315, several Congressmen expressed concern about the inclusion of panel discussions and/or debates within the exemption, and in response to those concerns, a proposal to include panel discussions among the categories of exempt programming was rejected. It does not follow, however, that the non-exempt status of broadcaster-sponsored debates conforms to or is required by general congressional directive. As the court in *Chisholm* pointed out, the elimination of panel discussions and debates from exempt classifications is not dispositive. Specifically, the court noted:

> The elimination of such specific formats, however, was not intended to exclude them if they could quality under one of the general categories of news coverage in the final bill. Oren Harris, Chairman of the House Committee and the bill's floor manager, stated:
>
> [T]he elimination of these categories was not intended to exclude any of these programs if they can be properly considered to be newscasts or on-the-spot coverage of news events. [Citation omitted].
>
> In short, in the final version of the bill, Congress opted for exemptions based on general categories relating to news coverage, rather than on specific program formats, and this of necessity left the Commission with the task of deciding which particular events could qualify within the limits of the statutory language.
>
> *Chisholm, supra*, at 357, n. 17.

16. Nor does the "plain meaning" of the statutory language "on-the-spot coverage of bona fide news events" support an argument that broadcaster-sponsored debates fall outside the scope of the exemption, thereby limiting the exemption to circumstances in which the broadcaster's role is that of an observer or a reporter. As NAB points out, the term "coverage" is "neutral in terms of content and degree" and refers both to "acts of gathering and disseminating news."

17. In our view, the term "bona fide" (which is used to qualify all the § 315 exemptions) was intended to emphasize Congress' intent that the programs be of genuine news value and not be used to advance the candidacy of a particular individual.[8] Three is no indication that by exempting "on-the-spotcoverage of a bona fide news event" Congress intended to exclude broadcaster-sponsored debates from the exemption. As the court in *Chisholm* stated:

> [T]he four exemptions apply generally to news broadcasts and * * *. [A]ll of the exemptions, in fact, contain the requirement that the program or event be 'bona fide' news, yet the language itself provides no ready clue as to how this requirement is to be satisfied. It is unclear from the statute whether the test refers to the character of the event (i.e., its inherent newsworthiness), the nature of the candidate's appearance (i.e, whether the format is that of debate, press conference, speach, etc.), or the candidate's relation to the broadcast (i.e., whether he controls it).[9]

18. Moreover, according to the legislative history, panel discussions and debates are exempt if they come within *either* the exemption for a "bona fide news interview" program *or* "on-the-spot coverage of bona fide news events." Given the fact that licensees or networks customarily have control over interview programs, it makes little sense to contend that the presence of similar control in the coverage of an event of bona fide news value should preclude exemption. To render such an exemption contingent upon the broadcaster's control, or lack thereof, appears arbitrary at best, for the risk of favoritism is no less in a newscast or news interview program, where control and responsibility also vest in the licensee or network.

19. In sum, although Congress expressed a concern that the freedon and flexibility accorded to broadcasters in their news programming might result in favoritism amongst candidates, Congress intended to permit that risk in order to foster a more informed electorate. Congress did not intend to exclude broadcaster-sponsored debates from the Section 315 exemptions to eliminate any risk of favoritism because to do so would undermine the informing goal of the statute. In our view, the common denominator of all exempt programming is bona fide news value. Thus, a debate's exempt status is not and should not be contingent upon whether a broadcaster is the sponsoring or controlling entity—for such control generally would not affect the program's news value.[10] Furthermore, exempting broadcaster-sponsored debates should serve to increase the number of such events, which would ultimately benefit the public.

20. We note, of course, the argument of the league of Women Voters that since our *Aspen* ruling it has sponsored many debates by candidates for office at all levels of government which have been covered by broadcasters. But without in any way denigrating this valuable contribution of the League, we are persuaded by the argument of Mr. Geller and others that in many instances a broadcaster may be the ideal, and perhaps the only, entity interested in promoting a debate between candidates for a particular office, especially at the state or local level. And where this is

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[8] Conference Rep. No. 1069, 86th Cong., 1st Sess. at 4 (1959); 105 Cong. Rec. 14442 (pastore); *id.* at 16224 (Brown); *id.* at 17828 (Pastore); *id.* at 17777 (Scott).

[9] *Id.* at 356. In fact, several Congressmen expressed their beliefs that equal opportunities are triggered only when the *candidate* initiates the use. For example, Congressman Brown stated, "Where its [sic] legitimate news or coverage of a legitimate news event instigated by media and not the candidate, equal time is not appropriate." 105 Cong. Rec. 16244. *See also* 105 Cong. Rec. 14442 (Pastore).

[10] Indeed, even Judge Wright recognized in his dissenting opinion in *Chisholm*, that "it belittles this concern [of several Congressman that debates and panel discussions were rather vague categories] to conclude that the deleted program categories can be made into exempt 'news events' simply by the existence of a nonbroadcaster sponsoring organization." *Id.* at 374, n. 35.

true, an interpretation of section 315(a)(4) which precludes or discourages such sponsorship and coverage of a debate denies to the public valuable news or precisely the sort Congress intended this exemption to make available.

21. We have also considered the argument by the League and others that to permit a broadcaster to both sponsor and broadcast a debate exempted from equal opportunities requirements would repose excessive power in the broadcaster to favor or disfavor particular candidates. However, a broadcaster-sponsored debate clearly can, as we have said, be a bona fide news event, and any such event is therefore within both the terms and purpose of the section 315(a)(4) exemption. And even assuming that permitting broadcasters to both sponsor and broadcast exempt debates involves some risk, no showing has been made, and we cannot assume, that such risk is beyond that which the *Chisholm* court acknowledged Congress knowingly accepted as the price of achieving the purpose of the 1959 amendments.[11] Moreover, we believe that requiring exempt debates to be arranged and sponsored by a person or entity other than the broadcaster does not comport with indications in the legislative history of the section 315(a) exemptions that a common characteristic of exempt programs would be control of their content, format, and production by the broadcaster.[12] Therefore, we have decided that the alternative interpretation proposed by the petitioners, which would achieve more fully the fundamental congressional purposes, should be adopted.

22. In deciding that broadcaster-sponsored debates should be entitled to the section 315(a)(4) exemption, we are aware of the FEC's concern that such a decision might require it to reconsider its regulations on corporate-broadcaster-funding of candidate debates. On this point, we believe, as did some of those who commented in reply, that the FEC's interpretation and administration of the Federal Election Campaign Act is irrelevant to our proper interpretation of section 315 of the Communications Act. In fact, the FEC did not even suggest that our proposed interpretation was wrong. Consequently, although we appreciate the FED's submission of comments, they have not influenced our decision in this proceeding.

C. Delayed Broadcasts

23. On the second point at issue in this proceeding, delayed broadcast or rebroadcast of debates and other news events, we find that the present 1-day rule for inclusion within the section 315(a)(4) exemption is neither required by law, nor sound as a matter of policy.

24. As a starting point, we think it clear that the *UCC* decision, *supra*, established that *some* delay in the broadcast of a news event is permissible without excluding the broadcast from the section 315(a)(4) exemption. The court therein conceded that "on-the-spot coverage"connotes "timeliness," but noted that the statute and legislative history do not preclude delayed broadcasts of political events, *id.* at 1068, or the use of taped material, *id.* at 1066. Thus, it appears to us that the Commission's current interpretation of the term "on-the-spot" as requiring nearly contemporaneous broadcast coverage is not legally required. The legislative history is silent as to a "contemporaneous" restriction; it merely addresses the relative newsworthiness of the event as the touchstone for exemption.[13] Under this standard,the existing one-day limitation appears unduly restrictive. We believe that a broadcaster's good faith determination to delay or rebroadcast a newsworthy debate later than the day after the event to maximize audience potential may come within the exemption. Such an interpretation is clearly consistent with and in furtherance of, one of the basic purposes of the 1959 amendment:

> [T]o enable what probably has become the most important medium of political information to give the news concerning political races to the greatest number of citizens and to make it possible to cover the political news to the fullest degree.

105 Cong. Rec. 14451 (Holland); *see also* 106 Cong. Rec. 13424 (Pastore).

We therefore disagree with the view expressed in *John F. Donato, supra*, that the usefulness of delayed broadcasts and rebroadcasts in conveying news to persons who would otherwise be denied it is irrelevant to the application of section 315(a)(4). To the contrary, enabling broadcasters to convey more news to more people is the whole purpose of that provision, and that purpose is substantially frustrated by the arbitrary and restrictive 1-day rule announced in *Delaware* and applied in *Donato*. We now believe instead that the only reasonable rule-of-thumb on the meaning of the section 315(a)(4) exemption is that it encompasses news reports of any reasonably recent event intended in good faith by the broadcaster to inform the public and not intended to favor or disfavor any candidate.

D. Presentation of Campaign Issues and Candidates on Documentaries

25. On the third issue in this proceeding, whether a "significant" appearance of a candidate in a documentary denies the documentary exemption under section 315(a)(3), we note that the Commission has never established or approved any specific standard on this matter. We see no reason to do so now.

26. It is already established that documentaries may address campaign issues and still be within the Section 315(a)(3) exemption. See *Use of Broadcast Facilities by Candidates for Public Office*, 35 FR 13054–55, Quest. 20 (1970). Therefore, the only question presented is whether a candidate's appearance may be significant, yet remain incidental to the subject or subjects of the documentary, for purposes of the exemption. According to the Conference Report:

> [T]he appearance of a candidate on a news documentary is exempted only if such appearance is incidental to the presentation of the subject or subjects covered by the news documentary. Thus, a program which deals predominantly with a candidate would not be a news documentary exempted * * *.

Conference Report, note 8 *supra*, at 4. The only attempt to characterize or define a documentary was by way of Senator Pastore's brief explanation. He described a documentary essentially in terms of a program which delves into the background or the genesis of a news event of contemporary value to give the event a more meaningful perspective in the minds of the viewing or listening public.[14]

27. Beyond these general propositions, we do not believe it is useful to pursue at this time the question whether a "significant" appearance in a documentary might fall within the

[11] We do not agree with Mr. Anderson's argument that nonrepeal of section 315(a) evidences Congressional intention to avoid even remote risk of discriminatory news coverage of political campaigns and candidates by broadcasters. On the contrary, we think it clear that Congress was willing to incur substantial risk of such abuse to achieve the public benefit of fullest broadcast coverage of political news. "In establishing the category of exemptions from Section 315, the Committee was aware of the opportunity it affords a broadcaster to feature a favorite candidate. This is a risk the Committee feels is outweighed by the substantial benefits the public will receive through the full use of this dynamic medium in political camaigns." Sen. Rep. No. 562, 86th Cong., 1st Sess. (1959) p. 14.

[12] Sen. Rep. No. 562, 86th Cong., 1st Sess., p. 11; Congressional Record-House, Sept. 2, 1959, p. 17781 (remarks of Congressman Harris); Congressional Record-House, Aug. 18, 1959, p. 16246 (remarks of Congressman McGovern).

[13] *See* note 8, *supra*.

[14] 105 Cong. Rec. 14441.

exemption. Rather, we believe it is preferable for the Commission to decide this question in a concrete, factual context, particularly since the need for clarification does not appear to be pressing, nor does it appear to present a recurrent problem. Accordingly, we are deferring any expression of opinion concerning this aspect of Mr. Geller's petition.

Conclusion

28. A reading of the legislative history and court decisions makes clear that Congress has conferred upon the Commission wide discretion in interpreting and applying the section 315 exemptions. We believe the Commission should exercise that discretion by broadening its interpretation of section 315(a)(4), thereby affording broadcasters greater flexibility in their news programming determinations and promoting political education of viewers and listeners. In our view, this approach to section 315(a)(4), although it represents a departure from previous Commission rulings, is more consistent with the purposes of the 1959 Amendments.

29. Accordingly, it is ordered that the petitions filed by Mr. Geller and NAB/RTNDA on April 16 and April 19, 1982, respectively, are granted to the extent indicated herein and are otherwise denied. It is further ordered that the proceeding in BC Docket No. 82-564 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Separate Statement of FCC Commissioner James H. Quello

November 8, 1983.

In re: Petitions of Henry Geller and the National Association of Broadcasters and Radio-Television News Directors Association to Change Commission Interpretation of Subsections 315(a) (3) and (4) of the Communications Act.

During my tenure as a broadcaster in Detroit, I had numerous opportunities to work with the local and state chapters of the League of Women Voters. From this experience, I gained the highest regard for that organization's impartiality, its competence, and its ability to be of great value to a broadcast station manager. To the best of my knowledge, that organization, and others, have done an excellent job in organizing candidate debates which broadcasters cover as *bona fide* news events.

Given that the existing system appears to be successfully providing valuable information to the public, I brought some reluctance to this proposal for change. Upon reflection, however, I must endorse this decision fully because I see no sound basis to continue these restrictions on broadcasters' First Amendment rights and their related ability to ensure that the public is informed.

The existence of these restrictions casts a shadow on the journalistic integrity of the electronic media, and while I can foresee a continuing role for the League of Women Voters and similar organizations in organizing political debates, such participation should come about because of the value of these organizations' contributions, not because of unnecessarily intrusive government fiat.

[FR Doc. 83-31560 Filed 11-23-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has 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 the 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 the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 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.: 57-129.

Title : Pacific Westbound Conference, Associate Membership Agreement No. 1.

Parties:

American President Lines, Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller Maersk Line
Mitsui O.S.K Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita Shinnihon Steamship Co., Ltd.

Synopsis: Associate Membership Agreement No. 1 (FMC No. 57-129) of the Pacific Westbound Conference would permit United States Lines, Inc. to become an associate member of the Conference conditioned upon USL's service in the trade being limited to only intermittent service as defined in the agreement. In the event USL's service should exceed these limits, USL may then apply for regular membership. USL agrees to abide by all the rates, rules, regulations and decisions of the Conference. USL shall have no vote in the affairs of the Conference and may attend and participate in meetings upon invitation only.

Filing Party: D. D. Day, Chairman, Pacific Westbound Conference, P.O. Box 7411, San Francisco, California 94120.

By Order of the Federal Maritime Commission.

Dated: November 18, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-31506 Filed 11-23-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Clarkel, 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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Clarkel, Inc.*, Kesley, Iowa; to become a bank holding company by acquiring 81.3 percent of the voting shares of Iowa State Bank, Clarksville, Iowa. Comments on this application must be received not later than December 9, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Groesbeck Holding Company*, Groesbeck, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank, Groesbeck, Texas. Comments on this application must be received not later than December 19, 1983.

Board of Governors of the Federal Reserve System, November 18, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31570 Filed 11-23-83; 8:45am]

BILLING CODE 6210-01-M

First American Corporation 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. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First American Corporation*, Dundee, Illinois; to acquire 100 percent of the voting shares of First American Bank of Lake County, Lake Villa, Illinois. Comments on this application must be received not later than December 9, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancshares, Incorporated*, Bartlesville, Oklahoma; to acquire 100 percent of the voting shares of Exchange National Bank, Tulsa, Oklahoma. Comments on this application must be received not later than December 14, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First Winters Holding Company*, Winters, Texas; to acquire at least 80 percent of the voting shares of The Security State Bank, Wingate, Texas. Comments on this application must be received not later than December 14, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Hartford National Corporation*, Hartford, Connecticut; to acquire 100 percent of the voting shares or assets of Arltru Bancorporation, Lawrence, Massachusetts, and its sole bank subsidiary, Arlington Trust Company, Lawrence, Massachusetts. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Comments on this application must be received not later than December 19, 1983.

Board of Governors of the Federal Reserve System, November 18, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31571 Filed 11-23-83; 8:45 am]

BILLING CODE 6210-01-M

Mid-Nebraska Bancshares; Acquisition of Bank Shares by a Bank Holding Company

Mid-Nebraska Bancshares, Ord, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Wolbach Insurance Agency, Inc., and thereby acquire control of Peoples State Bank, Wolbach, Nebraska and 36.7 percent of Broken Bow Enterprises, Broken Bow, Nebraska and thereby acquire Broken Bow State Bank, Broken Bow, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Mid-Nebraska Bancshares, Ord, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Wolbach Insurance Agency, Inc., Wolbach, Nebraska.

Applicant states that the proposed subsidiary would engage in general insurance activities in a town having a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Wolbach, Nebraska and the geographic area to be served is Wolbach, Nebraska and its surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than December 19, 1983.

Board of Governors of the Federal Reserve System, November 18, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31572 Filed 11-23-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade

Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction and Waiting Period Terminated Effective Date

(1) 83-0855—R. J. Reynolds' proposed acquisition of voting securities of Bear Creek Corporation
November 3, 1983
(2) 83-0876—Groupe Bruxelles Lambert S.A.'s proposed acquisition of voting securities of Drexel Burnham Lambert Group, Incorporated
November 3, 1983
(3) 83-0879—Huhtamaki Oy's proposed acquisition of assets of Divisions and the voting securities of The D. L. Clark Company from Beatrice Foods Company
November 3, 1983
(4) 83-0877 and 83-0886—Harold T. Bernstein and Raymond Bernstein's proposed acquisition of assets of The British Petroleum Company
November 3, 1983
(5) 83-0881—Norlin Company's proposed acquisition of voting securities of Ticor Print Network, Incorporated (Southern Pacific Company, UPE)
November 4, 1983
(6) 83-0820—Prime Cable Corporation's proposed acquisition of voting securities of Atlanta Cable Incorporated
November 4, 1983
(7) 83-0829—Prime Cable Corporation's proposed acquisition of voting securities of Cable Georgia Incorporated
November 4, 1983
(8) 83-0873—The Circle K Corporation's proposed acquisition of voting securities of UtoteM, Incorporated (American Financial Corporation, UPE)
November 7, 1983
(9) 83-0851—Vereniging AGO's proposed acquisition of voting securities of Ennia N.V.
November 7, 1983
(10) 83-0852—Ennia N.V.'s proposed acquisition of voting securities of AGO Holding, N.V. (Life Investors, Inc. (Vereniging AGO, UPE)
November 7, 1983
(11) 83-0841—Nationale-Nederlanden N.V.'s proposed acquisition of voting securities of Excelsior Insurance Company
November 9, 1983
(12) 83-0904—Howard P. Marguleas' proposed acquisition of voting securities of Newco I. Corporation (Donald L. Bren, UPE)
November 10, 1983
(13) 83-0903—Huhtamaki Oy's proposed acquisition of voting securities of Leaf Confectionary, Incorporated (Zollie S. Frank, UPE)
November 14, 1983
(14) 83-0914—Initial's plc's proposed acquisition of voting securities of The United Services Company (Leslie W. Spero, UPE)
November 14, 1983
(15) 83-0901—Mr. Charles Robins' proposed acquisition of assets of Berry Metal Company, Ideal Roller and Graphics Company, and the CONAP Division of Wheelbrator-Frye, Inc. (The Signal Companies, UPE)
November 15, 1983
(16) 83-0891—CPC International Inc.'s proposed acquisition of voting securities of C. F. Mueller Company (McKesson Corporation, UPE)
November 10, 1983
(17) 83-0893—Lehman Brothers Kuhn Loeb Holding Company, Incorporated's proposed acquisition of voting securities of Stedman Corporation (W. David and Sarah Stedman, UPE's)
November 10, 1983
(18) 83-0892—A. Johnson & Co., HAB—(Axel Axson Johnson, UPE) proposed acquisition of assets of A. Johnson & Company, Inc.
November 10, 1983

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office Bureau of Competition, Room 301 Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-31614 Filed 11-23-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget (OMB)

AGENCY: Office of Policy and Management Systems, GSA

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve the information collections listed below. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on proposed information requirements that will affect the public.

DATES: Comments on these information requests must be submitted on or before December 16, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy, on 202-523-4799.

SUPPLEMENTARY INFORMATION:

1. *Title, purpose, and annual burden (respondents, responses, hours).*

a. *Women-owned Business.* This requirement enables agencies to assess their women-owned business programs. (9,094; 90,940; 364).

b. *Small Disadvantage Business Representation.* Information from this collection is used by the Government to assure that an appropriate percentage of Government contracts are awarded to disadvantaged firms. (9,094; 90,940; 637).

c. *Labor Surplus Area Requirements.* This collection requires firms competing for contracts that are set-aside for labor surplus area (LSA) concerns or require subcontracting with LSA concerns to provide information regarding their expenditures under these programs. (Burden 652 each.)

d. *Small Business Representation.* This information will be used to assess agencies' small business programs and to assure that contracts are properly awarded. (22,000; 1,100,000; 3,300).

2. *Obtaining copies of information proposals.* A copy of these proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3004, GS Building, Washington, DC 20405 (202-566-0666).

Dated: November 16, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-31546 Filed 11-23-83; 8:45 am]

BILLING CODE 6820-34-M

Collection of Information Approved by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: This notice lists control numbers assigned by the Office of Management and Budget (OMB) to collections of information required by the General Services Administration (GSA) and is in compliance with Pub. L. 96-511, the Paperwork Reduction Act of 1980, section 3507(f), and OMB regulation, Controlling Paperwork Burdens on the Public, 5 CFR

1320.7(f)(2), 12(d), 13(j), and 14(e). This action is necessary to ensure the codification of OMB control numbers assigned to collections of information contained in existing or new regulations.

DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Jim Flowers, Directives and Reports Management Branch (202–566–0666).

SUPPLEMENTARY INFORMATION: The term "information collection" (abbreviated IC in this document) refers to a request by GSA for data that must be sent to GSA. The term "recordkeeping requirement" (abbreviated RR) refers to a GSA request for information that must be maintained and made available for inspection by GSA upon request, but the information need not necessarily be sent to GSA. For example, an IC request could require companies that wish to move freight for GSA to submit certain information before GSA will conduct business with those companies. In contrast, an RR might require a company doing business with GSA to maintain certain data, but those data are not required to be sent to GSA.

The Office of Management and Budget, under provisions of 44 U.S.C. Chapter 35, has approved and assigned the following OMB control numbers:

Directive or regulation	Type of action	Form No.	IC/RR title	OMB approval No.
PL 96-39, EO 12260	IC	N/A	FPDC Individual Contract Report for Contracts Exceeding $175,000 for purchase of supplies and equipment.	3090-0061
PL 96-39, EO 12260	IC	N/A	FPDC Report of Total Procurement of Supplies and Equipment	3090-0063
N/A	IC	N/A	Monthly Certificate of Network Downtime	3090-0065
N/A	IC	N/A	TSP Contractor's Monthly Report of Services Delivered	3090-0066
N/A	IC	N/A	Contractor's Report of Services Ordered	3090-0067
63 Stat. 377, FPMR Part 101-3	IC	GSA 1166 & 1209	Real Property Owned Inventory	3090-0068
63 Stat. 377, FPMR Part 101-3	IC	GSA 1166A & 1209A	Real Property Leased Inventory	3090-0069
41 CFR 5B-7, 602-70	IC	GSA 2419	Certification of Payment to Subcontractors and Suppliers	3090-0071
Federal Property and Administrative Services Act of 1949 (FPASA) and 41 CFR 1-16.6.	RR	SF 2, 2A, and 2B	U.S. Government Lease for Real Property	3090-0072
41 CFR 1-16.401	IC/RR	SF 19B	Representations and Certifications (Construction and Architect-Engineer Contract)	3090-0073
41 CFR 1-16.101	IC/RR	SF 33, 33A	Solicitation, Offer, and Award (Solicitation Instruction and Conditions)	3090-0074
41 CFR 1-16.201	IC	SF 18	Request for Quotations	3090-0075
41 CFR 5B-16.875	IC	GSA 1457	Solicitation Offer and Award (Contract for Building Services)	3090-0076
41 CFR 5B-2.203, 41 CFR 1-18.202, and PBS P 3420.2.	IC	GSA 2056	Pre-Invitation Notice, Construction Contract	3090-0077
29 CFR 5.5 and 5.6	IC	GSA 1995	Return of Payroll Document for Correction	3090-0079
41 CFR 1-7.602-7, 41 CFR 5B-16.871(c).	IC	GSA 1142	Release of Claims	3090-0080
FPMR 101-38.1, 40 U.S.C. 486(c)	IC	SF 82	Agency Report of Motor Vehicle Data	3090-0081
FPASA, as amended (69 Stat. 977)	IC	GSA 54	Description of Property for Possible Leasing, Lessor's Annual Cost Statement, and Proposal to Lease Space.	3090-0086
41 CFR 5B-16.871	IC	GSA 1137	Request Proposal and Acceptance Covering Construction Contract Modification	3090-0091
41 CFR 101-40.205	IC	GSA 3080	Household Goods Shipment Report	3090-0092
41 CFR 101-40.702-3	IC	SF 361	Shipment Report	3090-0093
PL 93-400, Section 6(d)(5)	IC	SF 281	FPDS Summary of Contract Actions of $10,000 or less	3090-0094
PL 93-400, Section 6(d)(5)	IC	SF 279	FPDS Individual Contract Action Report (over $10,000)	3090-0095
41 CFR 101-8.3	IC	N/A	Nondiscrimination in Federally Assisted Programs	3090-0099
FPR Temporary Reg. 63, Supplement 1.	IC	N/A	Report of Employment Under Commercial Activities (CA)	3090-0104
41 CFR 1-16.808 and 41 CFR 1-30	IC	SF 1442	Payment	3090-0105
N/A	IC	N/A	Carrier Performance Report	3090-0106
FPMR 101-4.104-1 (b)(6) & P.L. 96-517.	IC	N/A	Report of Utilization of Federal Licenses	3090-0108
40 U.S.C. 486(c)	IC	N/A	Rental Contract for Motor Vehicle Rental-Without Driver	3090-0109
48 CFR 53.209-1	IC	SF 1403, SF 1408	Preaward Survey Forms	3090-0110
PL 94-519 41 CFR 101.44.4701 (e)	IC	GSA 3040	State Agency Donation Report of Surplus Personal Property	3090-0112
41 CFR 101-40.710	IC	SF 362	U.S. Government Freight Loss/Damage Claim	3090-0113
48 CFR 49.6	IC	SF 1435-1440	Termination Settlement Proposal Forms	3090-0115
PL 87-653, 48 CFR 15.804	IC	SF 1411-1412	Contract Pricing Proposal	3090-0116
40 U.S.C. 486(c) FPMR 101-38.8 and 101-39.8.	IC	SF 94	Statement of Witness	3090-0118
48 CFR 53.222(e)	IC	N/A	Statement and Acknowledgement	3090-0119
48 CFR 53.245	IC	SF 1423-1434	Contractor Inventory Schedules	3090-0120
GSPR 5A-73.210.1	IC	GSA 72-A	Contractor's Report of Orders Received	3090-0121
48 CFR 27.303, PL 96-517	IC	N/A	Report of Inventories and Subcontractors	3090-0125
48 CFR 8.201 and 52.208-1 and -2	IC	N/A	Jewel Bearings and Related Items Certificate Requirements	3090-0126
48 CFR 3.103 and 3.302	IC	N/A	Certification of Independent Price Determination and Parent Company and Identifying Data	3090-0127
48 CFR 9.506(b)	IC	N/A	Organizational Conflicts of Interest	3090-0128
48 CFR 52.209-1	IC	N/A	Qualified Products Identification	3090-0129
48 CFR 52.223-1	IC	N/A	Clean Air and Water Certification	3090-0130
48 CFR 52.225-10	IC	N/A	Customs and Duties	3090-0131
48 CFR 52.225-6	IC	N/A	Balance of Payments Program Certificate	3090-0136
48 CFR 52.225-1	IC	N/A	Buy American Certificate	3090-0139
48 CFR 52.225-8	IC	N/A	Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate	3090-0140
41 CFR 1-29.4	IC	N/A	Method of Payment Clause	3090-0141
41 CFR 101.36.3, PL 89-306 (ADP Fund).	IC	N/A	Automatic Data Processing Equipment (ADPE Solicitation Provision)	3090-0143
48 CFR 52.243-6	IC/RR	N/A	Charge Order Accounting	3090-0144
48 CFR 48.1 & 2, 48 CFR 52.248	IC	N/A	Value Engineering Requirements	3090-0146

Dated: November 16, 1983.

Michael B. Barbour,

Director, Information Management Division.

[FR Doc. 83-31592 Filed 11-23-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on November 18.

Office of the Secretary

Subject: Cost Allocation Plans Submitted by State Public Assistance Agencies (0990–0073)—Extension/No Change
Respondents: State Public Assistance Agencies
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Program Reporting for Mutual Assistance Associations (MAAs) Inventive Grants—New
Respondents: State or local governments
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: November 17, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-31523 Filed 11-23-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83-D-0371]

Aflatoxin-Contaminated Corn; FDA'S Policy Regarding Interstate Shipment of Corn Harvested in 1983

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the policy of the Food and Drug Administration (FDA) regarding interstate shipment of corn harvested in 1983 that contains aflatoxin in excess of the agency's current action level of 20 parts per billion (ppb). Because there is a severe aflatoxin problem in the 1983 corn crop, FDA will not object to the shipment of corn containing between 20 to 100 ppb aflatoxin in interstate commerce provided reasponsible State agencies have in place a control plan that has FDA concurrence and that assures that such corn is used only in feeds for mature beef cattle, swine, and poultry and that such corn is not diverted for dairy or immature animal feed use or direct human food use. As part of this policy, FDA is carrying out regulatory surveillance to ensure that State control efforts are effective.

DATES: This policy became effective November 9, 1983. This policy applies only to corn harvested in 1983 and will remain in effect until January 1985.

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 R. Wessel, Office of Regulatory Affairs (HFC–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1815.

SUPPLEMENTARY INFORMATION: Based on available information, the 1983 corn crop of the southeastern States shows a high incidence of aflatoxin contamination above the FDA action level of 20 ppb. Weather conditions (i.e., drought and high humidity) similar to those which contributed to the aflatoxin problem in the Southeast also existed this year in other parts of the country. Preliminary information indicates that this year's aflatoxin problem in corn also extends beyond the Southeast.

In previous years when a severe aflatoxin/corn problem existed, the agency advised individual States that corn containing up to 100 ppb aflatoxin could be fed safely to mature nondairy livestock and poultry (46 FR 7447, January 23, 1981; 43 FR 14122, April 4, 1978). This advice was based on available scientific information which indicated then, as now, the aflatoxin levels up to 100 ppd in feed would not be detrimental to the health of mature beef cattle, swine, and poultry or result in toxicologically significant residues of aflatoxin in foods derived from these animals. Implementation of this policy was, however, contingent upon the States agreeing to exercise controls that prevented use of corn containing above 20 ppb aflatoxin for direct human food use of for feeding to dairy cattle or immature animals. This control was necessary because FDA believed, and still believes, that the consumption of corn and corn products containing aflatoxin in excess of 20 ppb poses a health risk to humans and immature animals and, if fed to dairy cattle, may result in unsafe aflatoxin residues in milk.

In responding to the 1983 aflatoxin-corn situation, the agency has adopted a regulatory policy similar to that of past years. Accordingly, the agency advised the Departments of Agriculture in all States by letter dated November 9, 1983 that it will not object to corn containing between 20 to 100 ppb aflatoxin moving in interstate commerce provided responsible State officials have in place a control plan that has FDA concurrence and that assures that (1) such corn will be used only in feed for mature beef cattle, swine, and poultry; and (2) such corn will not be diverted to feeds for dairy or immature animals or be used in the processing of corn products for human consumption.

States that choose to adopt this policy for their 1983 corn crop may design their own control plan; however, FDA has specified minimum provisions that each State control plan should contain.

Each affected State should notify FDA whether it wishes to adopt the policy and whether it is committed to and able to carry out the necessary controls. States wishing to cooperate under the policy are to submit their proposed control plans to FDA for review and concurrence.

As part of a national enforcement program, FDA will be sampling corn in interstate commerce with emphasis given to corn that will be used by corn product manufacturers and dairy farms, and to States not participating in the cooperative program. FDA will also be testing milk and milk products for aflatoxin.

Because FDA's policy provides the States and the corn industry with the opportunity to channel corn containing up to 100 ppb aflatoxin into those animal feed uses that are considered safe, the agency believes it should help relieve pressures at the local level to process such corn into human food or to use it as feed for dairy animals. For this reason, FDA has also encouraged States to adopt a similar policy and control plan for corn produced and used only within their States. Additionally, States are being urged to monitor corn and corn products intended for human consumption, and to monitor milk for

compliance with the 20 ppb and 0.5 ppb action levels, respectively.

Documents and correspondence related to this notice are on file with the Dockets Management Branch (address above).

Interested persons may submit comments on this notice to the Dockets Management Branch (address above). 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: November 22, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-31723 Filed 11-23-83; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Revised Federal Allotments to States for Social Services Expenditures Pursuant to Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1984

AGENCY: Office of Policy Coordination and Review, Office of Human Development Services, Department of Health and Human Services.

ACTION: Notification of Revised Allocation of Title XX—Social Services Block Grant Allotments for Fiscal Year 1984.

SUMMARY: The Federal allotments of $2.5 billion to States for social services under Section 2003 of the Social Security Act (Act) which were published in the **Federal Register** November 26, 1982 (47 FR 53502) were based upon the authorization set forth in Section 2003 of the Act at that time and were contingent upon Congressional appropriations actions for the fiscal year.

Public Law 98-135, enacted October 24, 1983, amended Section 2003 of the Act, by increasing the authorization to $2.7 billion for Fiscal Year 1984 and each succeeding fiscal year. The allocation of this authorized amount for Fiscal Year 1984 is shown in Column 1 of the table below, and it too is contingent upon Congressional appropriations actions. Public Law 98-139, enacted October 13, 1983 appropriates $2.675 billion for allocation to the States under Section 2003 of the Act for Fiscal Year 1984. The allocation of this appropriated amount is shown in Column 2 of the table below. Accordingly, the promulgation made in 47 FR 53502, November 26, 1982, is rescinded and the promulgation, as revised, is set forth in Column 2 of the table below.

SUPPLEMENTARY INFORMATION: Section 2003 of the Act provides that the total amount allocated for Fiscal Year 1984 for Title XX—Social Services Block Grants to the States be allotted as follows:

(1) Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands each is allotted an amount which bears the same ratio to the total amount allocated as its allotment for Fiscal Year 1981 bore to $2.9 billion; these ratios are:

Guam	0.0001724138,
Northern Mariana Islands	0.0000344828,
Puerto Rico	0.0051724138,
Virgin Islands	0.0001724138;

(2) The remainder of the total amount allocated is allotted to each State and the District of Columbia in the same proportion as its population is to the population of all States and the District of Columbia, based upon the most recent data available from the Department of Commerce. For Fiscal Year 1984, the allotments are based upon the the Bureau of Census population statistics contained in its publication *Current Population Reports*, Series P-25, No. 913, issued May 1982. These are the population statistics which were used when the Federal allotments for Fiscal Year 1984 were promulgated initially on November 26, 1982.

EFFECTIVE DATE: These allotments shall be effective October 1, 1983.

REVISED FY 1984 Federal Allotment to States for Social Services—Title XX Block Grants

Block grants	Column 1—Authorization level, Pub. L. 98-135	Column 2—Appropriation level, Pub. L. 98-139
Total	$2,700,000,000	$2,675,000,000
Alabama	45,864,287	45,439,617
Alaska	4,824,122	4,779,455
Arizona	32,715,041	32,412,124
Arkansas	26,883,942	26,635,017
California	283,311,791	280,688,534
Colorado	34,717,287	34,395,830
Connecticut	36,696,114	36,356,335
Delaware	7,002,003	6,937,170
District of Columbia	7,388,401	7,319,990
Florida	119,233,095	118,129,085
Georgia	65,266,157	64,661,841
Guam	465,517	461,207
Hawaii	11,486,563	11,380,206
Idaho	11,228,964	11,124,992
Illinois	134,208,951	132,966,275
Indiana	64,025,000	63,432,176
Iowa	33,944,491	33,630,190
Kansas	27,902,628	27,644,271
Kentucky	42,876,483	42,481,460
Louisiana	50,442,520	49,975,459
Maine	13,266,335	13,143,499
Maryland	49,915,613	49,453,431
Massachusetts	67,596,255	66,970,364
Michigan	107,769,950	106,772,080

REVISED FY 1984 Federal Allotment to States for Social Services—Title XX Block Grants—Continued

Block grants	Column 1—Authorization level, Pub. L. 98-135	Column 2—Appropriation level, Pub. L. 98-139
Minnesota	47,936,786	47,492,927
Mississippi	29,635,566	29,361,163
Missouri	57,854,339	57,318,650
Montana	9,285,264	9,199,290
Nebraska	18,465,146	18,294,173
Nevada	9,894,134	9,802,521
New Hampshire	10,959,656	10,858,178
New Jersey	86,693,689	85,890,969
New Mexico	15,549,597	15,405,619
New York	206,102,419	204,194,064
North Carolina	69,703,880	69,058,474
North Dakota	7,704,545	7,633,207
No. Mariana Islands	93,104	92,241
Ohio	126,235,097	125,066,253
Oklahoma	36,298,006	35,961,914
Oregon	31,040,649	30,753,236
Pennsylvania	138,997,945	137,710,926
Puerto Rico	13,965,517	13,836,207
Rhode Island	11,158,710	11,055,389
South Carolina	37,082,512	36,739,155
South Dakota	8,032,397	7,958,023
Tennessee	54,002,066	53,502,047
Texas	172,895,598	171,294,713
Utah	17,774,314	17,609,737
Vermont	6,041,862	5,985,916
Virgin Islands	465,517	461,207
Virginia	63,560,056	62,991,352
Washington	49,376,997	48,919,803
West Virginia	22,856,035	22,644,405
Wisconsin	55,524,241	55,010,127
Wyoming	5,760,846	5,707,504

Dated: November 18, 1983.

David Rust,

Director, Office of Policy Coordination and Review.

Approved: November 18, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 83-31582 Filed 11-23-83; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

National Cancer Advisory Board, Subcommittee on Organ Systems Program; Amended Notice of Meeting

The notice of the meeting of the National Cancer Advisory Board, National Cancer Institute, November 27-30, 1983; published in the Federal Register on November 15 (48 FR 51982), is hereby amended. The Subcommittee on Organ Systems Program November 27, *will be cancelled*, and rescheduled at a later date due to complications of other commitments by several members of the subcommittee. For further information, please contact Dr. Andrew Chiarodo, Executive Secretary, National Cancer Institute, National Institutes of Health, Blair Building, Room 3A05, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: November 21, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-31708 Filed 11-23-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Decision To Extend Exclusive License

Pursuant to 45 CFR Parts 6 and 8, the Department of Health and Human Services hereby gives notice of the decision of the Department to permit the extension for five years from December 26, 1983, of an exclusive license issued by the Research Corporation to Bristol-Myers Company (Bristol), to make, use, and sell an invention to Dr. Barnett Rosenberg, Ms. Loretta VanCamp, and Mr. Thomas Krigas, entitled "Anti-Animal Tumor Method," for which United States Patent No. 4,177,262 issued December 4, 1979. The invention involves the use of cis-platinum anti-tumor compounds and was made at Michigan State University under the National Institutes of Health research grant number GM-10890.

Narrative

On September 8, 1982, the Department received a request from Research Corporation, a patent management corporation assigned the patent rights in the invention by Michigan State University, to extend the exclusive license to Bristol-Myers to market cis-platinum for an additional seven years. Since the Department had also received requests from other manufacturers that the exclusive license not be granted, and that they be granted nonexclusive licenses to market the product, the Department published a Notice of Request for Exclusive License Extension in the **Federal Register** on February 4, 1983, asking for comments.

The original exclusive license was issued to Bristol by Research Corporation in 1977 for a period of time not to exceed three years from the date of the first commercial sale in the United States of a product or process embodying the invention, or eight years from the date of the exclusive license, whichever occurred first.

In May 1978, Bristol and Research Corporation petitioned the Department for an extension of the period of exclusivity to five years from the date of commercial sale, instead of the three-year period originally granted. The Department granted this request and permitted the extension of the exclusive license to December 26, 1983. Bristol and Research Corporation have now requested an additional seven-year extension of the exclusive license on the basis of Bristol's further investment in research and development for this invention.

The petition and supplemental information submitted by Research Corporation and Bristol, and the information submitted in response to the Department's request for comments, have been reviewed by the National Institutes of Health Patent Board, the National Cancer Institute, and the National Institutes of Health.

The Department has concluded that the most important public need with respect to cis-platinum at this time is for additional research and development to be conducted into new uses for cis-platinum in the treatment of cancers in addition to those for which its use is already approved. I have determined that the research and development plan submitted by Bristol in connection with its request for extension of its exclusive license is the most promising option for meeting this important public health need.

Another major concern from the public health standpoint is the price at which the drug is made available to the public. In addition to undertaking extensive research on cis-platinum, Bristol has also agreed to reduce the price of the drug by over 30 percent during the extended period of exclusivity to reduce the cost to cancer victims.

In light of the above facts, I have determined that an extension of the exclusive license is in the best interests of the public health. However, given the fact that Bristol has already had almost five years of an exclusive market for cis-platinum, and that the market for cis-platinum is expected to expand dramatically in the next few years, we believe that five years of additional exclusivity is a sufficient incentive to induce Bristol to undertake the commitments which it has offered and is the best decision in the public interest.

Address for Additional Information

Requests for additional information regarding the decision should be addressed to the Chief, Patent Branch, c/o National Institutes of Health, Westwood Building, Room 5A03, Bethesda, Maryland 20205 (301) 496-7056.

Authority: 45 CFR Parts 6 and 8.

Dated: November 17, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-31583 Filed 11-23-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974; Revision of System of Records Notice

On July 27, 1983, the Department of the Interior published for public comment a proposed revision to an existing Privacy Act system of records notice (48 FR 34134). The notice describes personnel records maintained on Departmental employees and is title: "General Personnel Records—Interior, Office of the Secretary—79". In accordance with comments received from organizations within the Department, several administrative and technical corrections are being made to the notice, as follows:

1. The note following the system name is revised to delete the referrence to the **Federal Register** publication date of the notice describing General Personnel Records, OPM/GOVT-1. OPM/GOVT-1 is revised and republished from time to time, and the inclusion of its publication date would create an obsolete reference in the OS.79 notice.

2. The reference to "5 U.S.C. 5101, et seq." is deleted from the statement describing the statutory authority for maintenance of the system.

3. The addresses and titles for the Personnel Officers for the Office of the Secretary and Bureau of Reclamation are revised in the "notification" section of the notice.

The revised notice for OS-79 is published in its entirety below, and is effective November 25, 1983. Additional information regarding this notice may be obtained from Mr. Ron Willians, Office of Personnel, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240

Dated: November 17, 1983.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Interior/OS—79

SYSTEM NAME:

General Personnel Records—Interior, Office of the Secretary—79.

Note.—This system complements OPM-GOVT-1 which delineates the Governmentwide system for general personnel records. This notice does not repeat all information contained in OPM-GOVT-1.

SYSTEM LOCATION:

Hard copy records on current and recently separated employees are located at the Personnel Office or other designated office of the installation which currently employees (or recently

employed) the individual. Automated personnel records are maintained on the PAY/PERs system administered by the Bureau of Reclamation in Denver, Colorado. (The Office of the Secretary maintains the DPDF—Departmental Personnel Data File—in Washington, D.C. Automated personnel records for employees in the Office of the Secretary, Geological Survey, National Park Service, office of the Solicitor, and Fish and Wildlife Service are maintained on the DIPS system administered by the Geological Survey in Washington, D.C. These two systems will be abolished once records are incorporated into PAY/PERS by the end of 1984.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and recently separted empoyees of the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

An individual records is maintained for each employee containing historical as well as current personnel data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2951, 5 U.S.C. 2954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The official hard copy (paper microform) records maintained by the servicing personnel office provide basic data for preparation and verification of personnel reports and documents. They also provide a comprehensive and continuing record of each employee's service, status, skills, and pesonnel history, for use in the merit promotion program, reduction in force and to effect other personnel actions. Automated records are used to generate reports and listings; produce standard personnel management documents; establish and verify entitlement to pay and benefits; and provide historical data.

Routine use disclosures outside the Department will be the same as stated in the systems notice for the OPM/GOVT-1 system of records.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, on lists and forms, microfilm or microfiche and in computer processible storage media.

RETRIEVABILITY

These records are retrived by various combinations of name, birth date, Social Security Number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

Paper or microfiche/microfilmed records are located in lockable metal file cabinets or in secured rooms with access limited to those personnel whose official duties require access. Automated records are maintained with safeguards meeting the requirements of 43 CFR 2.51 for computer records. Access to all records in this system is limited to Departmental officials whose official duties require access. Bureau officials will generally only have access to records pertaining to employees of their own bureau.

RETENTION AND DISPOSAL:

In accordance with approved Retention and Disposal schedules. Some records may be retained indefinitely as a basis for longitudinal work history statistical studies.

SYSTEMS MANAGER(S) AND ADDRESS:

Director of Personnel, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to him/her from the Bureau Personnel Officer where he/she is (or was) employed. The request must be in writing, be signed by the requester, and meet the content requirements of 43 CFR 2.60. Office addresses are:

(1) Personnel Officer, Division of Personnel Services, Secretary, 19th & C Streets, N.W., Washington, D.C. 20240.

(2) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

(3) Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Columbia Plaza, 5th Floor, Washington, D.C. 20037

(4) Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092

(5) National Park Service, Personnel Management Division, 19th & C Streets, NW., Washington, D.C. 20240

(6) U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th & C Streets, NW., Washington, D.C. 20240

(7) Bureau of Reclamation, Chief, Division of Personnel Management, Code 500, 19th & C Streets, NW., Washington, D.C. 20240

(8) Bureau of Land Management, Division of Personnel (530), 19th & C Streets, NW., Washington, D.C. 20240

(9) Office of the Solicitor, Personnel Officer, 19th & C Streets, NW., Washington, D.C. 20240

(10) Division of Personnel, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20245

(11) Minerals Management Service, Personnel Division, Mail Stop 634, 12203 Sunrise Valley Drive, Reston, Virginia 22091

(12) Office of Inspector General, Assistant Inspector General for Administration, 19th & C Streets, NW., Washington, D.C. 20240

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as Notification. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees and employing bureaus.

[FR Doc. 83-31606 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[OR 7282]

Realty Action; Exchange of Public and State Lands in Harney and Malheur Counties, Oregon

Correction

In FR Doc. 83-29204 beginning on page 49929 in the issue of Friday, October 28, 1983, make the following corrections:

1. On page 49930, first column, three lines from the top of the page, "Sec. 25 to 28 inclusive" should have read "Secs. 24 to 28 inclusive".

2. On page 49931, middle column, under T. 41 S., R. 39E., "Sec. 16 N½, N½, SW¼ SE¼" should have read "Sec. 16 N½, N½ SW¼ SE¼".

3. On the same page, third column, under T. 38 S., R. 42 E., "Sec 61" should have read "Sec. 16".

BILLING CODE 1505-01-M

[4-19952-ILM-GA]

State of California; Realty Action Non-Competitive Sale of Public Lands in Imperial County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Non-Competitive Sale of Public Lands in Imperial County, California.

SUMMARY: The following described lands have been examined and found suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value:

SAN BERNARDINO MERIDIAN

Parcel No.	Legal Description	Acreage
2, CA-14343	T. 14 S., R. 13 E., SBM; Sec. 34, lots 6.	32.00
3, CA-14344	T. 14 S., R. 14 E., SBM; Sec. 29, lots 19 & 20.	16.02
13, CA-14354	T. 15 S., R. 16 E., SBM; Sec. 16, lots 14 & 30; Sec. 21, lots 1 & 16.	24.64
15, CA-14356	T. 16 S., R. 21 E., SBM; Tr. 63, W1/2 (S-14).	80
16, CA-14357	Sec. 2 lot 4; Sec. 3 lot 4	39.95
19, CA-14360	T. 16 S., R. 13 E., SBM; Tr. 198, SE1/4 (S-19).	40
20, CA-14361	Sec. 21, lots 30 & 32; Sec. 28, lot 2.	33.03
21, CA-14362	Sec. 30, lot 29	.04
22, CA-14363	Sec. 31, lot 39	.19
23, CA-14364	Sec. 32, lot 27; sec. 33, lot 20	1.88
24, CA-14365	Sec. 35, lot 33	.80
26, CA-14367	T. 16 S., R. 14 E., SBM; Tr. 292, E1/2 (S-31).	4.48
27, CA-14368	Sec. 16, lot 1	.66
28, CA-14369	Sec. 20, lot 1 & 2; sec. 29, lot 1	3.25
29, CA-14370	Sec. 32, lots 1 & 2; sec. 33, lots 1 & 2; sec. 34, lot 2.	4.78
30, CA-14371	Sec. 36, lot 2	1.00

These parcels aggregate 282.92 acres in Imperial County. The land has not been used for and is not required for any Federal purpose. The location and physical characteristics of each parcel make them difficult and uneconomical to manage as public lands. Disposal is consistent with planning, and would not have any significant negative effect on resource values and would best serve the public interest.

All parcels will be offered as direct sales at the appraised fair market value 60 days after the publication of this notice and no bids will be accepted. Upon notification of the sale date, the purchaser will be given 30 days to pay the full fair market value.

The following landowners are offered the opportunity to purchase the parcel(s) specified:

Parcels, 2, 15, 16, 19, 20, 21, 23, 26, 28, 29, and 30. Imperial Irrigation District, Attn: Mr. Donald Twogood, 333 E. Main Street, Imperial, California 92251

Parcel 3. Holly Sugar Corporation, Attn: Mr. Herb Wilson, P.O. Box 581, Brawley, California 92227

Parcel 13. Ms. Lola S. Garewal, P.O. Box 245, Holtville, California 92250

Parcel 22. Mr. William G. Simmons, 2727 De Anza No. 34, San Diego, California 92109

Parcel 24. Mr. Phillip Hammebard, P.O. Box 58726, Los Angeles, California 90058

Parcel 27. Imperial County, Department of Public Works, Attn: Mr. S. Harry Orfanos, Courthouse El Centro, California 92243

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C 1719). However, under Section 209(b) of said Act, the new landowner may apply to purchase the mineral interests.

3. The patent will be subject to all valid existing rights and reservations of record.

4. All purchasers must be United States citizens, or in the case of corporations, be authorized to own real estate in the State of California. Political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany the bid.

5. The BLM will reject or accept any and all offers, or withdraw any land or interest in land from sale, if in the opinion of the Authorized Officer consummation of the sale would not be in the best interest of the United States.

6. The patent for Parcel 3 will not be issued until a data recovery program for the three loci of cultural resources is initiated. This program will consist of mapping, artifact retrieval and preparation of a report by either a volunteer agreement or through contract.

7. The patents for parcels number 3, 20, 22, 24, 26, 27, 28, 29, 30 will be subject to right-of-way ditches S5404.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including the land report and environmental assessment, is available for review at the California Desert District Office at 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of publication of the notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. 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.

Dated: November 14, 1983.

Wes Chambers,

Acting District Manager.

[FR Doc. 83-31345 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

[WASH 04791]

Washington; Proposed Continuation of Withdrawal

The U.S. Coast Guard proposes that the existing land withdrawal made by Executive Order of February 26, 1852, be continued as to 29.3 acres for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 State 2751; 43 U.S.C. 1714.

The land involved is located on Cape Disappointment at the mouth of the Columbia River, and contains 29.3 acres within T. 9 N., R. 11 W., Willamette Meridian, Pacific County, Washington.

The purpose of the withdrawal is to protect the Cape Disappointment Coast Guard Station and Light Station. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land

Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 15, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31544 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Idaho, Cascade Resource Area; Initiation of the Resource Management Plan and Invitation To Participate in the Identification of Issues

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Initiate a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) and Invitation to Participate in the Identification of Issues (Scoping).

Description of Proposed Planning Action

The Bureau of Land Management, Boise District, Cascade Resource Area, Idaho will prepare a Resource Management Plan (RMP) including an Environmental Impact Statement (EIS) as a part of the planning process. The plan will provide guidance and direction for the management actions over approximately 490,000 acres of the public lands in the Cascade Resource Area. The plan will evaluate a series of alternatives ranging from resource production to resource protection. The selected plan will provide for livestock and wildlife use levels as well as determining management actions for other resource uses. The planning is scheduled for completion by February, 1987. The Code of Federal Regulations, Title 43, Subpart 1601, will be followed for this planning effort.

Geographic Area

The planning area is located in the west central portion of Idaho and includes all or portions of Ada, Adams, Boise, Canyon, Gem, Payette, Valley and Washington Counties. The area is bounded by the New York and Mora Canals to the south, the Snake River to the west and the Payette and Boise National Forests to the north and east, respectively. The major physical features include the Boise Front (foothills), Payette River system, Squaw Butte, Brownlee and Oxbow reservoirs.

Anticipated Issues

Issues that may be addressed in the RMP include, but are not limited to the following: (1) Land Transfer/Tenure—identify lands that are potentially suitable for disposal; (2) Levels of Livestock, Wild Horse and Wildlife Use; (3) Timber Base Allocation—analyze the commercial forest lands to determine the amount of timber available for saw logs and/or commercial and private firewood use; and (4) Payette River System—analyze potential for National Wild and Scenic River status.

The public is invited to comment on these issues and suggest other issues, concerns, needs or opportunities for consideration during the planning process.

Interdisciplinary Team

The RMP will be developed by an interdisciplinary team under the supervision of the Cascade Area Manager. Individuals selected for the team include a planning coordinator, realty specialist, wildlife biologist, range conservationist, forester, minerals specialist, recreation planner and economist. Additional technical support and expertise will be available as needed.

Public Participation

A comprehensive public participation plan will be prepared. The public will have the opportunity to participate throughout the planning process. There will be at least four specified steps in the planning process where public input will be actively sought. These points are (1) Identification of Issues; (2) Review of Criteria; (3) Review of the Draft RMP-EIS; and (4) Review of the Final RMP/EIS. The public involvement will be in the form of public meetings, individual contacts and direct mailings; coordination with local, state and federal agencies; and contacts with appointed and elected officials. The **Federal Register**, local newspapers, radio, television and individuals will be used to solicit comments and share information.

Public Meetings

Several public meetings will be held in selected cities in the Cascade Resource Area in January/February 1984. the meetings will help determine the scope of the RMP and identify issues and concerns. Location and time of these and other public meetings held throughout the process will be announced through personal invitation and the local media.

Planning Documents and Information

Information about the planning process, resource data, plans, maps, etc., are maintained at the Boise District Office. The information is available for review during regular working hours (8:00 a.m. to 4:30 p.m.) or by appointment at other times.

FOR MORE INFORMATION CONTACT: Richard Geier, Cascade Resource Area Manager, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Telephone Commercial (208) 334-1582; FTS 554-1582.

Dated: November 18, 1983.

J. David Brunner,

Associate District Manager.

[FR Doc. 83-31599 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Filing of Plat of Survey; Arizona

November 18, 1983.

1. Plat of survey of land described below, accepted on October 28, 1983, was officially filed in the Arizona State Office, Phoenix, Arizona, on October 31, 1983:

Gila and Salt River Meridian, Arizona

T. 11 S., R. 25 W.,
A supplemental plat of Section 1 was executed to identify lands now included in R&PP lease A-13256.

2. This plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

3. Inquiries concerning the land should be addressed to the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31605 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18822, A-18888, A-8762]

Conveyance of Public Lands in Cochise, Mohave and La Paz Counties; Arizona

Notice is hereby given that pursuant to Sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2750, 2757, 43 U.S.C. 1713, 1719), that the individuals and/or companies, named below, have purchased by competitive sale, the following described lands:

Gila and Salt River Meridian, Arizona

Patentee	Legal Description
Chambers-Mix Concrete, Inc.	T. 25 N., R. 19 W., Sec. 20, E½, Containing 320 acres.
Emily L. White	T. 17 N., R. 18 W., Sec. 12, E½NE¼ SW¼SE¼, Containing 5 acres.
Duval Corporation	T. 21 N., R. 19 W., Sec. 24, Containing 640 acres.

Patentee	Legal Description
Robert S. Service	T. 21 N., R. 19 W., Sec. 14, SE¼NE¼SE¼, Containing 10 acres.
All of the above lands are situated in Mohave County.	
Tony and Alice Duarte	T. 7 N., R. 17 W., Sec. 35, NE¼NW¼NW¼, Containing 10 acres.
Michael K. Jones	T. 7 N., R. 17 W., Sec. 35, SE¼NW¼NW¼, Containing 10 acres.
Kibbee Jones	T. 7 N., R. 17 W., Sec. 35, W½NW¼NW¼, Containing 20 acres.
Kibbee Jones	T. 7 N., R. 17 W., Sec. 36, SE¼NW¼NW¼, Containing 10 acres.
Tony and Alice Duarte	T. 7 N., R. 17 W., Sec. 36, W½NW¼NW¼, Containing 20 acres.
Donald R. and Teresa J. Chambers	T. 7 N., R. 17 W., Sec. 15, NE¼SE¼, Containing 40 acres.
Dwyer O'Hanlon, Sr.	T. 7 N., R. 17 W., Sec. 36, NE¼NW¼NW¼, Containing 10 acres.
All of the above lands are situated in La Paz County.	
Leo R. and Dolores Fitzpatrick, David F. and Deborah Dybvig	T. 20 S., R. 32 E., Sec. 11, lots 1, 2, 3, 4, Containing 147.88 acres.

The above described land is situated in Cochise County.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the patents to the above-named individuals and/or companies.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31604 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Northeast Resource Area, Colorado; Intent to Hold a Public Scoping Meeting and Prepare an Environmental Impact Statement for Denver Basin Preference Right Coal Lease Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Public scoping meeting and notice of intent to prepare an Environmental Impact Statement.

SUMMARY: This Environmental Impact Statement for the Denver Basin Coal Preference Right Lease Applications (PRLAs) will analyze the impacts of the proposed leasing action and a number of leasing alternatives in order to determine suitability for mining, appropriate mitigation measures, and reclamation standards needed for eight PRLAs in the Denver Coal Basin.

Alternatives which have already been identified for consideration in this EIS are: Leasing of all PRLAs; partial leasing of the PRLAs; phased leasing of the PRLAs; no leasing or development of any of the PRLAs; and a lease exchange alternative.

The PRLAs considered in this EIS are the following serial numbers: C–8257, C–8258, C–8259, C–8260, C–8261, C–8263, C–8264, and C–8265. The applicant for C–8265 is John Hand; all others are currently held by Meadowlark Farms. These eight PRLAs are located in south-central Adams County, central Arapahoe County, and west-central Elbert County, Colorado.

The following special issues have been preliminarily identified for analysis in the EIS: air quality impacts, water quality impacts, soils and vegetation impacts, wildlife habitat impacts and social/economic impacts. Initial scoping has been carried out for this effort during the public meetings for three Environmental Assessments prepared on the eight PRLAs in April 1983, as well as during the planning process for the Northeast Resource Area (NERA) Resource Management Plan.

The purpose of the public scoping meeting is to encourage participation from interested persons in defining the significant environmental issues and concerns that relate to the leasing of these PRLAs.

Date and place: The meeting will be held on December 15, 1983, from 1:00 to 8:00 p.m., in the conference room of the NERA BLM Office located at 10200 West 44th Avenue, Wheatridge, Colorado.

Written Comments: Written comments regarding the scope of this environmental impact statement should be submitted before December 3, 1983. Comments should be directed to either Donnie R. Sparks, District Manager, Canon City District, Bureau of Land Management, P.O. Box 311, 3080 East Main, Canon City, Colorado 81212; or Frank Young, Area Manager, Northeast Resource Area, 10200 West 44th Avenue, Wheatridge, Colorado 80033. Information on these PRLAs (e.g., public record of meetings, the previously prepared EAs) is available for inspection at the locations above.

FOR FURTHER INFORMATION CONTACT: Gary Rutherford, EIS Team Leader, Canon City District Office, Bureau of Land Management, P.O. Box 331, 3080 East Main, Canon City, Colorado 81212, 303/275–0631.

George C. Francis,

State Director.

[FR Doc. 83-31547 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

[ORE 03644, ORE 017844]

Oregon; Proposed Continuation of Withdrawals

The Bureau of Reclamation purposes that the existing land withdrawals made by BLM order of January 24, 1956, and Public Land Order No. 4037 of June 6, 1986, be continued in part for a term of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The lands involved are located adjacent to the Howard Prairie Reservoir approximately 16 miles east of Ashland, and total 562.74 acres within T. 38 S., R. 3 E., and Tps. 38 and 39 S., R. 4 E., Willamette Meridian, Jackson County, Oregon.

The purpose of the withdrawals is to protect the Howard Prairie Reservoir which is a part of the Rogue River Basin Reclamation Project. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resource. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal

continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 15, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31543 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Sale of Public Lands In Custer County, Colorado, Modification of Original Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Modification of original notice of realty action.

SUMMARY: This notice modifies the original Notice of Realty Action for C-35461 through C-35464, published on June 3, 1983 (48 FR 25004 and 25005). No bids were received on parcel numbers 2, C-35464; 3, C-35463; or 4, C-35461 before or on the specified sale date or during the 90-day period after the sale date as provided in the detailed prospectus. These parcels will now be offered on a continuing basis during regular office hours until the parcels are sold or the sale is cancelled. The parcels will be sold on a first-come, first-served basis. Buyers must comply with the requirements of the detailed prospectus referred to in the original notice. Minimum acceptable bid is $31,000.00 for parcel 2; $78,000.00 for parcel 3; and $32,000.00 for parcel 4. Bids will be acccepted by mail or in person at the Canon City District Office, 3080 East Main Street, P.O. Box 311, Canon City, Colorado 81212.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 83-31601 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

[UT-942-4310-84]

Utah; Filing of Plat of Survey

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 35 S., R. 3 E.

This plat represents the dependent resurvey of the Seventh Standard Parallel South, through a portion of Range 3 East, the west boundary, a portion of the north and east boundaries, and a portion of the subdivisional lines, and the survey of the section line between Sections 30 and 31, and the survey of the subdivision of certain sections of T. 35 S., R. 3 E., Salt Lake Meridian, Utah for Group 603, was accepted November 7, 1983.

Salt Lake Meridian, Utah

T. 43 S., R. 1 W.

This plat represents the dependent resurvey of the north boundary and a portion of the subdivisional lines, and the survey of a partial subdivision of Sections 3, 4, and 5 of T. 43 S., R. 1 W., Salt Lake Meridian, Utah for Group 608, was accepted November 7, 1983.

Salt Lake Meridian, Utah

T. 25 S., R. 5 W.

This plat represents the dependent resurvey of the Fifth Standard Parallel South, through a portion of Range 5 West, and a portion of the subdivisional lines, and the survey of the subdivision of Sections 33 and 34 of T. 25 S., R. 5 W., Salt Lake Meridian, Utah for Group 605, was accepted November 7, 1983.

Salt Lake Meridian, Utah

T. 4 N., R. 4 E.

This supplemental plat of Section 8 was prepared to provide designation to the unpatented area of Jacob and Elizabeth Mole Claim, and is based upon the plat approved July 22, 1896 of T. 4 N., R. 4 E., Salt Lake Meridian, Utah, was accepted November 7, 1983.

These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries relating to this land should be sent to the Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: November 18, 1983.

Darrell C. Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31602 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

[W-15468 (WY)]

Wyoming; Partial Termination of Classification of Public Lands for Multiple Use Management

November 16, 1983.

1. Pursuant to authority delegated to me, the Bureau of Land Management Multiple Use Classification published in 35 FR 238, dated December 9, 1970, and described below is hereby terminated in part from segregation of the public land laws generally, and from location and entry under the general mining laws.

Sixth Principal Meridian, Wyoming

T. 58 N., R. 95 W.,
Sec. 19, lot 1;
Sec. 20, lots 1, 2, 3 and 4, S½SW¼NW¼, SE¼NW¼ and S½NE¼;
Sec. 21, lots 1, 2, 3 and 4, S½N½, SE¼ and NE Diagonal ½ of SW¼;
Sec. 22, lots 1, 2, 3 and 4, S½N½, N½NW¼SW¼SW¼, S½SW¼ SW¼SW¼, E½SW¼ and SE¼;
Sec. 23, lots 3 and 4, S½NW¼ and W½SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, N½;
Sec. 28, NE¼NE¼.

The public lands described aggregate 2215.68 acres in Big Horn County, Wyoming.

2. At 8 a.m. on December 19, 1983, the lands above-described shall be open to operation of the public land laws generally, subject to valid existing rights the provisions of existing withdrawals and the requirements of applicable law. All valid applications received prior to 8 a.m. on December 19, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. All land in paragraph 1 will be open to location and entry under the general mining laws at 8 a.m. on December 19, 1983. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. 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 36800, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83-31603 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Roswell District, Carlsbad Resource Area; Intent to Prepare a Resource Management Plan-Environmental Impact Statement and Notice of Public Meetings to Receive Input on Issue Identification

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of a Resource Management Plan (RMP), Environmental Impact Statement (EIS) and notification of public meetings on issue identification.

SUMMARY: A RMP and EIS is being developed for the Carlsbad Resource Area, Roswell District, New Mexico. The purpose of this notice is to inform the public of our intent and invite public participation in the planning process, which begins with the identification of plan issues and results in land use decisions. Resource management planning will be conducted in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712) and the Naional Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The RMP and EIS generally establishes in one intergrated multiple-use plan the following:

1. Land areas of limited, restricted or exclusive use; designation of any qualifying Areas of Critical Environmental Concern (ACEC); and transfer from Bureau of Land Management administration;

2. Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained;

3. Resources condition goals and objectives to be attained;

4. Program constraints and general management practices needed to achieve the above items;

5. Need for an area to be covered by more detailed and specific plans;

6. Support actions, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above;

7. General implementation sequences; and

8. Intervals and standards for monitoring and evaluating the plan to determine its effectiveness and the need for revision.

The Carlsbad RMP-EIS area encompasses all public lands in Federal surface ownership within the New Mexico portion of the Carlsbad Resource Area, or about 2,193,000 acres. The pattern of public land ownership shows extensive holdings in Eddy County and western Lea County and scattered holdings in eastern Lea County and southwest Chavez County. The plan area includes three physiographic regions: The Guadalup Mountains, the Pecos River Valley and the High Plains. The plan area adjoins the Carlsbad Caverns, the Guadalupe Mountains National Park and the Lincoln National Forest on the mountainous west side. It is bounded by the Roswell Resource Area on the north and the Texas/New Mexico State border to the east and south.

The purpose of this notice is to invite public participation in identifying planning issues for the Carlsbad RMP and EIS scoping.

Resource management planning issues are matters of controversy concerning public lands and resource use, development or protection opportunities and are identified early in the RMP-EIS process. Issues focus interdisciplinary planning and analysis on conflicting or competing land uses for which there are alternatives and a need for management decisions. Anticipated issues reflect the Bureau's knowledge of current managment situations, resource conditions, uses and impressions of public concerns and include the following:

1. *Livestock Grazing and Rangeland Management*—Grazing allotments need management to balance economic concerns of permittees with the need to maintain or improve range condition and provide for wildlife and other resource needs.

2. *Public Land Access*—Legal and physical access to public lands and resources needs to be balanced to minimize conflicts among different land users.

3. *Public Land Disposal*—Planning is needed to determine which public lands should be retained in Federal ownership, disposed of under the Federal Land Policy and Management Act, or studied further for possible disposal in the future.

4. *Management of Sensitive Areas*—Management decisions are needed for sensitive areas such a caves, areas of critical mineral potential, former Wilderness Study Areas (WSA's), National Register Archaeological Districts, Threatened and Endangered (T&E) plant and animal species habitats, public lands adjoining National Park and National Forest lands and others requiring special management.

This preliminary list will be presented for public review and comment, and will form a basis for generating public inputs focused on the need for management decisions concerning competing or conflicting land uses. Public concerns will be analyzed as possible additional issues throughout the planning process, but are being sought at this time to clarify the above and identify any other specific issues.

An interdisciplinary approach allows specialists representing various scientific fields, to combine skills and focus on common multiple-use problems as a team. The Carlsbad RMP-EIS interdisciplinary planning team includes specialists in the fields of multiple-use planning, range management, wildlife biology, soils, water, air quality, minerals, oil and gas leasing, cultural resources, realty, rights-of-way and outdoor recreation, including off-road vehicles.

ADDRESS: Comments and requests for further information should be addressed to Charles Dahlen, Area Manager of the Carlsbad Resource Area, Bureau of Land Management, P.O. Box 1778, 101 E. Mermod, Carlsbad, NM 88220, telephone (505) 887–6544.

The RMP–EIS is scheduled to be completed in final by September 30, 1986. Issue identification is the first of several opportunities that the public will have to comment during the planning process. Public comments will also be solicited following the publication of planning criteria, during formulation of alternatives, after publication of draft alternatives, after publication of the draft RMP, after publication of the final RMP and in the event of significant changes to the plan resulting from a protest. Public participation in the planning process is encouraged throughout the development of the plan and EIS.

Existing planning documents and other pertinent information may be examined at the Carlsbad Resource Area Headquarters, 101 E. Mermod, Carlsbad, NM, weekdays between 8 a.m. and 4 p.m.

General public meetings are scheduled to present planning information and to solicit comments, questions or other public inputs relevant to resource management issues as follows:

December 13, 1983—Artesia, NM; Central Valley Electric Co-op Building; N. 13th; 2 p.m.–5 p.m. and 7 p.m.–9 p.m.

December 14, 1983—Carlsbad, NM; Federal Building Conference Room, corner of S. Halagueno and W. Fox; 2 p.m.–5 p.m. and 7 p.m.–9 p.m.

December 15, 1983—Hope, NM; Hope Fire Department Meeting Room; 2 p.m.–5 p.m. and 7 p.m.–9 p.m.

In addition to the public meeting on issue identification, written comments on issues will be received for 45 days following the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Charles Dahlen, Carlsbad Resource Area Manager, (505) 887–6544.

Dated: November 16, 1983.

Norman P. Duquette,

Acting State Director.

[FR Doc. 83-31540 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Alaska Outer Continental Shelf; Intent to Prepare an Environmental Impact Statement for an Arctic Offshore Sand and Gravel Lease Offering

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on the proposed offshore sand and gravel lease offering in the Diapir Field planning area. This proposed offering is tentatively scheduled for November 1984.

The August 16, 1983 **Federal Register** (48 FR 159), pages 37087 through 37088, contained a Call for Comments concerning timing, location, and other aspects of sand and gravel lease offerings in offshore Alaskan areas. This EIS analysis will focus on the area having sand and gravel potential within the Diapir Field planning area and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the EIS include options to modify, delay, or withdraw the proposed lease offering.

Questions concerning this proposed action and comments on the scope of the EIS should be addressed to Judith Gottlieb, Chief, Environmental Assessment Branch, Leasing and Environment Office, Minerals Management Service, Alaska OCS Region, P.O. Box 101159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Fred Sieber, Minerals Management Service, 12203 Sunrise Valley Drive (MS–644), Reston, Virginia 22091, telephone (202) 343–6264.

Dated: November 18, 1983.

Thomas M. Gernhofer,

Acting Director, Minerals Management Service.

[FR Doc. 83-31569 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Tahoe City, Calif.; Environmental Impact Statement; Notice of Decision

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of decision.

SUMMARY: This notice informs the public of a decision regarding the alternatives presented in a final Environmental Impact Statement for Transfer of the 64 Acre Tract, Tahoe City, California, dated August 31, 1983.

DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Kathleen Brocato, Chief, Land Resources Management Branch, Bureau of Reclamation, 18th and C Street, NW., Washington, D.C. 20240, telephone (202) 343–5204.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation has decided to proceed with the preferred plan as presented in the "Final Environmental Impact Statement for transfer of the 64-acre Tract, Tahoe City, California," dated August 31, 1983. The preferred plan is to directly transfer the property to the U.S. Forest Service for recreational use, under the authority of the Federal Water Project Recreation Act (Pub. L. 89–72) after the court in the U.S. v. Truckee-Carson Irrigation District, Civil No. S–78–611–MLS, enters its order granting possession to the United States. This plan limits the Bureau's action to: (1) The immediate transfer of the property to the U.S. Forest Service, and (2) notification to the occupants that the property can no longer be leased from the Truckee-Carson Irrigation District and, if they are to remain, they must obtain a special use permit from the U.S. Forest Service.

The Record of Decision for this action may be obtained from: Regional Environmental Quality Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W–1102, Sacramento, CA 95825, telephone: (916) 484–4792.

Dated: November 16, 1983.

Robert N. Broadbent,

Commissioner.

[FR Doc. 83-31536 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-208 (Preliminary)]

Iron Bars From Brazil; Preliminary Countervailing Duty Investigation

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: November 15, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of blooms, billets, slabs, sheet bars and bars, of iron, including ductile iron classifiable in the Tariff Schedules of the United States (TSUS) as steel, provided for in TSUS items 606.67, 606.69, 606.83, 606.97, 657.09, 657.10 and 657.25.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on November 15, 1983, by counsel for Wells Manufacturing Co., a U.S. producer of the subject iron bars. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by December 30, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether

to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

Written Submissions

Any person may submit to the Commission on or before December 13, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on December 9, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contract Abigail Eltzroth (202–523–0289), not later than December 7, 1983, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: November 21, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31655 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-143]

Certain Amorphous Metal Alloys and Amorphous Metal Articles; Denial of Petition for Reconsideration

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to deny the petition for reconsideration filed by respondents Nippon Steel Corporation and Nippon Steel U.S.A., Inc. (together "Nippon Steel") in the above-captioned investigation.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.59 of the Commission's Rules of Practice and Procedure.

SUPPLEMENTARY INFORMATION: This investigation was instituted on April 6, 1983, 48 FR 15963 (Apr. 13, 1983). On August 17, 1983, the presiding officer issued an initial determination granting a motion to designate this investigation as more complicated. The Commission determined to review that determination upon its own motion and, on September 16, 1983, issued notice of its determination to designate this investigation as more complicated and to require the presiding officer to issue the initial determination on violation of section 337 within thirteen months of the date of publication of the notice of investigation in the **Federal Register**, i.e., by May 13, 1984.

On October 6, 1983, Nippon Steel filed a petition for reconsideration of that part of the Commission's determination which imposes the thirteen month time limit for the issuance of the initial determination on violation. The petition was supported by respondent Vacuumschmelze GmbH and opposed by complainant and by the Commission investigative attorney. On November 16, 1983, the Commission determined to deny the petition for reconsideration.

FOR FURTHER INFORMATION CONTACT: Catherine Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0189.

By order of the Commission.

Issued: November 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31532 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-170]

Certain Bag Closure Clips; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 10, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-31537 Filed 11-23-83 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-155 and 731-TA-156 (Preliminary)]

Choline Chloride From Canada and the United Kingdom

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada and the United Kingdom of choline chloride, provided for in item 439.50 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: November 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Woodley Timberlake, Investigator, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–4618.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on November 15, 1983, on behalf of Syntex Agribusiness, Inc. The Commission must make its determinations in the investigations within 45 days after the date of the filing of the petitions, or by December 30, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in these investigation. Any party submitting a document in connection with these investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of the nonconfidential version of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before December 12, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on December 8, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Woodley Timberlake (202–523–4618), not later than December 5, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued November 10, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31533 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-202 (Final)]

Cotton Shop Towels From Pakistan

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that benefits that constitute a subsidy within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C 1671) are granted by the Government of Pakistan with respect to the manufacture, production, or exportation of shop towels of cotton, provided for in item 366.27 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–202 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before January 5, 1984, and the Commission will make its final injury determination by Feberuary 23, 1984 (19 CFR 207.25).

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Marlyn Borsari (202–523–5703), Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

In September 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly subsidized imports of cotton shop towels from Pakistan. The preliminary investigation was instituted in response to a petition filed on July 27, 1983, by counsel for Milliken and Company, a domestic manufacturer of cotton shop towels.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the

Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not acept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on December 14, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10 a.m. on January 17, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 28, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11 a.m. on January 3, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 10, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aut. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 24, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 24, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Scretary to the Commission in accordance with § 201.8 of the Commission's Rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is publishd pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: November 10, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31530 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-406-10]

Ferrosilicon From the Soviet Union

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) and scheduling of a hearing to be held in connection therewith.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, following receipt on November 2, 1983, of a letter request from the United States Trade Representative, has instituted investigation No. TA-406-10 under section 406(a) of the Trade Act of 1974 to determine, with respect to imports of ferrosilicon provided for in items 606.35, 606.36, 606.37, 606.39, and 606.40 of the Tariff Schedules of the United States, which is the product of the Soviet Union, whether market disruption exists with respect to an article produced by a domestic industry. Ferrosilicon is used as a deoxidizing agent or as a strengthening alloy in the production of various iron and steel products. Section 406(e)(2) of the Trade Act defines such market disruption to exist whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

EFFECTIVE DATE: November 16, 1983.

FOR FURTHER INFORMATION CONTACT: James Lukes (202-523-0279) or Larry Brookhart (202-523-0275), Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 10 a.m. on Friday, January 6, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on Wednesday, December 21, 1983.

Prehearing Procedure

To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Fourteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Friday, December 30, 1983. All parties submitting prehearing briefs and other documents shall serve copies or other parties of record in accordance with the requirements of section 201.16 of the rules (19 CFR 201.16, as published in 47 FR 6190 (Feb. 10, 1982)). Any business

information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data" and submitted in accordance with the procedures set forth in §§ 201.6 and 201.8(d) of the Commission's rules (19 CFR 201.6, 201.8(d), as published in 47 FR 6188 (Feb. 10, 1982)).

Copies of prehearing briefs and other written submissions will be made available for public inspection in the Office of the Secretary. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 10 a.m. on December 20, 1983, in Room 117 of the U.S. International Trade Commission Building.

For further information concerning the conduct of the investigation, hearing procedures and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201).

By order of the Commission

Issued: November 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31534 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-148 (Preliminary)]

Fresh Cut Roses From Colombia

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[2] [3] by reason of imports from Colombia of fresh cut roses, provided for in item 192.18 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).[4]

Background

On September 30, 1983, counsel for Roses, Inc., filed a petition with the Commission and the Department of Commerce alleging that imports of fresh cut roses from Colombia are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Accordingly, effective September 30, 1983, the Commission instituted a preliminary anti-dumping investigation under section 733(a) of the Act (19 U.S.C. 1673b(a)).

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of October 13, 1983 (48 FR 46632). The conference was held in Washington, D.C. on October 24, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission's determination was made by vote in a public Government in the Sunshine meeting on November 7, 1983.

The Commission transmitted its report on this investigation to the Secretary of Commerce on November 14, 1983. A public version of the report, Fresh Cut Roses from Colombia (investigation No. 731-TA-148 (Preliminary)), USITC Publication 1450, contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: November 14, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31535 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-171]

Certain Glass Tempering Systems; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 16, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-31531 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-75]

Certain Large Video Matrix Display Systems and Components Thereof; Modification of Commission Remand of Investigation to the Administrative Law Judge

AGENCY: International Trade Commission.

ACTION: Modification of Commission Action and Order of September 16, 1983 to add issues for consideration on remand of investigation to the administrative law judge.

Authority: 19 U.S.C. 1337.

SUMMARY: On June 1, 1981, in investigation No. 337-TA-75, the Commission determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain large video matrix display systems and components thereof, which infringe claims of U.S. Letters Patent Nox. 3,594,762 ('762), 3,941,926 ('926), and 4,009,335 ('335). The Commission issued an order excluding the infringing merchandise and components thereof manufactured by SSIH Equipment SA of Bienne, Switzerland, from entry into the United States for the remaining terms of the patents except under license from the patent owner. *See* USITC Pub. No. 1158 (June 1981) (46 FR 32694). On August 10, 1981, the Commission modified its exclusion order so that it was effective solely against articles infringing the claims of U.S. Letters Patent 3,594,762. (*See* 46 FR 42217). The Commission's determination and the exclusion order became final on August 19, 1981.

SSIH Equipment SA subsequently appealed the Commission's determination to the U.S. Court of Customs and Patent Appeals, one of the predecessor courts to the U.S. Court of Appeals for the Federal Circuit (CAFC). On July 15, 1983, the CAFC rendered a judgment which reversed the Commission's determination in part, vacated the exclusion order, and remanded the case for reconsideration

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Eckes determined only that there is a reasonable indication of material injury; Commissioner Lodwick determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports; Commissioner Stern determined that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury.

[3] The material retardation of the establishment of an industry in the United States was not an issue in the investigation.

[4] Commissioner Haggart not participating.

of infringement, injury, and public interest issues.

Pursuant to the CAFC's judgment, on September 16, 1983, the Commission issued an Action and Order remanding to the administrative law judge the issues of whether 12 of U.S. letters Patent 3,594,762 is infringed and whether respondents' acts have the effect or tendency to destroy or substantially injure an efficiently and economically operated industry in the United States. The administrative law judge has ordered the parties to present written submissions on these issues by November 21, 1983, and will hold oral argument, if requested, on December 13, 1983.

Concurrently with SSIH's appeal of the Commission's determination, complainant Stewart-Warner Corp. (S-W) appealed to the Court of Appeals for the Sixth Circuit a Federal district court decision finding the '335 and '926 patents invalid. The Sixth Circuit upheld the district court's decision on the '335 patent but reversed the lower court on the validity of the '926 patent. The Sixth Circuit then remanded the case to the district court for consideration of whether the '926 patent is invalid as obvious under 35 U.S.C. 103.

Both S-W and SSIH requested the Commission to modify its Action and Order of September 16, 1983. Both parties requested a remand to the administrative law judge different issues.

Upon review of the Sixth Circuit's decision and the submissions in this investigation, the Commission had determined to modify its Action and Order of September 16, 1983 and, remand to the administrative law judge the issues of alleged inequitable conduct in the prosecution of the '762, '335, and '926 patents, enforceability of the '762 and '926 patents, and injury to the relevant domestic industries. The administrative law judge will file an initial determination (ID) with the Commission.

The Commission will decide whether to review the ID and if a violation is found to exist, the Commission will also make new determinations concerning the appropriate remedy, the public interest, and bonding, utilizing the information that is already on the record of the investigation.

Copies of the Sixth Circuit's decision and any other documents on the public record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 207–523–0350.

By order of the Commission.

Issued: November 14, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31536 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-129]

Certain Limited-Charge Cell Culture Microcarriers; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUPPLEMENTARY INFORMATION: On the basis of a complaint filed on July 19, 1982, the Commission on August 25, 1982, published in the **Federal Register** (47 FR 37312) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's investigation covered alleged unfair methods of competition and unfair acts in the unlawful importation of certain limited-charge cell culture microcarriers into the United States, or in their sale, the alleged effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States.

On June 6, 1983, the administrative law judge (ALJ) issued an initial determination that there was no violation of section 337 in the above-captioned investigation in the importation or sale of the limited-charge cell culture microcarriers in question. On July 14, 1983, the Commission decided to review certain issues treated in the ALJ's initial determination. On October 8, 1983, the Commission decided to review certain issues treated in the ALJ's initial detemination. On October 28, 1983, the Commission determined that there was no violation of section 337 in investigation No. 337-TA-129 in the importation or sale of the limited-charge cell culture microcarriers in question.

Copies of the Commission's Action and Order, the Commission's opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

By order of the Commission.

Issued: November 18, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31528 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-172]

Certain Shearing Machines; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 21, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Bendix Automation Company, P.O. Box 94531, 11000 Cedar Avenue, Cleveland, Ohio 44101. Supplements to the complaint were filed on November 8 and November 16, 1983. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of certain automatic right angle shearing machines into the United States, or in their sale, by reason of alleged: (1) Direct infringement of claims 1, 3–4, 26–31, 33 and 34 of U.S. Letters Patent 3,691,887; (2) direct infringement of claims 1 and 30 of U.S. Letters Patent 3,828,639; and (3) direct and induced infringement of claims 1–20, 22–31, 32–35 and 37 of U.S. Letters Patent 3,877,332. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an automatic right angle shearing machine industry, efficiently and economically operated, in the United States and to prevent the establishment of a flexible manufacturing system industry.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the

Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on November 17, 1983, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain automatic right angle shearing machines into the United States, or in their sale, by reason of alleged: (1) Direct infringement of claims 1, 3–4, 26–31, 33 or 34 of U.S. Letters Patent 3,691,887; (2) direct infringement of claims 1 or 30 of U.S. Letters Patent 3,828,639; and/or (3) direct and induced infringement of claims 1–20, 22–31, 32–35 or 37 of U.S. Letters Patent 3,877,332, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Bendix Automation Company, P.O. Box 94531, 11000 Cedar Avenue, Cleveland, Ohio 44101.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Amada Company, Ltd., 200 Ishida, Isehara-Shi, Kanagawa, Japan
U.S. Amada Ltd., 6025 Firestone Boulevard, Buena Park, California 90621

(c) Denise DiPersio, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m., to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E. Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Denise DiPersio, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0113.

By order of the Commission.

Issued: November 18, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-31529 Filed 11-23-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Form 2 of Highway Form A
OMB Form No. 3120–0073
Agency Form No. ACC–35
Frequency: 2 year period
Respondents: Motor Carriers of Property
No. of Respondents: 300
Total Burden Hours: 10,800

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Multiple Truckload Shipments
OMB Form No. 3120–0066
Agency Form No. ACC–35(a)
Frequency: 2 year period
Respondents: Motor Carriers of Property
No. of Respondents: 75
Total Burden Hours: 225

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Form 4 Pickup & Delivery Trip Manifest of Highway Form A
OMB Form No. 3120–0068
Agency Form No. ACC–37
Frequency: 4 year period
Respondents: Motor Carriers of Property
No. of Respondents: 150
Total Burden Hours: 4,500

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Form 7 Intercity Trip Report of Highway Form A
OMB Form No. 3120–0069
Agency Form No. ACC–38
Frequency: 4 year period
Respondents: Motor Carriers of Property
No. of Respondents: 150
Total Burden Hours: 13,200

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Form 10 of Highway Form A
OMB Form No. 3120–0071
Agency Form No. ACC–39
Frequency: 4 year period
Respondents: Motor Carriers of Property
No. of Respondents: 150
Total Burden Hours: 7,500

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Form 11 Analysis Peddle Trip Operations
OMB Form No. 3120–0072
Agency Form No. ACC–40
Frequency: 4 year period
Respondents: Motor Carriers of Property
No. of Respondents: 150
Total Burden Hours: 450

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Field Report of Highway Form A
OMB Form No. 3120–0007
Agency Form No. ACC–42
Frequency: 4 year period
Respondents: Motor Carriers of Property
No. of Respondents: 150
Total Burden Hours: 2,400

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Form 1 Terminal Listing Sheet
OMB Form No. 3120–0067

Agency Form No. ACC–95
Frequency: 2 year period
Respondents: Motor Carriers of Property
No. of Respondents: 300
Total Burden Hours: 600

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31576 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice, as required by 49 U.S.C. 10524(b)(1), that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Bethlehem Steel Corporation, Martin Tower, Bethlehem, Pa. 18016.

2. Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

A. Cambria and Indiana Railroad Company—A Pennsylvania Corporation.
B. Conemaugh and Black Lick Railroad Company—A Pennsylvania Corporation.
C. Patapsco and Back Rivers Railroad Company—A Maryland Corporation.
D. Philadelphia, Bethlehem and New England Railroad Company—A Pennsylvania Corporation.
E. South Buffalo Railway Company—A New York Corporation.
F. Steelton and Highspire Railroad Company—A Pennsylvania Corporation.

1. Parent corporation and address of principal office: CMI International, Inc., 28240 Grand River, Farmington, Michigan 48024.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) CMI-Engineering, Inc., 26290 W. Eight Mile Road, Southfield, Michigan 48034, a Michigan corporation
(ii) CMI-Dearborn, Inc., 5353 Wilcox, Montague, Michigan 49437, a Michigan corporation
(iii) CMI-Permanent Mold, Inc., 374 State Street, Sparta, Michigan 49345, a Michigan corporation
(iv) CMI-Noren, Inc., 14638 Apple Drive, Fruitport, Michigan, a Michigan corporation
(v) CMI-Southfield, Inc., Plant #1, 19400 W. Eight Mile Road, Southfield, Michigan 48075, a Michigan corporation
(vi) CMI-Transportation, Inc., P.O. Box 40, Cadillac, Michigan 49601, a Michigan corporation
(vii) CMI-Wabash Cast, Inc., Route 24 West, Wabash, Indiana 46992, an Indiana corporation
(viii) SSK Engineering Co., Inc., 533 North Court Street, AuGres, Michigan 48703, a Michigan corporation
(ix) CMI-Wheels, Inc., 1870 River Forks Drive, Huntington, Indiana 46750, an Indiana corporation.

1. Parent corporation and address of principal office: Chemical Specialties, Inc., Old Clayttville Road, P.O. Box 1745, Valdosta, Ga. 31601.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Chemical Specialties Sales, Inc.—Georgia
(ii) C–S Trucking, Inc.—Georgia

1. Parent corporation and address of principal office: IU International Corporation, 1105 North Market Street, Wilmington, Delware 19801.

2. Wholly-owned subsidiary which will participate in the operations, and state of incorporation: Unijax, Inc., Delaware.

1. Tidwell Industries, Inc., P.O. Box 679 Haleyville, Alabama 35565
2. Wholly owned subsidiaries which will participate in the operations.
   (a) Berry Furniture, Inc.—Incorporated in Delaware.
   (b) Lumber Components, Inc.—Incorprated in Delaware.
   (c) Pine Designs of Alabama, Inc.—Incorporated in Delaware.
   (d) Precision Bilt Homes, Inc.—Incorporated in Delaware.
   (e) Tidwell Housing Systems International, Inc.—Incorporated in Delaware.
   (f) Tidwell Motor Carriers, Inc.—Incorporated in Delaware.
   (g) Winston Homes, Inc.—Incorporated in Delaware.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31575 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-168)]

Burlington Northern Railroad Co.; Abandonment in Wadena and Todd Counties, MN; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 37.02-mile rail line between Wadena (milepost 54.80) and Long Prairie (milepost 17.78) in Wadena and Todd Counties, NM. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedure regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31578 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30333]

Pocono Northeast Railway Inc.; Exemption, Operation, Wilkes-Barre, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 the operation by Pocono Northeast Railway, Inc. of a 1.1-mile line of track located in Wilkes-Barre, Luzerne County, PA.

DATES: This exemption will be effective on November 23, 1983. Petition to reopen this decision must be filed by December 15, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30333 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Peter A. Gilbertson, Witkowski, Weiner, McCaffrey and Brodsky, 1575 Eye Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: November 18, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31580 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

[Section 5(a) Application No. 60[1]]

Rocky Mountain Carriers; Agreement, Expansion to Nationwide Scope

AGENCY: Interstate Commerce Commission.

ACTION: Notice of petition and request for comments.

SUMMARY: Rocky Mountain Carriers has filed a petition for interim approval and declaratory order that nationwide government traffic ratemaking procedures set forth in its previously-approved ratemaking agreement permit it, on a nationwide basis, to collectively discuss and publish commercial traffic rates and charges which do not exceed the operating authority of its member carriers. We have determined that petitioner cannot be granted the desired declaratory or interim relief, but the substance of its proposal merits consideration by the Commission. We seek comment on the issue of whether petitioner can be granted approval to so operate on an interim basis pending petitioner's submission of a more appropriate request for relief. We also seek comment on other issues related to the competitive impact upon other rate bureaus and upon carrier-members of granting interim approval. Copies of the petition are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, DC, 20423, and from petitioner's representatives:

Arthur J. Cerra, Stinson, Mag & Fizzell, P.O. Box 19251, Kansas City, MO 64141

Rocky Mountain Mountain Tariff, Bureau, Inc., P.O. Box 5746, Denver, CO 80217.

DATES: Petitioner's amendments and comments are due December 26, 1983. Comments from other parties are due January 24, 1984. Petitioner may then file a reply by February 8, 1984.

ADDRESS: An original and fifteen copies, if possible, of comments should be sent to: Section 5(a) Application No. 60 (Petition), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

[1] Section 5 was recodified as Section 10706.

Petitioner is directed to submit proposed amendments to its agreement, as well as any supplementary information it may wish to offer in support of the proposal. Comments from interested persons will then be accepted, as well as rebuttal from petitioner.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275-7912

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the full Commission decision which may be obtained from the Office of the Secretary, Room 2215, 12th Street and Constitution Ave., N.W., Washington, DC, 20423; or call (202) 275-7428.

This notice and accompanying decision are issued pursuant to 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: November 17, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31581 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30337]

Seaboard System Railroad, Inc., and Central of Georgia Railroad Co.; Lease Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Seaboard System Railroad, Inc., from the requirements of prior approval under 49 U.S.C. 11343(a)(2) for the lease and operation of 2.42 miles of railroad owned by Central of Georgia Railroad Company extending between milepost GF-149.6 and milepost GF-152.0 at Vidalia, GA, subject to labor protective conditions.

DATES: This exemption shall be effective on November 23, 1983. Petitions to reopen must be filed by December 15, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30337 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Nancy Fleischman, P.O. Box 1808, Washington, DC 20013

Albert B. Russ, Jr., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: November 18, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31579 Filed 11-23-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action To Enforce the Clean Water Act; Student Public Interest Research Group of New Jersey, Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 17, 1983, a proposed Amended Consent Decree in *Student Public Interest Research Group of New Jersey, Inc., et al.* v. *J. T. Baker Chemical Company*, Civil Action No. 83-685 was lodged with the United States District Court for the District of New Jersey.

The proposed Amended Consent Decree provides for compliance by J. T. Baker Chemical Company with its National Pollutant Discharge Elimination System permit regarding discharges of pollutants from its Phillipsburg New Jersey plant into the Delaware River.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Amended Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Student Public Interest Research Group of New Jersey, Inc., et al.* v. *J. T. Baker Chemical Company*, D.J. No. 90-5-1-1-1967.

The proposed Amended Consent Decree may be examined at the office of the United States Attorney, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey 07102; and the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Environmental Enforcement Section, Land and Natural

Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Amended Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the case and decree and enclose a check in the amount of $2.20 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 83-31539 Filed 11-23-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act (Pub. L. 97-300) and Wagner-Peyser Act, as Amended by Pub. L. 97-300; Fiscal Year (FY) 1984 Transition Period Allotments for Programs Under Title II, Part A; Training Services for the Disadvantaged; Adult and Youth Programs; and Title III; Dislocated Worker Program; and State Employment Services Under the Wagner-Peyser Act, as Amended

AGENCY: Employment and Training Administration, Labor.

SUMMARY: This notice announces the final FY 1984 transition period—the first nine months of FY 1984, October 1, 1983, through June 30, 1984—allotments to States for programs under Titles II–A and III of the Job Training Partnership Act (JTPA) and revised nine-month allotments for the State Employment Service activities. The proposal also sets forth the Department's proposals for allocation of the final allotments for the 1984 full program year—the 12 months from July 1, 1984 through June 30, 1985, for Titles II–A and III of JTPA. Also this announcement sets forth the Department's proposal for distributing the final 1984 allotments for the program year period July 1, 1984 through June 30, 1985 to States for the State Employment Services under the Wagner-Peyser Act, as amended by Pub. L. 97-300.

FOR FURTHER INFORMATION CONTACT: For JTPA inquiries, contact Robert N. Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street NW., Washington, D.C. 20213, telephone number (202) 376-6093. For State Employment Service inquiries, contact Robert J. Litman, Acting Director, Office of Planning and Review, 601 D Street NW., Washington, D.C. 20213, telephone number (202) 376-6660.

SUPPLEMENTARY INFORMATION: The FY 1984 Department of Labor appropriation, Pub. L. 98-139, was signed by the President on October 31, 1983. This appropriation provides for a nine-month appropriation for the period October 1, 1983 through June 30, 1984 and a 12-month appropriation for the period July 1, 1984 through June 30, 1985 for programs under JTPA and for the State Employment Services under the Wagner-Peyser Act, as amended.

Attachment I shows revised JTPA Titles II–A and III allotments developed pursuant to the levels provided by the appropriation for the nine-month period. Proposed levels for the 12-month period will be issued by December 31, 1983. JTPA Title II–B allotments for the calendar year 1984 summer program will also be issued by December 31, 1983.

On April 26, 1983, the Department published in the **Federal Register** Title II–A planning allotments based on a total figure of $1,886,151,000 for a 12-month funding period. The final appropriation for the nine-month period is 75 percent of that figure of $1,414,613,000, as indicated in Column 1 of Attachment I. Individual State allotments have, therefore, been calculated at 75 percent of the earlier 12-month planning estimates. The Department has used this method to determine final nine-month allotments rather to recalculate using updated data because of the lateness of the final appropriation, to avoid the need for replanning and to prevent disruption in operations already underway in the States.

Attachment I in Column 2 shows the Title III Dislocated Worker program allotment of $70,687,500, which represents approximately 43 percent of the planning allotment published in the **Federal Register** on April 29, 1983. The decrease is a result of the three months shorter funding period and a decrease from the Administration's funding request. These funds are subject to the matching requirements contained in Section 304 of the JTPA. The Title III allotment and matching requirements for the nine-month transition period are based on the same data for the planning allotment.

Attachment I in Column 3 shows a total amount of $48,633,558. This represents the total amount States must provide in matching in accordance with Section 304 of the Act to be eligible for the Federal allotment listed for the State in Column 3.

Attachment I in Column 4 shows a total amount of $119,321,058, the sum of Columns 2 and 3. This represents the total resources available for the Title III Dislocated Worker program, except for $23,562,500 in discretionary funds. Information on applying for Title III discretionary funds will be provided at a later date.

Allotments for the 1984 program year (July 1, 1984–June 30, 1985) for JTPA Titles II–A and III and for the calendar year 1984 Title II–B summer program will be announced by December 31, 1983. These allotments will be based on the latest available unemployment data at the time of allotment in accordance with **Federal Register** notice of June 21, 1983.

On May 13, 1983, the Department published in the **Federal Register** allotments subject to the requirements of Section 6, of the Wagner-Peyser Act, as amended, to fund the State Employment Service activities. The FY 1984 appropriation authorizes $530,995,000 for the nine-month period of October 1, 1983 through June 30, 1984. This represents 75 percent of the national total allotted in the May publication. Also, the appropriation authorizes $740,398,000 for the 1984 program year (July 1, 1984–June 30, 1985). Attachment II shows revised individual State allotments for the nine-month transition period. The FY 1983 data base has been updated to reflect pay raises financed after the allotments were published in May 1983. The final allotments for the program year July 1, 1984 through June 30, 1985 in support of the State Employment Service activities authorized under Section 7 (a) and (b) of the Wagner-Peyser Act, as amended, will be announced to the States in December. These program year allotments will be based on the same latest available 12-month data used for the JTPA Title III program year allotments, rather than the 12-month calendar year data, as in the past. This approach will ensure consistent and integrated planning of employment service activities with the employment and training activities established under the JTPA. In addition to the final program year allotments, guidelines for the development of the State Plan, required under Section 8 of the Wagner-Peyser Act, as amended, will also be issued in December.

Signed this 21th day of November 1983.

Joyce Kaiser,

Associate Assistant Secretary for Employment and Training.

Attachment I

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984 [1] JTPA ALLOTMENTS TO STATES

	Title II-A	Title III		
		Allotment	State match	Total
Alabama	33,508,253	1,782,691	0	1,782,691
Alaska	3,527,158	123,845	99,076	222,921
Arizona	16,406,848	803,016	642,413	1,445,429
Arkansas	15,357,566	582,234	582,234	1,164,468
California	151,336,432	7,672,100	6,137,680	13,809,780
Colorado	12,830,407	676,672	676,672	1,353,344
Connecticut	14,158,693	611,966	611,966	1,223,932
Delaware	3,637,183	139,444	139,444	278,888
District of Columbia	4,922,998	224,338	178,471	403,809
Florida	49,453,519	2,194,479	2,194,479	4,388,958
Georgia	28,621,257	1,140,157	1,140,157	2,280,314
Hawaii	4,361,803	156,572	156,572	313,144
Idaho	5,865,216	257,937	257,937	515,874
Illinois	74,717,695	4,496,008	2,697,605	7,193,613
Indiana	38,397,842	2,199,935	1,319,961	3,519,896
Iowa	15,291,504	805,263	805,263	1,610,526
Kansas	7,972,698	398,451	398,451	796,902
Kentucky	25,829,683	1,114,488	891,591	2,006,079
Louisiana	28,664,477	1,149,618	919,694	2,069,312
Maine	6,229,281	262,022	262,022	524,044
Maryland	22,741,594	1,121,251	1,121,251	2,242,502
Massachusetts	29,269,423	1,405,715	1,405,715	2,811,430
Michigan	81,815,000	5,059,450	0	5,059,450
Minnesota	18,749,778	1,018,439	1,018,439	2,036,878
Mississippi	18,584,166	776,145	465,687	1,241,832
Missouri	26,718,356	1,349,977	1,349,977	2,699,954
Montana	4,868,443	199,215	199,215	398,430
Nebraska	4,993,807	251,099	251,099	502,198
Nevada	5,062,654	323,040	258,432	581,472
New Hampshire	3,841,472	194,658	194,658	389,316
New Jersey	41,253,801	2,025,737	2,025,737	4,051,474
New Mexico	8,248,666	320,663	320,663	641,326
New York	100,415,145	4,317,093	4,317,093	8,634,186
North Carolina	33,851,420	1,623,683	1,623,683	3,247,366
North Dakota	3,527,158	76,933	76,933	153,866
Ohio	77,539,003	4,863,925	1,945,570	6,809,495
Oklahoma	9,550,796	369,099	369,099	738,198
Oregon	19,071,762	1,073,369	644,021	1,717,390
Pennsylvania	73,737,252	4,288,753	2,573,252	6,862,005
Puerto Rico	49,606,660	1,519,027	0	1,519,027
Rhode Island	5,597,231	316,015	252,812	568,827
South Carolina	21,952,021	1,053,909	843,127	1,897,036
South Dakota	3,527,158	86,192	86,192	172,384
Tennessee	32,707,609	1,672,508	1,003,505	2,676,013
Texas	62,129,434	2,387,670	2,387,670	4,775,340
Utah	6,772,195	288,397	288,397	576,794
Vermont	3,527,158	96,670	96,670	193,340
Virginia	24,258,410	1,165,695	1,165,695	2,331,390
Washington	30,329,617	1,721,641	688,656	2,410,297
West Virginia	13,701,550	826,295	0	826,295
Wisconsin	28,494,088	1,844,966	1,475,973	3,320,939
Wyoming	3,527,158	71,649	71,649	143,298
American Samoa	291,688	14,575	0	14,575
Guam	1,214,365	60,681	0	60,681
Northern Marianas	93,750	4,685	0	4,685
Trust Territories	665,340	33,247	0	33,247
Virgin Islands	1,484,857	74,198	0	74,198
National total	1,414,613,000	70,687,500	48,633,558	119,321,058

[1] These allotments cover the transition period of 10/1/83-6/30/84.

Attachment II

WAGNER-PEYSER ALLOTMENTS TO STATES, FY 1984 TRANSITION PERIOD [1] 11/14/83

	Allotment
Alabama	8,070,399
Alaska	5,772,170
Arizona	6,120,026
Arkansas	6,368,372
California	50,050,899
Colorado	6,940,535
Connecticut	7,048,330
Delaware	1,483,162
District of Columbia	4,736,278
Florida	17,831,510
Georgia	9,896,276
Hawaii	2,535,341
Idaho	4,809,244
Illinois	23,326,878
Indiana	11,042,975
Iowa	8,091,069
Kansas	5,027,728
Kentucky	6,846,287
Louisiana	7,687,287
Maine	2,860,012
Maryland	8,234,453
Massachusetts	11,282,021
Michigan	20,127,197
Minnesota	9,122,652
Mississippi	7,023,799
Missouri	9,789,113
Montana	3,930,139
Nebraska	4,723,254
Nevada	3,820,509
New Hampshire	1,788,490
New Jersey	14,041,448
New Mexico	4,410,306
New York	48,822,894
North Carolina	11,432,164
North Dakota	4,002,057
Ohio	22,162,660
Oklahoma	11,162,985
Oregon	7,813,624
Pennsylvania	23,488,093
Puerto Rico	5,157,316
Rhode Island	2,350,262
South Carolina	6,222,465
South Dakota	3,696,821
Tennessee	9,037,703
Texas	33,880,723
Utah	8,089,771
Vermont	1,732,740
Virginia	9,836,004
Washington	9,610,859
West Virginia	3,467,390
Wisconsin	10,022,204
Wyoming	2,869,725
Guam	248,464
Virgin Islands	1,045,917
National total	530,995,000

[1] These allotments cover the transition period of 10/1/83-6/30/84.

[FR Doc. 83-31659 Filed 11-23-83; 8:45 am]

BILLING Code 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of West Virginia

This notice announces the ending of the Extended Benefit Period in the State of West Virginia, effective on November 12, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation

laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of West Virginia on April 18, 1982 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on October 22, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on November 12, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on November 17, 1983.

Royal Dellinger,

Acting Assistant Secretary of Labor.

[FR Doc. 83-31658 Filed 11-23-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will in Atlanta, Georgia on December 12–13, 1983, the meeting will begin at 1:00 p.m. on Monday December 12, 1983 in Auditorium 4, Building 1, at the Centers for Disease Control 1600 Clifton Road, Atlanta, Georgia. The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the Administration of the Act.

The agenda will include discussions of a broad range of NIOSH activities and interests. OSHA and BLS record keeping requirements will also be discussed.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies will be presented to the Committee and included in the official record of the proceeding.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairperson of the Committee to the extent which time permits.

For additional information contact: Mr. Clarence M. Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3662, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202)523-7177.

Official records of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 21st day of November 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-31660 Filed 11-23-83; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-400/401]

Carolina Power & Light Co. and North Carolina Eastern Municipal Power Agency; Availability of Final Environmental Statement for Shearon Harris Nuclear Power Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Final Environmental Statement (NUREG-0972) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Shearon Harris Nuclear Power Plant, Units 1 and 2, located in Wake and Chatham Counties, North Carolina. The owners of Shearon Harris are Carolina Power and Light Company and North Carolina Eastern Municipal Power Agency.

Copies of NUREG-0972 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and at the Wake County Public Library, 104 Fayetteville Street, Raleigh, North Caroline 27601. The document is also being made available at the State Clearinghouse, Office of the Governor, Office of State Budget and Management, 116 West Jones Street, Raleigh, North Carolina and at the Triangle J. Council of Governments, P.O. Box 12276, Research Triangle Park, North Carolina 27709.

The notice of availability of the Draft Environmental Statement for Shearon Harris and request for comments from interested persons was published in the **Federal Register** on May 20, 1983 (48 FR 22829). Comments from Federal, State, and local agencies and interested members of the public have been included in an appendix to the Final Environmental Statement.

Copies of Final Environmental Statement (NUREG-0972) may be purchased, at current rates, from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 and by GPO deposit account holders by calling (301) 492-9530 or by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Publication Sales Manager.

Dated at Bethesda, Maryland this 10th day of November, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-31707 Filed 11-23-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 535; Docket No. R84-1]

Filing of Proposed Changes in Postal Rates and Fees and Order Designating Officer of the Commission, Fixing Date for Prehearing Conference, and Establishing Procedures

Issued: November 18, 1983.

Noice is hereby given that on November 10, 1983, the United States Postal Service (hereafter Postal Service or Service), pursuant to section 3622 of the Postal Reorganization Act (39 U.S.C. 3622), filed a request with the Postal Rate Commission for a recommended decision on certain proposed changes in rates of postage and fees for postal services, and for certain related changes to the Domestic Mail Classification Schedule. This filing has been assigned Docket No. R84-1.

The Postal Service indicates that its filing is in accordance with the Commission's rules of practice applicable to requests for changes in postage rates and fees (39 CFR 3001.51-3001.55) and classification changes (39 CFR 3001.61-3001.65). The Postal Service also asserts that for the fiscal year ending September 30, 1985, it will generate total revenues of approximately $28.2 billion and incur total costs of approximately $29.8 billion, resulting in a total revenue deficiency of approximately $3.6 billion. The Postal Service states that this revenue deficiency contravenes the requirement of 39 U.S.C. 3621 that total estimated income and appropriations will equal as nearly as practical total estimated costs. Therefore, the Postal Service has filed its suggested rate and fee changes with the Commission in order that revenues in the test year [1] should approximately equal the total estimated costs. This will be accomplished, according to the Postal Service's proposed rates, by increasing total revenue by approximately $3.1 billion, while decreasing the total costs approximately $.5 billion.

The approximate percentage rate increases proposed for the various major categories of mail service are as follows:

Category	Rate change (per Postal Service) (percent)
First Class:	
Letters	15.9
Cards	13.0
Total	15.9
Priority	3.9
Express Mail	4.3
Second Class:	
In County	24.6
Outside:	
Nonprofit	-7.9
Classroom	40.9
Regular Rate	11.7
Third Class:	
Single Piece	5.6
Bulk Rate Regular	21.9
Bulk Rate Nonprofit	10.7
Fourth Class:	
Parcel Post	11.8
Bound Printed Matter	5.6
Special Rate	11.3
Library Rate	12.0
Total	15.4

Included with the Postal Service's filing are various proposals affecting mail classification. Among the major classification change proposals, we note the following: (1) For zone-rated priority mail, mail would be forwarded without additional charge, (2) second-class transient rate is proposed to be eliminated, (3) additional forwarding charges for second-class mail will be based on the applicable third- or fourth-class, rather than transient, rate, (4) second-class mail pieces to be delivered within the Sectional Center Facility (SCF) area in which they are entered would qualify for the applicable SCF rates, (5) a new return rate for third-class mail, based in part on the number of third-class pieces nationwide which are unsuccessfully forwarded, has been proposed, (6) mail eligibility requirements for bulk parcel post mail would consist of either the present minimum of 300 pieces per mailing or a minimum of 2000 pounds per mailing, (7) registered Mail pieces under Classification Schedule 100 must meet the minimum requirements for length and width, (8) additional charges for returned second-class mail will be based on the applicable third- or fourth-class rate, (9) undeliverable as addressed first-class postal and post cards would be returned free of charge, (10) certified mail would be available for matter having intrinsic value, and (11) dead mail return service would be eliminated. The specific changes in rates and fees, both current and proposed, are contained in Attachment A to this notice and order.

The request of the United States Postal Service for a recommended decision on changes in rates of postage and fees for postal services is on file with the Commission's docket section and is available for public inspection during regular business hours.

I. Intervention

Hearings will be held on the proposal submitted by the Postal Service in Docket No. R84-1. Any person desiring to be heard in this matter and to become a party to the proceeding or to participate as a party in the hearings, should file a written notice of intervention. Notices of intervention must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268-0001 on or before 30 days following the date of publication of this notice and order, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that notices of intervention shall affirmatively indicate whether or not the petitioner intends to actively participate in the hearings. Alternatively, those persons seeking limited participation who do not wish to become formal intervenors may, on or before the 30th day following public notice of this notice and order, file a written notice of intervention as a limited participator, pursuant to section 20a of the Commission's rules of practice (39 CFR 3001.20a). In addition, those persons wishing to express their views informally, not desiring to become either a party or limited participant, may file comments pursuant to section 20b of the Commission's rules (39 CFR 3001.20b).

All persons filing a notice of intervention, whether generally or on a limited basis, will be permitted to participate in the proceeding pending a final ruling by the Commission on the petition, should any written opposition to such notice of intervention be filed.

II. Date of Initial Prehearing Conference

In accordance with the Commission's goal of expeditious consideration, the Commission will conduct all prehearing conferences and hearings en banc [39 CFR 3001.30(b)]. An initial prehearing conference will be held on December 21, 1983. Additional prehearing conferences will be held on such further dates as may be designated by the presiding officer who will be designated by the Chairman of the Commission. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268-0001. Hearings shall be on the record and a transcript made except where the presiding officer determines otherwise.

[1] The Postal Service proposes a test year in this proceeding from October 1, 1984 to September 30, 1985.

In order to reduce or preclude discovery by the parties of information which should have been included in the Postal Service's filing, the Commission will entertain motions requesting an opportunity to engage in a limited amount of "preliminary cross examination" of Postal Service witnesses during prehearing conferences.[2] An opportunity for preliminary cross-examination for clarification of the presentations of other participants will exist following the filing of other participants' cases. It is our expectation that promptly scheduled conferences of this type will shorten and simplify formal discovery.

This is not the only mechanism of expedition available. Participants are free to inform the Postal Service, informally and promptly, of any desired preliminary clarification in the Service's presentation which the participant believes will assist it in contributing to the expedition of this proceeding. Participants are urged to utilize these informal off-the-record techniques to the maximum extent feasible in resolving their particular difficulties. In this regard, we are requesting that the Postal Service file on a periodic basis, such as every two weeks, (1) a listing of information given to all parties in response to these informal requests, and (2) a copy of such information to be filed in the docket section of the Commission. Such a procedure will avoid duplicative requests for identical information. Parties other than the Postal Service may follow this procedure, at their option, because it is unlikely that they would be the usual source of such information.

III. Representation of the General Public

We designate, to represent the general public[3] in this proceeding, Stephen A. Gold, the Director of the Office of Consumer Advocate (OCA). During this proceeding, the OCA will direct the activities of Commission personnel assigned to assist him and neither he nor any of those designated assigned personnel will participate in or advise as to any Commission decision in this proceeding.[4] The OCA will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this proceeding. In this proceeding, the OCA shall be separately served with three copies of all filings in addition to, and simultaneously with, service on the Commission of the 24 copies required by section 10(c) of the rules of practice [39 CFR 3001.10(c)].

IV. Procedures for Expedition

Section 3624(c)(1) of the Postal Reorganization Act [39 U.S.C. section 3624(c)(1)] provides that the Commission is to render its recommended decision within ten months after receiving a request for changes in rates and fees. In order to expedite this proceeding and still be consistent with procedural fairness, we are issuing the present detailed order so that all those who contemplate participating in this proceeding will have sufficient time to prepare for the prehearing conference.

In this regard, we direct the attention of the parties and of those who intend to file notices of intervention or notices of intervention as limited participators to Commission rule 24(d) [39 CFR 3001.24(d)], which sets forth the matters which the presiding officer and participants may consider and resolve at the prehearing conference. All interested persons are expected to appear at the prehearing conference fully prepared to discuss in detail and resolve all matters contemplated within section 24(d). All interested persons will have an opportunity to comment, at that time, on a list of suggested procedural dates and proposed special rules of practice and should have the authority to make commitments with respect to items to be discussed and resolved. This list of suggested procedural dates and proposed special rules of practice will be issued by the Commission at least seven days prior to the prehearing conference. Before the end of the prehearing conference, all interested persons will also have an opportunity to raise appropriate subjects of concern.

In conformity with the requirement of the Postal Reorganization Act and consistent with our past practice in general rate cases, we are resolved to expedite the conduct of this proceeding. We intend to adhere to the procedural requirements and filing deadlines set forth in our rules of practice and in any special rules of practice subsequently promulgated. The parties are forewarned that they should insure, from the outset of this proceeding, that they have provided adequate resources for the timely preparation of and response to discovery requests.

In light of this objective, we have decided to employ a procedure to be followed in cases where answers to discovery requests are not filed within the prescribed time. This procedure is the same as that employed in Docket No. R80-1. If a motion to compel a response is not answered by a showing of cogent and convincing reasons for delay, the presiding officer may prescribe a time at which the witness to whom the discovery request was addressed will appear for oral examination on the subject matter of the request. This examination will be conducted parallel to main hearings, before a special presiding officer to be designated by the Chairman. The special presiding officer will record any objections made, together with the proposed disposition thereof, and transmit both to the presiding officer in this docket. A transcript will be made of all such examination and the responding witness may be represented by counsel. We anticipate that such ancillary proceedings will accelerate the obtaining of responses, while not requiring the main proceeding to be delayed.

While we are not at this time specifying any procedures for the taking of depositions parallel to the main proceeding, we anticipate that the parties and the Presiding Officer will consider their use, when appropriate, in order to expedite responses to discovery requests and also where attendance of a Special Presiding Officer may not be required.

As we have emphasized above, the Act requires expedited proceedings, subject to procedural fairness. We wish the parties to be on notice that this mandate of expedition applies also to the briefing stage of the proceeding, following close of the evidentiary record. Parties should be prepared to adhere strictly to a briefing schedule which is consonant with this policy.

V. Prehearing Conference Statements

In preparation for the initial prehearing conference, each participant is requested to file a document entited "Prehearing Conference Statement" on or before December 16, 1983, containing the following:

1. A suggested list of the issues which the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the

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[2] This procedure would involve a witness explaining how he reached conclusions, not why he did so. *Compare* the notice appearing at 48 FR 51337, November 8, 1983.

[3] *See* 39 U.S.C. 3624(a), providing for an officer of the Commission for that purpose.

[4] *See* 39 CFR 3001.8.

evidence to be presented and other legal matters which should be considered.

5. Any other matter which the participant believes should be pursued at the prehearing conference.

VI. Discovery

The Commission directs the attention of all participants to the provisions of sections 25, 26, 27 and 28 of the rules of practice (39 CFR 3001.25, 3001.26, 3001.27, 3001.28) establishing the availability of, and rules for, discovery requests. The discovery process is one aspect of this general rate filing which we particularly wish to expedite. All interrogatories must be answered promptly in order that the expedited hearing format which we are here adopting can function as intended. In this regard, we point out that under our rules of practice, as amended, interested parties may immediately obtain active status in this proceeding by filing a notice of intervention. Accordingly, all parties filing such notices may immediately engage in discovery of the Postal Service's case-in-chief, without any additional action by the Commission. In accord with our desire for expedition in this proceeding, parties are actively encouraged to do so.

Participants should be aware that the limited time available to the Commission for issuing its decision makes expeditious discovery practice essential. Participants are put on notice that it is the present intention to schedule completion of discovery concerning the evidence presented by the Postal Service for January 19, 1984.

The Commission orders:

(A) The Commission will sit en banc in the above-captioned proceeding.

(B) A prehearing conference in this proceeding will be held on December 21, 1983, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268–0001. The Conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR 3001.24) and in this Notice and Order, and also to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed. The prehearing conference proceedings shall be recorded by an official reporter except where the presiding officer otherwise directs.

(C) Stephen A. Gold, the Director of the Office of Consumer Advocate, is designated to represent the general public in this proceeding. Service of

(D) The Secretary shall cause this documents on the Commission shall not constitute service on the OCA, who shall separately be served three copies of all documents.

Notice and Order to be published in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Present and Proposed Rates of Postage and Fees for Postal Services

SCHEDULE A–1.—FIRST CLASS MAIL

Mail type	Postage rate unit	Current rates		Proposed rates	
		Regular (cents)	Presorted (cents) [1]	Regular (cents)	Presorted (cents) [2]
(1)	(2)	(3)	(4)	(5)	(6)
Letters					
	1st ounce	20	17/16	23	20/19
	Each add'l. ounce [3]	17	17/16	20	20/19
Cards	Piece	13	12/11	15	13/12
ZIP + 4 Mail [4]:					
Letters	1st ounce	19.1	16.5	22.1	19.5
	Each add'l. ounce [3]	17.0	17.0	20.0	19.5
Cards	Piece	12.1	11.5	14.1	12.5
Nonstandard surcharge [5]		9	9.0	11.0	11.0

[1] Presorted First-Class Mail must be presented in a single mailing of at least 500 pieces properly prepared and presorted. The higher rates below apply only to each piece of a group of ten or more pieces destined for the same five-digit ZIP Code or each piece of a group of fifty or more pieces destined for the same three-digit ZIP Code. The lower rate applies only to mail presorted to carrier route, with a minimum of 10 pieces per route. A mailing fee of $40 must be paid once each calendar year at each office of mailing by any person who mails presorted First-Class Mail.

[2] Presorted first-Class Mail must be presorted in a single mailing of at least 500 pieces properly prepared and presorted. The higher rate applies to mail presorted to ZIP Code and prepared as prescribed by the Postal Service. The lower rate applies only to mail presorted to carrier route, and prepared as prescribed by the Postal Service. A mailing fee of $50 must be paid once each calendar year at each office of mailing by any person who mails presorted First-Class Mail. The fee for mailers allows usage of either or both of these rates.

[3] Rate applies through 12 ounces. Heavier pieces are subject to zone-rated (priority) mail rates.

[4] ZIP + 4 mail must be properly prepared and submitted in a single mailing of at least 250 pieces, except where the presort minimum of 500 applies. ZIP + 4 rates are not available for carrier route presort mail.

[5] Applies to the first ounce only. Not applicable to ZIP + 4 mail.

Schedule A–2.—Current Priority Mail Rates

Postage rate units (pounds)	Rate (dollars) [1]					
	Zones					
	Local 1, 2 & 3	4	5	6	7	8
1	2.24 [2]	2.24 [2]	2.24 [2]	2.34	2.45	2.58
1.5	2.30	2.42	2.56	2.72	2.87	3.07
2	2.54	2.70	2.88	3.09	3.30	3.57
2.5	2.78	2.98	3.21	3.47	3.73	4.06
3	3.01	3.25	3.53	3.85	4.16	4.56
3.5	3.25	3.53	3.85	4.22	4.59	5.05
4	3.49	3.81	4.18	4.60	5.02	5.55
4.5	3.73	4.09	4.50	4.97	5.45	6.05

Schedule A–2.—Current Priority Mail Rates—Continued

Postage rate units (pounds)	Rate (dollars) [1]					
	Zones					
	Local 1, 2 & 3	4	5	6	7	8
5	3.97	4.37	4.83	5.35	5.88	6.54
Per piece	1.586	1.586	1.586	1.586	1.586	1.586
Per pound	.476	.556	.648	.753	.859	.991

[1] Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

[2] Not based on the per piece and per pound relationship.

SCHEDULE A–3.—PROPOSED PRIORITY MAIL RATES

Postage rate units (pounds)	Rate (dollars) [1]					
	Zones					
	Local 1, 2 & 3	4	5	6	7	8
2 [2]	2.60	2.60	2.60	2.60	2.60	2.60
3	3.06	3.23	3.35	3.48	3.57	3.70
4	3.52	3.86	4.09	4.31	4.53	4.81
5	3.98	4.49	4.84	5.17	5.50	5.91
Per Piece	2.600	2.600	2.600	2.600	2.600	2.600
Per Pound [3]	.460	.630	.746	.856	.966	1.104

[1] Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

[2] Not based on per-piece and per-pound rates.

[3] Applies to weight (postage rate units) in excess of two pounds.

SCHEDULE B-1.—SECOND-CLASS MAIL: IN-COUNTY

	Full rate	
	Current (cents)	Proposed (cents)
Per Pound	4.5	7.0
Per Piece:		
Required Presort	3.0	3.8
Carrier Route Presort	2.5	2.0

SCHEDULE B-2.—SECOND-CLASS MAIL: PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY [1]

	Postage rate unit	Full rate [2]	
		Current (cents)	Proposed cents)
Per pound:			
Non-advertising portion	Pound	8.8	7.5
Advertising portion: [3]			
Zone: SCF	do		8.9
1 and 2	do	11.7	10.0
3	do	12.4	10.6

SCHEDULE B-2.—SECOND-CLASS MAIL: PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY [1]—Continued

	Postage rate unit	Full rate [2]	
		Current (cents)	Proposed cents)
4	do	13.6	12.2
5	do	15.5	14.6
6	do	17.4	17.2
7	do	19.8	20.2
8	do	21.8	22.7
Per Piece:			
A—Prepared [4]	Piece	7.1	7.5
B—Presorted to 3-digit city/5-digit ZIP code.	do	5.5	4.9
C—Carrier-route presort	do	4.5	3.0
SCF Difference [5]	do		1.0

[1] These rates apply to second-class mail which is entered by authorized nonprofit organizations or associations.

[2] Charges for second-class nonprofit mail are computed by adding the per-piece charge to the sum of the nonadvertising portion charge and the advertising portion charge, as applicable.

[3] Not applicable to publications containing 10 percent or less advertising content.

[4] Presorted to 3-digit (other than 3-digit city), SCF, states mixed states.

[5] Applies to mail destinating in the originating SCF area. The difference is subtracted from the applicable piece rate.

SCHEDULE B-3.—SECOND-CLASS MAIL: CLASSROOM PUBLICATIONS, OUTSIDE COUNTY

	Postage rate unit	Full rate [1]	
		Current (cents)	Proposed (cents)
Per Pound:			
Non-advertising portion	Pound	4.9	6.2
Advertising portion:			
Zone: SCF	do		7.0
1 & 2	do	6.5	8.2
3	do	7.2	8.9
4	do	8.5	10.5
5	do	10.4	13.0
6	do	12.5	15.6
7	do	14.9	18.9
8	do	17.0	21.5
Per Piece	Piece	3.0	4.8
SCF Difference [2]	do		1.6

[1] Charges for classroom publications are computed by adding the per-piece charge to the sum of the non-advertising portion charge and the advertising portion charge, as applicable.

[2] Applies to mail destinating in the originating SCF area. The difference is subtracted from the piece rate.

SCHEDULE B-4.—SECOND-CLASS MAIL: REGULAR-RATE PUBLICATIONS, OUTSIDE COUNTRY

	Postage rate unit	Full Rate [1]	
		Current (cents)	Proposed (cents)
Per Pound:			
Non-advertising portion	Pound	12.8	12.0
Advertising portion:			
Zone: SCF	do		14.9 [2]
1 & 2	do	17.1 [3]	16.0 [2]
3	do	18.4	16.4
4	do	20.8	17.8
5	do	24.6	20.1
6	do	29.1	22.5
7	do	33.4	25.0
8	do	38.3	27.6
Per Piece: [4]			
A—Prepared [4]	Piece	7.0	10.7
B—Presorted to 3-digit city/5-digit ZIP code	do	5.4	8.0
C—Carrier-route presort	do	4.4	6.2
SCF Difference [5]	do		1.0
Per Piece: [6]			
A—Prepared [6]	do	6.0	7.5
B—Presorted to 3-digit city/5-digit ZIP code	do	4.4	4.9
C—Carrier-route presort	do	3.9	3.0
SCF Difference [6]	do		1.0

[1] Charges for second-class regular-rate mail are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.

[2] Full rate for advertising portion of science-of-agriculture publications mailed to Zones 1 and 2 is currently 11.7 cents per pound. The proposed full rate is 10.0 cents per pound for Zones 1 & 2 and 8.9 cents per pound for SCF.

[3] Publication mailing 5,000 or more copies per issue outside county of publication.

[4] Publications mailing fewer than 5,000 copies per issue outside county of publication.

[5] Presorted to 3-digit (other than 3-digit city), SCF, states, mixed states.

[6] Applies to mail destinating in the originating SCF area. The difference is subtracted from the applicale piece rate.

SCHEDULE B-5.—SECOND-CLASS MAIL: TRANSIENT

	Postage rate unit	Rates [1]	
		Current (cents)	Proposed (cents)
Weight up to and including:			
1 ounce	Piece	19	[2]
2 ounces	do	35	[2]
Each additional ounce:			
Up to and including 8 ounces.	Ounce	10	[2]
Over 8 ounces	do		[2]
Each additional 2 ounces:			
Over 8 ounces	2 ounces	10	[2]

[1] Transient mail is charged the lower of these rates or the fourth-class rates for parcel post or bound printed matter, as applicable.
[2] No rates are proposed for this subclass. The Postal Service proposes elimination of this subclass.

SCHEDULE B-6.—SECOND-CLASS MAIL: COMMINGLED NON-SUBSCRIBER AND [1] NON-REQUESTER

	Postage rate unit	Rates [2]	
		Current (cents)	Proposed (cents)
Per pound:			
Non-advertising portion:	Pound	12.8	12.0
Advertising portion:			
Zone: SCF	do		14.9
1 & 2	do	17.1	16.0
3	do	18.4	16.4
4	do	20.8	17.8
5	do	24.6	20.1
6	do	29.1	22.5
7	do	33.4	25.0
8	do	38.3	27.6
Per Piece:			
A—Prepared [3]	Piece	7.0	10.7
B—Presorted to 3-digit city/5-digit ZIP code.	do	5.4	8.0
C—Carrier route presort	do	4.4	6.2
SCF Difference [4]	do		1.0

[1] Includes sample copies in excess of the 10 percent allowance and complimentary copies.
[2] Charges for second-class non-subscriber and non-requester commingled copies are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
[3] Presorted to 3-digit (other than 3-digit city) SCF, states, mixed states.
[4] Applies to mail destinating in the originating SCF area. The difference is substracted from the applicable piece rate.

Schedule D-1.—Third-Class Mail, Single Piece

	Full rate	
	Current (cents)	Proposed (cents)
Single-Piece:		
One ounce	20	23
Two ounces	37	43
Three ounces	54	63
Four ounces	71	83
Five and Six ounces	85	91
Each additional 2 ounces	10	8
Nonstandard Surcharge [1]	9	11
Keys and Identification Devices:		
First 2 ounces	55	68
Each additional 2 ounces	30	38

[1] Applies only to pieces weighing 1 ounce or less.

SCHEDULE D-2.—Third-Class Mail, Regular Bulk

	Full rate	
	Current (cents)	Proposed (cents)
Bulk Structure: [1]		
Per pound, required presortation	45	52.8
Per pound, presorted to 5-digit ZIP code.	45 less 1.7¢/ piece.	44.4
Per pound, presorted to carrier route.	45 less 3.6¢/ piece.	38.0
Minimum per piece, required presortation.	11.0	13.2
Minimum per piece, presorted to 5-digits.	9.3	11.1
Minimum per piece, presorted to carrier.	7.4	9.5

[1] Currently, a fee of $40 must be paid once each calendar year for each bulk mailing permit. The proposed bulk fee is $50.

SCHEDULE D-3.—THIRD-CLASS NONPROFIT BULK MAIL

	Full Rate	
	Current (cents)	Proposed (cents)
Nonprofit Bulk Rate Structure: [1]		
Per pound, required presortation:		
Ordinary matter [2]	34	29.6
Books, catalogs, etc. [3]	29	29.6
Per pound, presorted to 5-digits:		
Ordinary matter	34	25.2
Books, catalogs, etc	29	25.2
Per pound, presorted to to carrier route:		
Ordinary matter	34 less 1.1¢/ piece.	19.2
Books, catalogs, etc	29 less 1.1¢/ piece.	19.2

SCHEDULE D-3.—THIRD-CLASS NONPROFIT BULK MAIL—Continued

	Full Rate	
	Current (cents)	Proposed (cents)
Minimum per piece, required presortation.	6.1	7.4
Minimum per piece, presorted to 5-digits.	6.1	6.3
Minimum per piece, presorted to carrier route.	5.0	4.8

[1] Currently, a fee of $40 must be paid once each calendar year for each bulk mailing permit. The proposed bulk fee is $50.
[2] "Ordinary matter" includes all regular and nonprofit bulk matter except: books and catalogs of 24 bound pages or more, seeds, cuttings, bulbs, roots, scions, and plants.
[3] Books and catalogs of 24 bound pages or more, seeds, cuttings, bulbs, roots, scions, and plants.

SCHEDULE E-1.—FOURTH-CLASS MAIL: SPECIAL AND LIBRARY RATES

	Full rate	
	Current (cents)	Proposed (cents)
Special:		
First pound:		
Not presorted	63	70
Presorted to 5-digits [1] [2]	46	48
Presorted to BMC [1] [3]	58	61
Each additional pound through 7 pounds	23	26
Each additional pound over 7 pounds	14	16
Library:		
First pound	41	46
Each additional pound through 7 pounds	14	16
Each additional pound over 7 pounds	7.5	8.0

[1] A fee of $40 must be paid once each calendar year for each permit. The proposed fee level is $50.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

SCHEDULE E-2.—FOURTH-CLASS MAIL: SINGLE-PIECE BOUND PRINTED MATTER [1]

[Dollars]

Rates for pieces weighing up to (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
Current								
1.5	.69	.92	.94	.97	1.02	1.08	1.16	1.19
2	.69	.93	.95	.99	1.06	1.14	1.25	1.28
2.5	.69	.93	.96	1.01	1.10	1.20	1.33	1.39
3	.69	.94	.97	1.03	1.14	1.25	1.41	1.47
3.5	.69	.94	.98	1.05	1.17	1.31	1.50	1.56
4	.69	.95	.99	1.07	1.21	1.37	1.58	1.66
4.5	.69	.95	1.00	1.09	1.25	1.42	1.67	1.75
5	.70	.96	1.02	1.12	1.29	1.48	1.75	1.85
6	.70	.96	1.04	1.16	1.36	1.59	1.92	2.03
7	.70	.97	1.06	1.20	1.44	1.71	2.09	2.22
8	.70	.98	1.08	1.24	1.51	1.82	2.25	2.41
9	.70	.99	1.10	1.28	1.59	1.94	2.42	2.59
10	.70	1.00	1.12	1.32	1.66	2.05	2.59	2.78
Per piece (dollars)	.69	.91	.91	.91	.91	.91	.91	.91
Per pound (cents)	.1	.9	2.1	4.1	7.5	11.4	16.8	18.7
Proposed								
1.5	.61	.84	.88	.94	1.03	1.13	1.25	1.35
2	.62	.85	.90	.98	1.11	1.24	1.40	1.53
2.5	.62	.87	.93	1.03	1.19	1.35	1.55	1.71
3	.63	.88	.95	1.08	1.27	1.46	1.70	1.90
3.5	.63	.89	.98	1.12	1.34	1.57	1.85	2.06
4	.64	.91	1.00	1.17	1.42	1.68	2.00	2.26
4.5	.64	.92	1.03	1.21	1.50	1.79	2.15	2.44
5	.65	.94	1.06	1.26	1.58	1.90	2.30	2.63

SCHEDULE E-2.—FOURTH-CLASS MAIL: SINGLE-PIECE BOUND PRINTED MATTER [1]—Continued

[Dollars]

Rates for pieces weighing up to (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
6	.65	.96	1.11	1.35	1.73	2.11	2.60	2.99
7	.66	.99	1.16	1.44	1.89	2.33	2.90	3.36
8	.67	1.02	1.21	1.54	2.04	2.55	3.20	3.72
9	.68	1.04	1.26	1.63	2.20	2.77	3.50	4.09
10	.69	1.07	1.31	1.72	2.35	3.99	3.80	4.45
Per piece (dollars)	.50	.80	.80	.80	.80	.80	.80	.80
Per pound (cents)	.9	2.7	5.1	9.2	15.5	21.9	30.0	36.5

[1] Includes both catalogs and similar bound printed matter (§ 400.41 of the classification Schedule effective July 6, 1976.)

SCHEDULE E-3.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER [1]

Zones	Current		Proposed		
			Per piece		
	Per piece (cents)	Per pound (cents)	Required (cents)	Carrier route (cents)	Per pound (cents)
Local	35	.1	30	25	.9
1 and 2	46	.9	40	35	2.7

SCHEDULE E-3.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER [1]—Continued

Zones	Current		Proposed		
			Per piece		
	Per piece (cents)	Per pound (cents)	Required (cents)	Carrier route (cents)	Per pound (cents)
3	46	2.1	40	35	5.1

SCHEDULE E-3.—FOURTH-CLASS MAIL: BULK BOUND PRINTED MATTER [1]—Continued

Zones	Current		Proposed		
			Per piece		
	Per piece (cents)	Per pound (cents)	Required (cents)	Carrier route (cents)	Per pound (cents)
4	46	4.1	40	35	9.2
5	46	7.5	40	35	15.5
6	46	11.4	40	35	21.9
7	46	16.8	40	35	30.0
8	46	16.7	40	35	36.5

[1] Includes both catalogs and similar bound printed matter.

Schedule E-4.—Fourth-Class Mail: Parcel Post [1]

Present and proposed rates are shown on schedules E-4a and E-4b respectively.

SCHEDULE E-4a.—CURRENT PARCEL POST RATES

[Dollars]

Pounds	Zone							
	Local	1 & 2	3	4	5	6	7	8
2	1.52	1.55	1.61	1.70	1.83	1.99	2.15	2.48
3	1.58	1.63	1.73	1.86	2.06	2.30	2.55	3.05
4	1.65	1.71	1.84	2.02	2.29	2.61	2.94	3.60
5	1.71	1.79	1.96	2.18	2.52	2.92	3.32	4.07
6	1.78	1.87	2.07	2.33	2.74	3.14	3.64	4.54
7	1.84	1.95	2.18	2.49	2.89	3.38	3.95	5.02
8	1.91	2.03	2.30	2.64	3.06	3.63	4.27	5.55
9	1.97	2.11	2.41	2.75	3.25	3.93	4.63	6.08
10	2.04	2.19	2.52	2.87	3.46	4.22	5.00	6.62
11	2.10	2.28	2.60	3.00	3.68	4.51	5.38	7.15
12	2.17	2.36	2.66	3.10	3.89	4.80	5.75	7.69
13	2.21	2.41	2.72	3.19	4.02	4.96	5.95	7.97
14	2.26	2.46	2.78	3.28	4.13	5.12	6.14	8.24
15	2.31	2.51	2.83	3.36	4.25	5.26	6.32	8.48
16	2.35	2.56	2.89	3.44	4.35	5.40	6.49	8.72
17	2.40	2.59	2.94	3.51	4.45	5.53	6.65	8.94
18	2.44	2.64	2.99	3.59	4.55	5.65	6.80	9.15
19	2.48	2.68	3.04	3.66	4.64	5.77	6.94	9.35
20	2.52	2.72	3.10	3.73	4.73	5.89	7.09	9.55
21	2.56	2.76	3.14	3.79	4.82	6.00	7.22	9.73
22	2.60	2.81	3.20	3.86	4.90	6.10	7.35	9.91
23	2.64	2.84	3.26	3.92	4.99	6.21	7.48	10.08
24	2.68	2.93	3.36	4.02	5.07	6.31	7.60	10.24
25	2.72	3.00	3.47	4.15	5.14	6.40	7.75	10.40
26	2.76	3.04	3.56	4.27	5.27	6.58	8.02	10.56
27	2.79	3.08	3.65	4.40	5.44	6.79	8.28	10.71
28	3.83	3.13	3.70	4.47	5.59	7.00	8.53	10.85
29	2.87	3.17	3.75	4.53	5.76	7.17	8.64	10.99
30	2.90	3.21	3.80	4.59	5.84	7.27	8.75	11.13
31	2.97	3.25	3.85	4.65	5.91	7.36	8.86	11.29
32	3.01	3.30	3.90	4.71	5.98	7.44	8.96	11.41
33	2.05	3.34	3.95	4.76	6.05	7.53	9.06	11.53
34	3.08	3.38	4.00	4.82	6.12	7.61	9.16	11.76
35	3.12	3.42	4.04	4.88	6.19	7.69	9.26	12.07
36	3.16	3.44	4.08	4.93	6.25	7.78	9.36	11.88
37	3.20	3.50	4.14	4.98	6.32	7.86	9.45	12.20
38	3.23	3.54	4.18	5.04	6.39	7.93	9.54	12.51
39	3.27	3.58	4.23	5.09	6.45	8.01	9.63	12.82
40	3.31	3.62	4.27	5.14	6.51	8.09	9.72	13.08
41	3.34	3.66	4.32	5.19	6.58	8.16	9.81	13.20
42	3.38	3.70	4.36	5.24	6.64	8.24	9.90	13.31
43	3.42	3.74	4.40	5.29	6.70	8.31	9.98	13.42
44	3.46	3.78	4.45	5.34	7.76	8.38	10.14	13.53
45	3.49	3.81	4.49	5.39	6.82	8.45	10.36	13.64
46	3.53	3.85	4.53	5.44	6.88	8.52	10.58	13.74
47	3.56	3.89	4.58	5.49	6.94	8.66	10.66	13.85
48	3.60	3.93	4.62	5.54	6.99	8.83	11.02	13.95

[1] Bulk parcel post: Consists of parcel post presented in a single mailing of 300 or more pieces properly prepared and separated by destination postage zone. It is proposed that parcel post parcels presented in a single mailing of 2000 or more pounds properly prepared and separated by destination postage zone also be eligible for bulk parcel post. The per-piece rate is the single-piece parcel post rate for a piece having a weight equal to the average weight per piece for each zone and weight grouping. [§ 400.22 of the Classification Schedule effective July 6, 1976.)

SCHEDULE E-4a.—CURRENT PARCEL POST RATES—Continued

[Dollars]

Pounds	Zone							
	Local	1 & 2	3	4	5	6	7	8
49	3.64	3.97	4.66	5.59	7.05	9.01	11.24	14.05
50	3.67	4.01	4.71	5.64	7.13	9.16	11.46	14.15
51	3.71	4.04	4.75	5.69	7.27	9.36	11.68	14.25
52	3.74	4.08	4.79	5.79	7.40	9.53	11.90	14.35
53	3.78	4.12	4.83	5.90	7.54	9.71	12.12	14.44
54	3.82	4.16	4.87	6.00	7.67	9.88	12.34	14.54
55	3.85	4.19	4.94	6.11	7.81	10.06	12.56	14.76
56	3.89	4.23	5.02	6.21	7.94	10.23	12.78	15.02
57	3.92	4.27	5.11	6.32	8.08	10.41	13.00	15.28
58	3.96	4.32	5.19	6.42	8.21	10.58	13.22	15.54
59	3.99	4.39	5.28	6.53	8.35	10.76	13.44	15.80
60	4.03	4.46	5.36	6.63	8.48	10.93	13.66	16.06
61	4.06	4.53	5.45	6.74	8.62	11.11	13.88	16.32
62	4.10	4.60	5.53	6.84	8.75	11.28	14.10	16.58
63	4.13	4.67	5.62	6.95	8.89	11.46	14.32	16.84
64	4.17	4.74	5.70	7.05	9.02	11.63	14.54	17.10
65	4.20	4.81	5.79	7.16	9.16	11.81	14.76	17.36
66	4.24	4.88	5.87	7.26	9.29	11.98	14.98	17.62
67	4.27	4.95	5.96	7.37	9.43	12.16	15.20	17.88
68	4.31	5.02	6.04	7.47	9.56	12.33	15.42	18.14
69	4.34	5.09	6.13	7.58	9.70	12.51	15.64	18.40
70	4.38	5.16	6.21	7.68	9.83	12.68	15.86	18.66

For intra-BMC parcels, Deduct 14¢
For nonmachinable inter-BMC parcels, add 50¢ (except zone 8, 35 lbs. add 31¢).

SCHEDULE E-4b.—PROPOSED PARCEL POST RATES

[Dollars]

Pounds	Zone							
	Local	1 and 2	3	4	5	6	7	8
2	1.50	1.54	1.62	1.74	1.91	2.14	2.39	2.55
3	1.56	1.62	1.74	1.91	2.16	2.51	2.88	3.65
4	1.61	1.69	1.85	2.09	2.42	2.88	3.38	4.59
5	1.67	1.77	1.97	2.26	2.68	3.26	3.88	5.39
6	1.73	1.84	2.08	2.43	2.94	3.63	4.38	6.18
7	1.78	1.92	2.20	2.61	3.20	4.00	4.88	6.96
8	1.84	1.99	2.31	2.78	3.45	4.37	5.37	7.78
9	1.89	2.07	2.43	2.96	3.71	4.75	5.87	8.58
10	1.95	2.14	2.54	3.13	3.97	5.12	6.37	9.38
11	2.01	2.22	2.66	3.30	4.23	5.49	6.87	10.18
12	2.06	2.29	2.77	3.48	4.49	5.87	7.37	10.98
13	2.12	2.37	2.89	3.65	4.74	6.24	7.86	11.78
14	2.17	2.44	3.00	3.83	5.00	6.61	8.36	12.58
15	2.21	2.49	3.05	3.89	5.08	6.75	8.53	12.83
16	2.25	2.54	3.11	3.97	5.18	6.88	8.70	13.08
17	2.30	2.59	3.17	4.05	5.28	7.01	8.87	13.34
18	2.34	2.64	3.23	4.12	5.38	7.14	9.04	13.59
19	2.39	2.69	3.29	4.20	5.48	7.28	9.21	13.84
20	2.43	2.74	3.35	4.28	5.59	7.41	9.38	14.09
21	2.48	2.79	3.41	4.36	5.69	7.54	9.55	14.35
22	2.52	2.84	3.47	4.44	5.79	7.68	9.71	14.60
23	2.57	2.89	3.54	4.51	5.89	7.81	9.88	14.85
24	2.61	2.94	3.60	4.59	5.99	7.94	10.05	15.11
25	2.66	2.99	3.66	4.67	6.10	8.08	10.22	15.36
26	2.70	3.04	3.72	4.75	6.20	8.21	10.39	15.61
27	2.75	3.09	3.78	4.83	6.30	8.34	10.56	15.87
28	2.79	3.14	3.84	4.90	6.40	8.47	10.73	16.12
29	2.84	3.19	3.90	4.98	6.50	8.61	10.90	16.37
30	2.88	3.24	3.96	5.06	6.61	8.74	11.07	16.62
31	2.93	3.29	4.02	5.14	6.71	8.87	11.24	16.88
32	2.97	3.34	4.08	5.22	6.81	9.01	11.40	17.12
33	3.02	3.39	4.15	5.29	6.91	9.14	11.57	17.38
34	3.06	3.44	4.21	5.37	7.01	9.27	11.74	17.64
35	3.11	3.49	4.27	5.45	7.12	9.41	11.91	17.89
36	3.15	3.54	4.33	5.53	7.22	9.54	12.08	18.14
37	3.20	3.59	4.39	5.61	7.32	9.67	12.25	18.40
38	3.24	3.64	4.45	5.68	7.42	9.80	12.42	18.65
39	3.29	3.69	4.51	5.76	7.52	9.94	12.59	18.90
40	3.33	3.74	4.57	5.84	7.63	10.07	12.76	19.15
41	3.38	3.79	4.63	5.92	7.73	10.20	12.93	19.41
42	3.42	3.84	4.69	6.00	7.83	10.34	13.09	19.66
43	3.47	3.89	4.76	6.07	7.93	10.47	13.26	19.91
44	3.51	3.94	4.82	6.15	8.03	10.60	13.43	20.17
45	3.56	3.99	4.88	6.23	8.14	10.74	13.60	20.42
46	3.60	4.04	4.94	6.31	8.24	10.87	13.77	20.67
47	3.65	4.09	5.00	6.39	8.34	11.00	13.94	20.93
48	3.69	4.14	5.06	6.46	8.44	11.13	14.11	21.18
49	3.74	4.19	5.12	6.54	8.54	11.27	14.28	21.43
50	3.78	4.24	5.18	6.62	8.65	11.40	14.45	21.68
51	3.83	4.29	5.24	6.70	8.75	11.53	14.62	21.94
52	3.87	4.34	5.30	6.78	8.85	11.67	14.78	22.19
53	3.92	4.39	5.37	6.85	8.95	11.80	14.95	22.44
54	3.96	4.44	5.43	6.93	9.05	11.93	15.12	22.70
55	4.01	4.49	5.49	7.01	9.16	12.07	15.29	22.95

SCHEDULE E–4b.—PROPOSED PARCEL POST RATES—Continued

[Dollars]

Pounds	Zone							
	Local	1 and 2	3	4	5	6	7	8
56	4.05	4.54	5.55	7.09	9.26	12.20	15.46	23.20
57	4.10	4.59	5.61	7.17	9.36	12.33	15.63	23.46
58	4.14	4.64	5.67	7.24	9.46	12.46	15.80	23.71
59	4.19	4.69	5.73	7.32	9.56	12.60	15.97	23.96
60	4.23	4.74	5.79	7.40	9.67	12.73	16.14	24.21
61	4.28	4.79	5.85	7.48	9.77	12.86	16.31	24.47
62	4.32	4.84	5.91	7.56	9.87	13.00	16.47	24.72
63	4.37	4.89	5.98	7.63	9.97	13.13	16.64	24.97
64	4.41	4.94	6.04	7.71	10.07	13.26	16.81	25.23
65	4.46	4.99	6.10	7.79	10.18	13.40	16.98	25.48
66	4.50	5.04	6.16	7.87	10.28	13.53	17.15	25.73
67	4.55	5.09	6.22	7.95	10.38	13.66	17.32	25.99
68	4.59	5.14	6.28	8.02	10.48	13.79	17.49	26.24
69	4.64	5.19	6.34	8.10	10.58	13.93	17.66	26.49
70	4.68	5.24	6.40	8.18	10.69	14.06	17.83	26.74

For nonmachinable inter-BMC parcels, add $1.00.
For intra-BMC parcels, deduct 16¢.

SCHEDULE F–1a.—EXPRESS MAIL—SAME DAY AIRPORT SERVICE, CURRENT RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	6.15	6.15	6.15	6.15	6.15	6.15	6.15	6.15
2	6.15	6.15	6.15	6.15	6.15	6.15	6.15	6.15
3	6.55	6.70	6.90	7.15	7.50	7.80	8.25	8.60
4	7.00	7.20	7.45	7.85	8.30	8.70	9.30	9.75
5	7.50	7.75	8.05	8.55	9.10	9.60	10.35	10.95
6	7.95	8.25	8.65	9.20	9.85	10.50	11.40	12.10
7	8.45	8.80	9.25	9.90	10.65	11.40	12.45	13.30
8	8.90	9.30	9.85	10.60	11.45	12.30	13.50	14.45
9	9.40	9.85	10.45	11.30	12.25	13.20	14.55	15.60
10	9.85	10.35	11.00	11.95	13.05	14.10	15.60	16.80
11	10.35	10.90	11.60	12.65	13.85	15.00	16.65	17.95
12	10.80	11.40	12.20	13.35	14.65	15.90	17.70	19.10
13	11.30	11.95	12.80	14.00	15.45	16.80	18.75	20.30
14	11.75	12.45	13.40	14.70	16.20	17.70	19.80	21.45
15	12.25	13.00	14.00	15.40	17.00	18.60	20.85	22.60
16	12.70	13.50	14.55	16.10	17.80	19.50	21.90	23.80
17	13.20	14.05	15.15	16.75	18.60	20.40	22.95	24.95
18	13.65	14.55	15.75	17.45	19.40	21.30	24.00	26.10
19	14.15	15.10	16.35	18.15	20.20	22.20	25.05	27.30
20	14.60	15.60	16.95	18.80	21.00	23.10	26.15	28.45
21	15.10	16.15	17.55	19.50	21.80	24.00	27.20	29.60
22	15.55	16.65	18.10	20.20	22.60	24.90	28.25	30.80
23	16.05	17.20	18.70	20.90	23.35	25.80	29.30	31.95
24	16.50	17.70	19.30	21.55	24.15	26.70	30.35	33.10
25	17.00	18.25	19.90	22.25	24.95	27.60	31.40	34.30
26	17.45	18.75	20.50	22.95	25.75	28.50	32.45	35.45
27	17.95	19.30	21.10	23.65	26.55	29.40	33.50	36.65
28	18.40	19.80	21.65	24.30	27.35	30.30	34.55	37.80
29	18.90	20.35	22.25	25.00	28.15	31.20	35.60	38.95
30	19.35	20.85	22.85	25.70	28.95	32.10	36.65	40.15
31	19.85	21.40	23.45	26.35	29.75	33.00	37.70	41.30
32	20.30	21.90	24.05	27.05	30.50	33.95	38.75	42.45
33	20.80	22.45	24.65	27.75	31.30	34.85	39.80	43.65
34	21.25	22.95	25.20	28.45	32.10	35.75	40.85	44.80
35	21.75	23.50	25.80	29.10	32.90	36.65	41.90	45.95
36	22.20	24.00	26.40	29.80	33.70	37.55	42.95	47.15
37	22.70	24.55	27.00	30.50	34.50	38.45	44.00	48.30
38	23.15	25.05	27.60	31.15	35.30	39.35	45.05	49.45
39	23.65	25.60	28.20	31.85	36.10	40.25	46.10	50.65
40	24.10	26.15	28.75	32.55	36.90	41.15	47.15	51.80
41	24.60	26.65	29.35	33.25	37.65	42.05	48.20	52.95
42	25.05	27.20	29.95	33.90	38.45	42.95	49.25	54.15
43	25.55	27.70	30.55	34.60	39.25	43.85	50.30	55.30
44	26.00	28.25	31.15	35.30	40.05	44.75	51.35	56.45
45	26.50	28.75	31.75	36.00	40.85	45.65	52.40	57.65
46	26.95	29.30	32.30	36.65	41.65	46.55	53.45	58.80
47	27.45	29.80	32.90	37.35	42.45	47.45	54.50	60.00
48	27.90	30.35	33.50	38.05	43.25	48.35	55.55	61.15
49	28.40	30.85	34.10	38.70	44.05	49.25	56.60	62.30
50	28.85	31.40	34.70	39.40	44.80	50.15	57.65	63.50
51	29.35	31.90	35.30	40.10	45.60	51.05	58.70	64.65
52	29.85	32.45	35.90	40.80	46.40	51.95	59.75	65.80
53	30.30	32.95	36.45	41.45	47.20	52.85	60.80	67.00
54	30.80	33.50	37.05	42.15	48.00	53.75	61.85	68.15
55	31.25	34.00	37.65	42.85	48.80	54.65	62.90	69.30
56	31.75	34.55	38.25	43.50	49.60	55.55	63.95	70.50
57	32.20	35.05	38.85	44.20	50.40	56.45	65.00	71.65
58	32.70	35.60	39.45	44.90	51.20	57.35	66.05	72.80
59	33.15	36.10	40.00	45.60	51.95	58.25	67.10	74.00
60	33.65	36.65	40.60	46.25	52.75	59.15	68.15	75.15
61	34.10	37.15	41.20	46.95	53.55	60.05	69.20	76.30

SCHEDULE F-1a.—EXPRESS MAIL—SAME DAY AIRPORT SERVICE, CURRENT RATES—Continued

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
62	34.60	37.70	41.80	47.65	54.35	60.95	70.25	77.50
63	35.05	38.20	42.40	48.30	55.15	61.85	71.35	78.65
64	35.55	38.75	43.00	49.00	55.95	62.75	72.40	79.80
65	36.00	39.25	43.55	49.70	56.75	63.65	73.45	81.00
66	36.50	39.80	44.15	50.40	57.55	64.55	74.50	82.15
67	36.95	40.30	44.75	51.05	58.35	65.45	75.55	83.35
68	37.45	40.85	45.35	51.75	59.10	66.35	76.60	84.50
69	37.90	41.35	45.95	52.45	59.90	67.25	77.65	85.65
70	38.40	41.90	46.55	53.15	60.70	68.15	78.70	86.85

SCHEDULE F-1b.—EXPRESS MAIL—SAME DAY AIRPORT SERVICE, PROPOSED RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
01	7.45	7.45	7.45	7.45	7.45	7.45	7.45	7.45
02	7.45	7.45	7.45	7.45	7.45	7.45	7.45	7.45
03	9.70	9.70	9.70	9.70	9.70	9.70	9.70	9.70
04	9.70	9.70	9.70	9.70	9.70	9.70	9.70	9.70
05	9.70	9.70	9.70	9.70	9.70	9.70	9.70	9.70
06	10.35	10.35	10.40	10.55	10.65	10.75	10.90	11.10
07	10.95	11.00	11.15	11.35	11.60	11.80	12.10	12.50
08	11.60	11.60	11.85	12.20	12.55	12.85	13.30	13.90
09	12.20	12.25	12.60	13.00	13.45	13.90	14.50	15.35
10	12.85	12.90	13.30	13.85	14.40	14.95	15.65	16.75
11	13.45	13.55	14.00	14.65	15.35	16.00	16.85	18.15
12	14.10	14.20	14.75	15.50	16.30	17.00	18.05	19.55
13	14.70	14.85	15.45	16.30	17.25	18.05	19.25	20.95
14	15.35	15.45	16.15	17.15	18.20	19.10	20.45	22.35
15	15.95	16.10	16.90	17.95	19.15	20.15	21.65	23.75
16	16.60	16.75	17.60	18.80	20.05	21.20	22.85	25.20
17	17.20	17.40	18.35	19.60	21.00	22.25	24.05	26.60
18	17.85	18.05	19.05	20.45	21.95	23.30	25.20	28.00
19	18.45	18.65	19.75	21.30	22.90	24.35	26.40	29.40
20	19.10	19.30	20.50	22.10	23.85	25.40	27.60	30.80
21	19.70	19.95	21.20	22.95	24.80	26.45	28.80	32.20
22	20.35	20.60	21.90	23.75	25.75	27.50	30.00	33.60
23	20.95	21.25	22.65	24.60	26.65	28.55	31.20	35.05
24	21.60	21.90	23.35	25.40	27.60	29.55	32.40	36.45
25	22.20	22.50	24.10	26.25	28.55	30.60	33.60	37.85
26	22.85	23.15	24.80	27.05	29.50	31.65	34.75	39.25
27	23.45	23.80	25.50	27.90	30.45	32.70	35.95	40.65
28	24.10	24.45	26.25	28.70	31.40	33.75	37.15	42.05
29	24.70	25.10	26.95	29.55	32.35	34.80	38.35	43.45
30	25.35	25.75	27.70	30.40	33.30	35.85	39.55	44.90
31	26.00	26.35	28.40	31.20	34.20	36.90	40.75	46.30
32	26.60	27.00	29.10	32.05	35.15	37.95	41.95	47.70
33	27.25	27.65	29.85	32.85	36.10	39.00	43.15	49.10
34	27.85	28.30	30.55	33.70	37.05	40.05	44.35	50.50
35	28.50	28.95	31.25	34.50	38.00	41.10	45.50	51.90
36	29.10	29.55	32.00	35.35	38.95	42.15	46.70	53.30
37	29.75	30.20	32.70	36.15	39.90	43.15	47.90	54.70
38	30.35	30.85	33.45	37.00	40.80	44.20	49.10	56.15
39	31.00	31.50	34.15	37.80	41.75	45.25	50.30	57.55
40	31.60	32.15	34.85	38.65	42.70	46.30	51.50	58.95
41	32.25	32.80	35.60	39.45	43.65	47.35	52.70	60.35
42	32.85	33.40	36.30	40.30	44.60	48.40	53.90	61.75
43	33.50	34.05	37.00	41.15	45.55	49.45	55.05	63.15
44	34.10	34.70	37.75	41.95	46.50	50.50	56.25	64.55
45	34.74	35.35	38.45	42.80	47.40	51.55	57.45	66.00
46	35.35	36.00	39.20	43.60	48.35	52.60	58.65	67.40
47	36.00	36.60	39.90	44.45	49.30	53.65	59.85	68.80
48	36.60	37.25	40.60	45.25	50.25	54.70	61.05	70.20
49	37.25	37.90	41.35	46.10	51.20	55.70	62.25	71.60
50	37.85	38.55	42.05	46.90	52.15	56.75	63.45	73.00
51	38.50	39.20	42.75	47.75	53.10	57.80	64.60	74.40
52	39.10	39.85	43.50	48.55	54.00	58.85	65.80	75.85
53	39.75	40.45	44.20	49.40	54.95	59.90	67.00	77.25
54	40.35	41.10	44.95	50.20	55.90	60.95	68.20	78.65
55	41.00	41.75	45.65	51.05	56.85	62.00	69.40	80.05
56	41.65	42.40	46.35	51.90	57.80	63.05	70.60	81.45
57	42.25	43.05	47.10	52.70	58.75	64.10	71.80	82.85
58	42.90	43.65	47.80	53.55	59.70	65.15	73.00	84.25
59	43.50	44.30	48.55	54.35	60.60	66.20	74.20	85.70
60	44.15	44.95	49.25	55.20	61.55	67.25	75.35	87.10
61	44.75	45.60	49.95	56.00	62.50	68.30	76.55	88.50
62	45.40	46.25	50.70	56.85	63.45	69.30	77.75	89.90
63	46.00	46.90	51.40	57.65	64.40	70.35	78.95	91.30
64	46.65	47.50	52.10	58.50	65.35	71.40	80.15	92.70
65	47.25	48.15	52.85	59.30	66.30	72.45	81.35	94.10
66	47.90	48.80	53.55	60.15	67.20	73.50	82.55	95.55
67	48.50	49.45	54.30	60.95	68.15	74.55	83.75	96.95
68	49.15	50.10	55.00	61.80	69.10	75.60	84.90	98.35
69	49.75	50.70	55.70	62.65	70.05	76.65	86.10	99.75

SCHEDULE F-1b.—EXPRESS MAIL—SAME DAY AIRPORT SERVICE, PROPOSED RATES—Continued

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
70	50.40	51.35	56.45	63.45	71.00	77.70	87.30	101.15

SCHEDULE F-2a.—EXPRESS MAIL—CUSTOM DESIGNED SERVICE, CURRENT RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	$9.35	$9.35	$9.35	$9.35	$9.35	$9.35	$9.35	$9.35
2	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
3	9.40	9.90	10.10	10.35	10.70	11.00	11.45	11.80
4	9.65	10.45	10.70	11.10	11.55	11.95	12.55	13.00
5	10.00	11.00	11.35	11.80	12.35	12.90	13.65	14.20
6	10.35	11.55	11.95	12.55	13.20	13.85	14.75	15.45
7	10.70	12.15	12.60	13.25	14.05	14.75	15.85	16.65
8	11.10	12.70	13.25	14.00	14.85	15.70	16.95	17.85
9	11.45	13.25	13.85	14.70	15.70	16.65	18.00	19.05
10	11.80	13.85	14.50	15.45	16.55	17.60	19.10	20.25
11	12.15	14.40	15.15	16.15	17.40	18.55	20.20	21.45
12	12.55	14.95	15.75	16.90	18.20	19.45	21.30	22.65
13	12.90	15.55	16.40	17.80	19.05	20.40	22.40	23.90
14	13.25	16.10	17.05	18.35	19.90	21.35	23.50	25.10
15	13.65	16.65	17.65	19.05	20.75	22.30	24.60	26.30
16	14.00	17.25	18.30	19.80	21.55	23.25	25.65	27.50
17	14.35	17.80	18.90	20.55	22.40	24.15	26.75	28.70
18	14.70	18.35	19.55	21.25	23.25	25.10	27.85	29.90
19	15.10	18.95	20.20	22.00	24.05	26.05	28.95	31.15
20	15.45	19.50	20.80	22.70	24.90	27.00	30.05	32.35
21	15.80	20.05	21.45	23.45	25.75	27.95	31.15	33.55
22	16.15	20.65	22.10	24.15	26.60	28.90	32.25	34.75
23	16.55	21.20	22.70	24.90	27.40	29.80	33.35	35.95
24	16.90	21.75	23.35	25.60	28.25	30.75	34.40	37.15
25	17.25	22.30	24.00	26.35	29.10	31.70	35.50	38.35
26	17.60	22.90	24.60	27.05	29.95	32.65	36.60	39.60
27	18.00	23.45	25.25	27.80	30.75	33.60	37.70	40.80
28	18.35	24.00	25.85	28.50	31.60	34.50	38.80	42.00
29	18.70	24.60	26.50	29.25	32.45	35.45	39.90	43.20
30	19.05	25.15	27.15	29.95	33.30	36.40	41.00	44.40
31	19.45	25.70	27.75	30.70	34.10	37.35	42.05	45.60
32	19.80	26.30	28.40	31.40	34.95	38.30	43.15	46.80
33	20.15	26.85	29.05	32.15	35.80	39.25	44.25	48.05
34	20.55	27.40	29.65	32.85	36.60	40.15	45.35	49.25
35	20.90	28.00	30.30	33.60	37.45	41.10	46.45	50.45
36	21.25	28.55	30.95	34.30	38.30	42.05	47.55	51.65
37	21.60	29.10	31.55	35.05	39.15	43.00	48.65	52.85
38	22.00	29.70	32.20	35.75	39.95	43.95	49.70	54.05
39	22.35	30.25	32.80	36.50	40.80	44.85	50.80	55.30
40	22.70	30.80	33.45	37.25	41.65	45.80	51.90	56.50
41	23.05	31.35	34.10	37.95	42.50	46.75	53.00	57.70
42	23.45	31.95	34.70	38.70	43.30	47.70	54.10	58.90
43	23.80	32.50	35.35	39.40	44.15	48.65	55.20	60.10
44	24.15	33.05	36.00	40.15	45.00	49.60	56.30	61.30
45	24.50	33.65	36.60	40.85	40.80	50.50	57.40	62.50
46	24.90	34.20	37.25	41.60	46.65	51.45	58.45	63.75
47	25.25	34.75	37.90	42.30	47.50	52.40	59.55	64.95
48	25.60	35.35	38.50	43.05	48.35	53.35	60.65	66.15
49	25.95	35.90	39.15	43.75	49.15	54.30	61.75	67.35
50	26.35	36.45	39.75	44.50	50.00	55.20	62.85	68.55
51	26.70	37.05	40.40	45.20	50.85	56.15	63.95	69.75
52	27.05	37.60	41.05	45.95	51.70	57.10	65.05	71.00
53	27.40	38.15	41.65	46.65	52.50	58.05	66.10	72.20
54	27.80	38.75	42.30	47.40	53.35	59.00	67.20	73.40
55	28.15	39.30	42.95	48.10	54.20	59.95	68.30	74.60
56	28.50	39.85	43.55	48.85	55.00	60.85	69.40	75.80
57	28.90	40.40	44.20	49.55	55.85	61.80	70.50	77.00
58	29.25	41.00	44.85	50.30	56.70	62.75	71.60	78.20
59	29.60	41.55	45.45	51.00	57.55	63.70	72.70	79.45
60	29.95	42.10	46.10	51.75	58.35	64.65	73.80	80.65
61	30.35	42.70	46.75	52.50	59.20	65.55	74.85	81.85
62	30.70	43.25	47.35	53.20	60.05	66.50	75.95	83.05
63	31.05	43.80	48.00	53.95	60.90	67.45	77.05	84.25
64	31.40	44.40	48.60	54.65	61.70	68.40	78.15	85.45
65	31.80	44.95	49.25	55.40	62.55	69.35	79.25	86.70
66	32.15	45.50	49.90	56.10	63.40	70.25	80.35	87.90
67	32.50	46.10	50.50	56.85	64.25	71.20	81.45	89.10
68	32.85	46.65	51.15	57.55	65.05	72.15	82.50	90.30
69	33.25	47.20	51.80	58.30	65.90	73.10	83.60	91.50
70	33.60	47.80	52.40	59.00	66.75	74.05	84.70	92.70

Add: $5.60 for each pickup or delivery stop.

SCHEDULE F-2b.—EXPRESS MAIL—CUSTOM DESIGNED SERVICE, PROPOSED RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
01	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
02	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
03	11.60	11.60	11.60	11.60	11.60	11.60	11.60	11.60
04	11.60	11.60	11.60	11.60	11.60	11.60	11.60	11.60
05	11.60	11.60	11.60	11.60	11.60	11.60	11.60	11.60
06	11.90	12.25	12.35	12.45	12.60	12.70	12.85	13.05
07	12.20	12.85	13.10	13.35	13.55	13.75	14.05	14.50
08	12.45	13.50	13.85	14.20	14.55	14.85	15.30	15.95
09	12.75	14.15	14.65	15.05	15.50	15.95	16.50	17.40
10	13.05	14.80	15.40	15.95	16.50	17.00	17.75	18.85
11	13.35	15.40	16.15	16.80	17.50	18.10	19.00	20.25
12	13.60	16.05	16.90	17.65	18.45	19.20	20.20	21.70
13	13.90	16.70	17.65	18.50	19.45	20.25	21.45	23.15
14	14.20	17.35	18.40	19.40	20.40	21.35	22.70	24.60
15	14.50	17.95	19.20	20.25	21.40	22.45	23.90	26.05
16	14.75	18.60	19.95	21.10	22.40	23.50	25.15	27.50
17	15.05	19.25	20.70	22.00	23.35	24.60	26.35	28.95
18	15.35	19.90	21.45	22.85	24.35	25.70	27.60	30.40
19	15.65	20.50	22.20	23.70	25.30	26.80	28.85	31.85
20	15.90	21.15	22.95	24.60	26.30	27.85	30.05	33.30
21	16.20	21.80	23.75	25.45	27.30	28.95	31.30	34.70
22	16.50	22.45	24.50	26.30	28.25	30.05	32.55	36.15
23	16.80	23.05	25.25	27.15	29.25	31.10	33.75	37.60
24	17.05	23.70	26.00	28.05	30.20	32.20	35.00	39.05
25	17.35	24.35	26.75	28.90	31.20	33.30	36.20	40.50
26	17.65	25.00	27.50	29.75	32.20	34.35	37.45	41.95
27	17.95	25.60	28.30	30.65	33.15	35.45	38.70	43.40
28	18.20	26.25	29.05	31.50	34.15	36.55	39.90	44.85
29	18.50	26.90	29.80	32.35	35.10	37.60	41.15	46.30
30	18.80	27.55	30.55	33.25	36.10	38.70	42.40	47.75
31	19.10	28.15	31.30	34.10	37.10	39.80	43.60	49.15
32	19.40	28.80	32.05	34.95	38.05	40.85	44.85	50.60
33	19.65	29.45	32.80	35.80	39.05	41.95	46.05	52.05
34	19.95	30.05	33.60	36.70	40.00	43.05	47.30	53.50
35	20.25	30.70	34.35	37.55	41.00	44.10	48.55	54.95
36	20.55	31.35	35.10	38.40	42.00	45.20	49.75	56.40
37	20.80	32.00	35.85	39.30	42.95	46.30	51.00	57.85
38	21.10	32.60	36.60	40.15	43.95	47.35	52.20	59.30
39	21.40	33.25	37.35	41.00	44.90	48.45	53.45	60.75
40	21.70	33.90	38.15	41.90	45.90	49.55	54.70	62.20
41	21.95	34.55	38.90	42.75	46.90	50.60	55.90	63.60
42	22.25	35.15	39.65	43.60	47.85	51.70	57.15	65.05
43	22.55	35.80	40.40	44.45	48.85	52.80	58.40	66.50
44	22.85	36.45	41.15	45.35	49.80	53.90	59.60	67.95
45	23.10	37.10	41.90	46.20	50.80	54.95	60.85	69.40
46	23.40	37.70	42.70	47.05	51.80	56.05	62.05	70.85
47	23.70	38.35	43.45	47.95	52.75	57.15	63.30	72.30
48	24.00	39.00	44.20	48.80	53.75	58.20	64.55	73.75
49	24.25	39.65	44.95	49.65	54.70	59.30	65.75	75.20
50	24.55	40.25	45.70	50.55	55.70	60.40	67.00	76.65
51	24.85	40.90	46.45	51.40	56.70	61.45	68.25	78.05
52	25.15	41.55	47.25	52.25	57.65	62.55	69.45	79.50
53	25.40	42.20	48.00	53.10	58.65	63.65	70.70	80.95
54	25.70	42.80	48.75	54.00	59.60	64.70	71.90	82.40
55	26.00	43.45	49.50	54.85	60.60	65.80	73.15	83.85
56	26.30	44.10	50.25	55.70	61.60	66.90	74.40	85.30
57	26.60	44.70	51.00	56.60	62.55	67.95	75.60	86.75
58	26.85	45.35	51.75	57.45	63.55	69.05	76.85	88.20
59	27.15	46.00	52.55	58.30	64.50	70.15	78.05	89.65
60	27.45	46.65	53.30	59.20	65.50	71.20	79.30	91.10
61	27.75	47.25	54.05	60.05	66.50	72.30	80.55	92.50
62	28.00	47.90	54.80	60.90	67.45	73.40	81.75	93.95
63	28.30	48.55	55.55	61.75	68.45	74.45	83.00	95.40
64	28.60	49.20	56.30	62.65	69.40	75.55	84.25	96.85
65	28.90	49.80	57.10	63.50	70.40	76.65	85.45	98.30
66	29.15	50.45	57.85	64.35	71.40	77.70	86.70	99.75
67	29.45	51.10	58.60	65.25	72.35	78.80	87.90	101.20
68	29.75	51.75	59.35	66.10	73.35	79.90	89.15	102.65
69	30.05	52.35	60.10	66.95	74.30	81.00	90.40	104.10
70	30.30	53.00	60.85	67.85	75.30	82.05	91.60	105.55

Add: $5.60 for each pickup or delivery stop.

SCHEDULE F-3a.—EXPRESS MAIL—NEXT DAY SERVICE, POST OFFICE TO ADDRESSEE, CURRENT RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
2	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
3	9.55	10.15	10.35	10.65	11.00	11.30	11.75	12.10
4	9.90	10.75	11.00	11.40	11.80	12.25	12.85	13.30
5	10.30	11.30	11.65	12.10	12.65	13.20	13.95	14.50
6	10.65	11.85	12.25	12.85	13.50	14.10	15.05	15.70
7	11.00	12.45	12.90	13.55	14.35	15.05	16.10	16.90

SCHEDULE F-3a.—EXPRESS MAIL—NEXT DAY SERVICE, POST OFFICE TO ADDRESSEE, CURRENT RATES—Continued

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
8	11.40	13.00	13.55	14.30	15.15	16.00	17.20	18.15
9	11.75	13.55	14.15	15.00	16.00	16.95	18.30	19.35
10	12.10	14.15	14.80	15.75	16.85	17.90	19.40	20.55
11	12.45	14.70	15.40	16.45	17.65	18.80	20.50	21.75
12	12.85	15.25	16.05	17.20	18.50	19.75	21.60	22.95
13	13.20	15.85	16.70	17.90	19.35	20.70	22.70	24.15
14	13.55	16.40	17.30	18.65	20.20	21.65	23.80	25.40
15	13.90	16.95	17.95	19.35	21.00	22.60	24.85	26.60
16	14.30	17.50	18.60	20.10	21.85	23.50	25.95	27.80
17	14.65	18.10	19.20	20.80	22.70	24.45	27.05	29.00
18	15.00	18.65	19.85	21.55	23.55	25.40	28.15	30.20
19	15.35	19.20	20.50	22.25	24.35	26.35	29.25	31.40
20	15.75	19.80	21.10	23.00	25.20	27.30	30.35	32.60
21	16.10	20.35	21.75	23.70	26.05	28.25	31.45	33.85
22	16.45	20.90	22.35	24.45	26.85	29.15	32.50	35.05
23	16.80	21.50	23.00	25.15	27.70	30.10	33.60	36.25
24	17.20	22.05	23.65	25.90	28.55	31.05	34.70	37.45
25	17.55	22.60	24.25	26.65	29.40	32.00	35.80	38.65
26	17.90	23.20	24.90	27.35	30.20	32.95	36.90	39.85
27	18.25	23.75	25.55	28.10	31.05	33.85	38.00	41.10
28	18.65	24.30	26.15	28.80	31.90	34.80	39.10	42.30
29	19.00	24.90	26.80	29.55	32.75	35.75	40.20	43.50
30	19.35	25.45	27.45	30.25	33.55	36.70	41.25	44.70
31	19.75	26.00	28.05	31.00	34.40	37.65	42.35	45.90
32	20.10	26.55	28.70	31.70	35.25	38.60	43.45	47.10
33	20.45	27.15	29.30	32.45	36.10	39.50	44.55	48.30
34	20.80	27.70	29.95	33.15	36.90	40.45	45.65	49.55
35	21.20	28.25	30.60	33.90	37.75	41.40	46.75	50.75
36	21.55	28.85	31.20	34.60	38.60	42.35	47.85	51.95
37	21.90	29.40	31.85	35.35	39.40	43.30	48.90	53.15
38	22.25	29.95	32.50	36.05	40.25	44.20	50.00	54.35
39	22.65	30.55	33.10	36.80	41.10	45.15	51.10	55.55
40	23.00	31.10	33.75	37.50	41.95	46.10	52.20	56.80
41	23.35	31.65	34.40	38.25	42.75	47.05	53.40	58.00
42	23.70	32.25	35.00	38.95	43.60	48.00	54.40	59.20
43	24.10	32.80	35.65	39.70	44.45	48.95	55.50	60.40
44	24.45	33.35	36.25	40.40	45.30	49.85	56.60	61.60
45	24.80	33.95	36.90	41.15	46.10	50.80	57.65	62.80
46	25.15	34.50	37.55	41.90	46.95	51.75	58.75	64.00
47	25.55	35.05	38.15	42.60	47.80	52.70	59.85	65.25
48	25.90	35.60	38.80	43.35	48.60	53.65	60.95	66.45
49	26.25	36.20	39.45	44.05	49.45	54.55	62.05	67.65
50	26.65	36.75	40.05	44.80	50.30	55.50	63.15	68.85
51*	27.00	37.30	40.70	45.50	51.15	58.45	64.25	70.25
52	27.35	37.90	41.35	46.25	51.95	57.40	65.30	71.25
53	27.70	38.45	41.95	46.95	52.80	58.35	66.40	72.45
54	28.10	39.00	42.60	47.70	53.65	59.30	67.50	73.70
55	28.45	39.60	43.25	48.40	54.50	60.20	68.60	74.90
56	28.80	40.15	43.85	49.15	55.30	61.15	69.70	76.10
57	29.15	40.70	44.50	49.85	56.15	62.10	70.80	77.30
58	29.55	41.30	45.10	50.60	57.00	63.05	71.90	78.50
59	29.90	41.85	45.75	51.30	57.80	64.00	72.95	79.70
60	30.25	42.40	46.40	52.05	58.65	64.90	74.05	80.95
61	30.60	43.00	47.00	52.75	59.50	65.85	75.15	82.15
62	31.00	43.55	47.65	53.50	60.35	66.80	76.25	83.35
63	31.35	44.10	48.30	54.20	61.15	67.75	77.35	84.55
64	31.70	44.70	48.90	54.95	62.00	68.70	78.45	85.75
65	32.05	42.25	49.55	55.65	62.85	69.60	79.55	86.95
66	32.45	45.80	50.20	56.40	63.70	70.55	80.65	88.15
67	32.80	46.35	50.80	57.10	64.50	71.50	81.70	89.40
68	33.15	46.95	51.45	57.85	65.35	72.45	82.80	90.60
69	33.50	47.50	52.05	58.60	66.20	73.40	83.90	91.80
70	33.90	48.50	52.70	59.30	67.05	74.35	85.00	93.00

Add: $5.60 for each pickup stop.

SCHEDULE F-3b.—Express Mail—Post Office to Addressee Service, Proposed Rates

[Dollars]

Zone	Pounds							
	1 and 2	3	4	5	6	7	8	9
1	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
2	9.35	9.35	9.35	9.35	9.35	9.35	9.35	9.35
3	11.60	11.60	11.60	11.60	11.60	11.60	11.60	11.60
4	11.60	11.60	11.60	11.60	11.60	11.60	11.60	11.60
5	11.60	11.60	11.60	11.60	11.60	11.60	11.60	
6	11.90	12.25	12.35	12.45	12.60	12.70	12.85	13.05
7	12.20	12.85	13.10	13.35	13.55	13.75	14.05	14.50
8	12.45	13.50	13.85	14.20	14.55	14.85	15.30	15.95
9	12.75	14.15	14.65	15.05	15.50	15.95	16.50	17.40
10	13.05	14.80	15.40	15.95	16.50	17.00	17.75	18.85
11	13.35	15.40	16.15	16.80	17.50	18.10	19.00	20.25
12	13.60	16.05	16.90	17.65	18.45	19.20	20.20	21.70
13	13.90	16.70	17.65	18.50	19.45	20.25	21.45	23.15
14	14.20	17.35	18.40	19.40	20.40	21.35	22.70	24.60

SCHEDULE F-3b.—Express Mail—Post Office to Addressee Service, Proposed Rates—Continued

[Dollars]

Zone	Pounds							
	1 and 2	3	4	5	6	7	8	9
15	14.50	17.95	19.20	20.25	21.40	22.45	23.90	26.05
16	14.75	18.60	19.95	21.10	22.40	23.50	25.15	27.50
17	15.05	19.25	20.7.	22.00	23.35	24.60	26.35	28.95
18	15.35	19.90	21.45	22.85	24.35	25.70	27.60	30.40
19	15.65	20.50	22.20	23.70	25.30	26.80	28.85	31.85
20	15.90	21.15	22.95	24.60	26.30	27.85	30.05	33.30
21	16.20	21.80	23.75	25.45	27.30	28.95	31.30	34.70
22	16.50	22.45	24.50	26.30	28.25	30.05	32.55	36.15
23	16.80	23.05	25.25	27.15	29.25	31.10	33.75	37.60
24	17.05	23.70	26.0C	28.05	30.20	32.20	35.00	39.05
25	17.35	24.35	26.75	28.90	31.20	33.30	36.20	40.50
26	17.65	25.00	27.50	29.75	32.20	34.35	37.45	41.95
27	17.95	25.60	28.30	30.65	33.15	35.45	38.70	43.40
28	18.20	26.25	29.05	31.50	34.15	36.55	39.90	44.85
29	18.50	26.90	29.80	32.35	35.10	37.60	41.15	46.30
30	18.80	27.55	30.55	33.25	36.10	38.70	42.40	47.75
31	19.10	28.15	31.30	34.10	37.10	39.80	43.60	49.15
32	19.40	28.80	32.05	34.95	38.05	40.85	44.85	50.60
33	19.65	29.45	32.80	35.80	39.05	41.95	46.05	52.05
34	19.95	30.05	33.60	36.70	40.00	43.05	47.30	53.50
35	20.25	30.70	34.35	37.55	41.00	44.10	48.55	54.95
36	20.55	31.35	35.10	38.40	42.00	45.20	49.75	56.40
37	20.80	32.00	35.85	39.30	42.95	46.30	51.00	57.85
38	21.10	32.60	36.60	40.15	43.95	47.35	52.20	59.30
39	21.40	33.25	37.35	41.00	44.90	48.45	53.45	60.75
40	21.70	33.90	38.15	41.90	45.90	49.55	54.70	62.20
41	21.95	34.55	38.90	42.75	46.90	50.60	55.90	63.60
42	22.25	35.15	39.65	43.60	47.85	51.70	57.15	65.05
43	22.55	35.80	40.40	44.45	48.85	52.80	58.40	66.50
44	22.85	36.45	41.15	45.35	49.80	53.90	59.60	67.95
45	23.10	37.10	41.90	46.20	50.80	54.95	60.85	69.40
46	23.40	37.70	42.70	47.05	51.80	56.05	62.05	70.85
47	23.70	38.35	43.45	47.95	52.75	57.15	63.30	72.30
48	24.00	39.00	44.20	48.80	53.75	58.20	64.55	73.75
49	24.25	39.65	44.95	49.65	54.70	59.30	65.75	75.20
50	24.55	40.25	45.70	50.55	55.70	60.40	67.00	76.65
51	24.85	40.90	46.45	51.40	56.70	61.45	68.25	78.05
52	25.15	41.55	47.25	52.25	57.65	62.55	69.45	79.50
53	25.40	42.20	48.00	53.10	58.65	63.65	70.70	80.95
54	25.70	42.80	48.75	54.00	59.60	64.70	71.90	82.40
55	26.00	43.45	49.50	54.85	60.60	65.80	73.15	83.85
56	26.30	44.10	50.25	55.70	61.60	66.90	74.40	85.30
57	26.60	44.70	51.00	56.60	62.55	67.95	75.60	86.75
58	26.85	45.35	51.75	57.45	63.55	69.05	76.85	88.20
59	27.15	46.00	52.55	58.30	64.50	70.15	78.05	89.65
60	27.45	46.65	53.30	59.20	65.50	71.20	79.30	91.10
61	27.75	47.25	54.05	60.05	66.50	72.30	80.55	92.50
62	28.00	47.90	54.80	60.90	67.45	73.40	81.75	93.95
63	28.30	48.55	55.55	61.75	68.45	74.45	83.00	95.40
64	28.60	49.20	56.30	62.65	69.40	75.55	84.25	96.85
65	28.90	49.80	57.10	63.50	70.40	76.65	85.45	98.30
66	29.15	50.45	57.85	64.35	71.40	77.70	86.70	99.75
67	29.45	51.10	58.60	65.25	72.35	78.80	87.90	101.20
68	29.75	51.75	59.35	66.10	73.35	79.90	89.15	102.65
69	30.05	52.35	60.10	66.95	74.30	81.00	90.40	104.10
70	30.30	53.00	60.85	67.85	75.30	82.05	91.60	105.55

Add: $5.60 for each pickup stop.

SCHEDULE F-4A.—EXPRESS MAIL—NEXT DAY SERVICE, POST OFFICE TO POST OFFICE, CURRENT RATES

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	5.85	5.85	5.85	5.85	5.85	5.85	5.85	5.85
2	5.85	5.85	5.85	5.85	5.85	5.85	5.85	5.85
3	6.05	6.65	6.85	7.15	7.45	7.80	8.25	8.80
4	6.40	7.20	7.50	7.85	8.30	8.70	9[35	9.80
5	6.75	7.80	8.10	8.60	9.15	9.65	10.45	11.00
6	7.15	8.35	8.75	9.30	10.00	10.60	11.50	12.20
7	7.50	8.90	9.40	10.05	10.80	11.55	12.20	13.40
8	7.85	9.50	10.00	10.75	11.65	12.50	13.70	14.60
9	8.25	10.05	10.65	11.50	12.50	13.45	14.80	15.85
10	8.60	10.60	11.30	12.20	13.30	14.35	15.90	17.05
11	8.95	11.20	11.90	12.95	14.15	15.30	17.00	18.25
12	9.30	11.75	12.55	13.65	15.00	16.25	18.10	19.45
13	9.70	12.30	13.15	14.40	15.85	17.20	19.5	20.65
14	10.05	12.90	13.80	15.15	16.65	18.15	20.25	21.85
15	10.40	13.45	14.45	15.85	17.50	19.05	21.35	23.05
16	10.75	14.00	15.05	16.60	18.35	20.00	22.45	24.30
17	11.15	14.60	15.70	17.30	19.20	20.95	23.55	25.50
18	11.50	15.15	16.35	18.05	20.00	21.90	25.65	26.70
19	11.85	15.70	16.95	18.75	20.85	22.85	25.75	27.90
20	12.20	16.25	17.60	19.50	21.70	23.80	26.80	29.10
21	12.60	16.85	18.25	20.20	22.55	24.70	27.90	30.30

SCHEDULE F-4A.—EXPRESS MAIL—NEXT DAY SERVICE, POST OFFICE TO POST OFFICE, CURRENT RATES—Continued

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
22	12.95	17.40	18.85	20.95	23.35	25.65	29.00	31.55
23	13.30	17.95	19.50	21.65	24.20	26.60	30.10	32.75
24	13.65	18.55	20.10	22.40	25.05	27.55	31.20	33.95
25	14.05	19.10	20.75	23.10	25.85	28.50	32.30	35.15
26	14.40	19.65	21.40	23.85	26.70	29.40	33.40	36.35
27	14.75	20.25	22.00	24.55	27.55	30.35	34.50	37.55
28	15.15	20.80	22.65	25.30	28.40	31.30	35.55	38.75
29	15.50	21.35	23.30	26.00	29.20	32.25	36.65	40.00
30	15.85	21.95	23.90	26.75	30.05	33.20	37.75	41.20
31	16.20	22.50	24.55	27.45	30.90	34.10	38.85	42.40
32	16.60	23.05	25.20	28.20	31.75	35.05	39.95	43.60
33	16.95	23.65	25.80	28.90	32.55	36.00	41.05	44.80
34	17.30	24.20	26.45	29.65	33.40	36.95	42.15	46.00
35	17.65	24.75	27.05	30.35	34.25	37.90	43.20	47.25
36	18.05	25.30	27.70	31.10	35.05	38.85	44.30	48.45
37	18.40	25.90	28.35	31.85	35.90	39.75	45.40	49.65
38	18.75	26.45	28.95	32.55	36.75	40.70	46.50	50.85
39	19.10	27.00	29.60	33.30	37.60	41.65	47.60	52.05
40	19.50	27.60	30.25	34.00	38.40	42.60	48.70	53.25
41	19.85	28.15	30.85	34.75	39.25	43.55	49.80	54.45
42	20.20	28.70	31.50	35.45	40.10	44.45	50.90	55.70
43	20.55	29.30	32.15	36.20	40.95	45.40	51.95	56.90
44	20.95	29.85	32.75	36.90	41.75	46.35	53.05	58.10
45	21.30	30.40	33.40	37.65	42.60	47.30	54.15	59.30
46	21.65	31.00	34.05	38.35	43.45	48.25	55.25	60.50
47	22.00	31.55	34.65	39.10	44.25	49.20	56.35	61.70
48	22.40	32.10	35.30	39.80	45.10	50.10	57.45	62.90
49	22.75	32.70	35.90	40.55	45.95	51.05	58.55	64.15
50	23.10	33.25	36.55	41.25	46.80	52.00	59.60	65.35
51	23.50	33.80	37.20	42.00	47.60	52.95	60.70	66.55
52	23.85	34.35	37.80	42.70	48.45	53.90	61.80	67.75
53	24.20	34.95	38.45	43.45	49.30	54.80	62.90	68.95
54	24.55	35.50	39.10	44.15	50.15	55.75	64.00	70.15
55	24.95	36.05	39.70	44.90	50.95	56.70	65.10	71.40
56	25.30	36.65	40.35	45.60	51.80	57.65	66.20	72.60
57	25.65	37.20	41.00	46.35	52.65	58.60	67.30	73.80
58	26.00	37.75	41.60	47.10	53.50	59.55	68.35	75.00
59	26.40	38.35	42.25	47.80	54.30	60.45	69.45	76.20
60	26.75	38.90	42.85	48.55	55.15	61.40	70.55	77.40
61	27.10	39.45	43.50	49.25	56.00	62.35	71.65	78.60
62	27.45	40.05	44.15	50.00	56.80	63.30	72.75	79.85
63	27.85	40.60	44.75	50.70	57.65	64.25	73.85	81.05
64	28.20	41.15	45.40	51.45	58.50	65.15	74.95	82.25
65	28.50	41.75	46.05	52.15	59.35	66.10	76.00	83.45
66	28.90	42.30	46.65	52.90	60.15	67.05	77.10	84.65
67	29.30	42.85	47.30	53.60	61.00	68.00	78.20	85.85
68	29.65	43.45	47.95	54.35	61.85	68.95	79.30	87.10
69	30.00	44.00	48.55	55.05	62.70	69.85	80.40	88.30
70	30.35	44.55	49.20	55.80	63.50	70.80	81.50	89.50

Add: $5.60 for each pickup stop.

SCHEDULE F-4b.—Express Mail—Post Office to Post Office Service, Proposed Rates

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
1	7.20	7.20	7.20	7.20	7.20	7.20	7.20	7.20
2	7.20	7.20	7.20	7.20	7.20	7.20	7.20	7.20
3	9.45	9.45	9.45	9.45	9.45	9.45	9.45	9.45
4	9.45	9.45	9.45	9.45	9.45	9.45	9.45	9.45
5	9.45	9.45	9.45	9.45	9.45	9.45	9.45	9.45
6	9.75	10.10	10.20	10.30	10.45	10.55	10.70	10.90
7	10.05	10.70	10.95	11.20	11.40	11.60	11.90	12.35
8	10.30	11.35	11.70	12.05	12.40	12.70	13.15	13.80
9	10.60	12.00	12.50	12.90	13.35	13.80	14.35	15.25
10	10.90	12.65	13.25	13.80	14.35	14.85	15.60	16.70
11	11.20	13.25	14.00	14.65	15.35	15.95	16.85	18.10
12	11.45	13.90	14.75	15.50	16.30	17.05	18.05	19.55
13	11.75	14.55	15.50	16.35	17.30	18.10	19.30	21.00
14	12.05	15.20	16.25	17.25	18.25	19.20	20.55	22.45
15	12.35	15.80	17.05	18.10	19.25	20.30	21.75	23.90
16	12.60	16.45	17.80	18.95	20.25	21.35	23.00	25.35
17	12.90	17.10	18.55	19.85	21.20	22.45	24.20	26.80
18	13.20	17.75	19.30	20.70	22.20	23.55	25.45	28.25
19	13.50	18.35	20.05	21.55	23.15	24.65	26.70	29.70
20	13.75	19.00	20.80	22.45	24.15	25.70	27.90	31.15
21	14.05	19.65	21.60	23.30	25.15	26.80	29.15	32.55
22	14.35	20.30	22.35	24.15	26.10	27.90	30.40	34.00
23	14.65	20.90	23.10	25.00	27.10	28.95	31.60	35.45
24	14.90	21.55	23.85	25.90	28.05	30.05	32.85	36.90
25	15.20	22.20	24.60	26.75	29.05	31.15	34.05	38.35
26	15.50	22.85	25.35	27.60	30.05	32.20	35.30	39.80
27	15.80	23.45	26.15	28.50	31.00	33.30	36.55	41.25
28	16.05	24.10	26.90	29.35	32.00	34.40	37.75	42.70

SCHEDULE F-4b.—Express Mail—Post Office to Post Office Service, Proposed Rates—Continued

[Dollars]

Pounds	Zone							
	1 and 2	3	4	5	6	7	8	9
29	16.35	24.75	27.65	30.20	32.95	35.45	39.00	44.15
30	16.65	25.40	28.40	31.10	33.95	36.55	40.25	45.60
31	16.95	26.00	29.15	31.95	35.95	37.65	41.45	47.00
32	17.25	26.65	39.90	32.80	35.90	38.70	42.70	48.45
33	17.50	27.30	30.65	33.65	36.90	39.80	43.90	49.90
34	17.80	27.90	31.45	34.55	37.85	40.90	45.15	51.35
35	18.10	28.55	32.20	35.40	38.85	41.95	46.40	52.80
36	18.40	29.20	32.95	36.25	39.85	43.05	47.60	54.25
37	18.65	29.85	33.70	37.15	40.80	44.15	48.85	55.70
38	18.95	30.45	34.45	38.00	41.80	45.20	50.05	57.15
39	19.25	31.10	35.20	38.85	42.75	46.30	51.30	58.60
40	19.55	31.75	36.00	39.75	43.75	47.40	52.55	60.05
41	19.80	32.40	36.75	40.60	44.75	48.45	53.75	61.45
42	20.10	33.00	37.50	41.45	45.70	49.55	55.00	62.90
43	20.40	33.65	38.25	42.30	46.70	50.65	56.25	64.35
44	20.70	34.30	39.00	43.20	47.65	51.75	57.45	65.80
45	20.95	34.95	39.75	44.05	48.65	52.80	58.70	67.25
46	21.25	35.55	40.55	44.90	49.65	53.90	59.90	68.70
47	21.55	36.20	41.30	45.80	50.60	55.00	61.15	70.15
48	21.85	36.85	42.05	46.65	51.60	56.05	62.40	71.60
49	22.10	37.50	42.80	47.50	52.55	57.15	63.60	73.05
50	22.40	38.10	43.55	48.40	53.55	58.25	64.85	74.50
51	22.70	38.75	44.30	49.25	54.55	59.30	66.10	75.90
52	23.00	39.40	45.10	50.10	55.50	60.40	67.30	77.35
53	23.25	40.05	45.85	50.95	56.50	61.50	68.55	78.80
54	23.55	40.65	46.60	51.85	57.45	62.55	69.75	80.25
55	23.85	41.30	47.35	52.70	58.45	63.65	71.00	81.70
56	24.15	41.95	48.10	53.55	59.45	64.75	72.25	83.15
57	24.45	42.55	48.85	54.45	60.40	65.80	73.45	84.60
58	24.70	43.20	49.60	55.30	61.40	66.90	74.70	86.05
59	25.00	43.85	50.40	56.15	62.35	68.00	75.90	87.50
60	25.30	44.50	51.15	57.05	63.35	69.05	77.15	88.95
61	25.60	45.10	51.90	57.90	64.35	70.15	78.40	90.35
62	25.85	45.75	52.65	58.75	65.30	71.25	79.60	91.80
63	26.15	46.40	53.40	59.60	66.30	72.30	80.85	93.25
64	26.45	47.05	54.15	60.50	67.25	73.40	82.10	94.70
65	26.75	47.65	54.95	61.35	68.25	74.50	83.30	96.15
66	27.00	48.30	55.70	62.20	69.25	75.55	84.55	97.60
67	27.30	48.95	56.45	63.10	70.20	76.65	85.75	99.05
68	27.60	49.60	57.20	63.95	71.20	77.75	87.00	100.50
69	27.90	50.20	57.95	64.80	72.15	78.85	88.25	101.95
70	28.15	50.85	58.70	65.70	73.15	79.90	89.45	103.40

Add: $5.60 for each pickup stop.

SCHEDULE G-1.—SPECIAL SERVICE: ADDRESS CORRECTION

Description	Fees	
	Current	Proposed
Per Piece	$0.25	$0.30

SCHEDULE G-2.—SPECIAL SERVICE: CERTIFICATES OF MAILING

Description	Fees (in addition to postage)	
	Current	Proposed
Individual Pieces:		
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.40	$0.45
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	.40	.15
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified and C.O.D. mail (each copy)	.40	.45
Bulk Pieces:		
Identical pieces of first- and third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:		

SCHEDULE G-2.—SPECIAL SERVICE: CERTIFICATES OF MAILING—Continued

Description	Fees (in addition to postage)	
	Current	Proposed
Up to 1,000 pieces (1 certificate for total number)	1.35	1.60
Each additional 1,000 pieces or fraction	.15	.20
Duplicate copy	.40	.45

SCHEDULE G-3.—SPECIAL SERVICE: CERTIFIED MAIL

Description	Fees (in addition to postage)	
	Current	Proposed
Per Piece	$0.75	$0.85

SCHEDULE G-4.—SPECIAL SERVICE: COLLECTION ON DELIVERY MAIL

Amount to be collected or insurance coverage desired	Fees (in addition to postage)	
	Current	Proposed
$0.01 to $10	$1.20	1.50
10.01 to 25	1.50	1.50
25.01 to 50	1.80	1.80

SCHEDULE G-4.—SPECIAL SERVICE: COLLECTION ON DELIVERY MAIL—Continued

Amount to be collected or insurance coverage desired	Fees (in addition to postage)	
	Current	Proposed
50.01 to 100	2.15	2.10
100.01 to 200	2.55	2.40
200.01 to 300	3.00	3.00
300.01 to 400	3.60	3.70
400.01 to 500		4.70
Notice of nondelivery of C.O.D.	1.10	1.25
Alteration of C.O.D. charges or designation of new addressee	1.10	1.25
Registered C.O.D.	1.20	1.50

SCHEDULE G-5.—SPECIAL SERVICE: BUSINESS REPLY

Description	Fee	
	Current (cents)	Proposed (cents)
Business Reply: [1]		
With advance deposit account	5	7
Without advance deposit account	18	25

[1] Rates are applied on a per-piece basis in addition to regular First-Class postage. Currently, a fee of $40 must be paid to each calendar year for each business reply permit. The proposed fee is $50. An accounting charge of $75 must be paid once each calendar year for each business reply advance deposit account. The proposed fee is $160.

SCHEDULE G-6.—SPECIAL SERVICE: INSURED MAIL

Liability	Fees (domestic) (in addition to postage)	
	Current	Proposed
$0.01 to $25[1]	$0.45	$0.50
25.01 to $50	0.85	1.10
50.01 to $100	1.25	1.50
100.01 to $150	1.70	2.10
150.01 to $200	2.05	2.10
200.01 to $300	3.45	3.00
300.01 to $400	4.70	3.70
400.01 to $500		4.40

[1] Current maximum is $20.

A. Rental Rates for Post Office Boxes

SCHEDULE G-7.—SPECIAL SERVICES: POST OFFICE BOX/CALLER SERVICE

Cubic inch capacity of lockboxes	Fee per Semiannual Period				
	Less than 266	[1] 266 to	500 to	1,000 to	2,000 and over
Box Size	1	2	3	5	5
Group I:					
Current	$10.00	$13.00	$22.50	$34.50	$51.00
Proposed	11.00	16.00	29.00	44.00	69.00
Group II:					
Current	2.50	3.50	5.50	8.50	13.00
Proposed	3.00	4.00	7.00	11.00	17.00
Group III:					
Current	1.00	1.00	1.00	1.00	1.00
Proposed	1.00	1.00	1.00	1.00	1.00

B. Caller Service

Description	Fees	
	Current	Proposed
For caller service (semiannual)	$95	$130
For each reserved call number (annual)	10	15

[1] Proposed minimum size for the number 2 box is 296 inches.

SCHEDULE G-8.—SPECIAL SERVICE: ON-SITE METER SETTING

Description	Fees	
	Current	Proposed
Meter Company Adjustments	$8.50	$10.00
All Other Meter Settings:		
First meter:		
By appointment	14.00	17.00
Unscheduled request	16.00	19.00
Additional meters (each)	4.00	4.00

SCHEDULE G-9.—SPECIAL SERVICE: MONEY ORDERS

Amount	Fees (domestic)	
	Current	Proposed
$0.01 to $25	$0.75	$1.00
25.01 to 50	1.10	1.00
50.01 to 500	1.55	1.00

SCHEDULE G-9.—SPECIAL SERVICE: MONEY ORDERS—Continued

Amount	Fees (domestic)	
	Current	Proposed
APO-FPO:		
$0.01 to $500	25	.25
Inquiry fee, which includes the issuance of copy of a paid money order	[1] 30	1.40

[1] Previous fee covered only the issuance of copy of a paid money order.

SCHEDULE G-10.—SPECIAL SERVICE: PARCEL AIRLIFT MAIL

Description	Fees (in addition to postabe)	
	Current	Proposed
Up to 2 pounds	$0.30	$0.30
Over 2 but not exceeding 3 pounds	.60	.60
Over 3 but not exceeding 4 pounds	.90	.90
Over 4 pounds	1.20	1.20

SCHEDULE G-11.—SPECIAL SERVICE: PERMIT-IMPRINT FEE

Description	Fee	
	Current	Proposed
Per permit (one time only)	$40.00	$50.00

SCHEDULE G-12a.—SPECIAL SERVICE: REGISTERED MAIL

Value	Current fees (in addition to postage)	
	For articles covered by insurance (fees)	For articles not covered by insurance (fees)
$0.00 to $100	$3.30	$3.25
100.01 to 500	3.60	3.55
500.01 to 1,000	3.90	3.85
1,000.01 to 2,000	4.20	4.10
2,000.01 to 3,000	4.50	4.35
3,000.01 to 4,000	4.80	4.60
4,000.01 to 5,000	5.10	4.85
5,000.01 to 6,000	5.40	5.10
6,000.01 to 7,000	5.70	5.35
7,000.01 to 8,000	6.00	5.60
8,000.01 to 9,000	6.30	5.85
9,000.01 to 10,000	6.60	6.10
10,000.01 to 11,000	6.90	6.35
11,000.01 to 12,000	7.20	6.60
12,000.01 to 13,000	7.50	6.85
13,000.01 to 14,000	7.80	7.10
14,000.01 to 15,000	8.10	7.35
15,000.01 to 16,000	8.40	7.60
16,000.01 to 17,000	8.70	7.85
17,000.01 to 18,000	9.00	8.10
18,000.01 to 19,000	9.30	8.35
19,000.01 to 20,000	9.60	8.60
20,000.01 to 21,000	9.90	8.85
21,000.01 to 22,000	10.20	9.10
22,000.01 to 23,000	10.50	9.35
23,000.01 to 24,000	10.80	9.60
24,000.01 to 25,000	11.10	9.85
25,000 to 1,000,000	[1] 11.10	[1] 9.85
1,000,000 to 15,000,000	[2] 254.85	[2] 253.60
Over $15,000,000	[3]	[3]

[1] Plus handling charge of 25 cents per $1,000 or fraction over first $25,000.
[2] Plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.
[3] Additional charges may be made based on considerations of weight, space and value.

SCHEDULE G-12B.—SPECIAL SERVICE: REGISTERED MAIL

Value	Proposed fees (in addition to postage)	
	For articles covered by insurance (fees)	For articles not covered by insurance (fees)
$0.00 to $100	$3.75	$3.70
100.01 to 500	4.20	4.10
500.01 to 1,000	4.20	4.10
1,000.01 to 2,000	4.75	4.55
2,000.01 to 3,000	5.10	4.80
3,000.01 to 4,000	5.45	5.05
4,000.01 to 5,000	5.80	5.30
5,000.01 to 6,000	6.15	5.55
6,000.01 to 7,000	6.50	5.80
7,000.01 to 8,000	6.85	6.05
8,000.01 to 9,000	7.20	6.30
9,000.01 to 10,000	7.55	6.55
10,000.01 to 11,000	7.90	6.80
11,000.01 to 12,000	8.25	7.05
12,000.01 to 13,000	8.60	7.30
13,000.01 to 14,000	8.95	7.55
14,000.01 to 15,000	9.30	7.80
15,000.01 to 16,000	9.65	8.05
16,000.01 to 17,000	10.00	8.30
17,000.01 to 18,000	10.35	8.55
18,000.01 to 19,000	10.70	8.80
19,000.01 to 20,000	11.05	9.05
20,000.01 to 21,000	11.40	9.30
21,000.01 to 22,000	11.75	9.55
22,000.01 to 23,000	12.10	9.80
23,000.01 to 24,000	12.45	10.05
24,000.01 to 25,000	12.80	10.30
25,000.01 to 1,000,000	[1] 12.80	[1] 10.30
1,000,000.01 to 15,000,000	[2] 256.55	[2] 254.05
Over $15,000,000	[3]	[3]

[1] Plus handling charge of 25 cents per $1,000 or fraction over first $25,000.
[2] Plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.
[3] Additional charges may be made based on considerations of weight, space and value.

SCHEDULE G-13.—SPECIAL SERVICE: RESTRICTED DELIVERY

Description	Fees (in addition to postage)	
	Current	Proposed
Per piece	$1.00	$1.50

SCHEDULE G-14.—SPECIAL SERVICES: RETURN RECEIPTS

Description	Fees (in addition to postage)	
	Current	Proposed
Requested at time of mailing:		
Showing to whom (signature) and date delivered	$0.60	$0.80
Showing to whom (signature) and date and address where delivered	.70	1.00
Requested after mailing:		
Showing to whom and date delivered	3.75	5.00

SCHEDULE G-15.—SPECIAL SERVICE: SECOND-CLASS MAILING APPLICATIONS

Type	Fee (one time only)	
	Current	Proposed
Original Entry	$160.00	$220.00
News Agent	30.00	35.00
Reentry	30.00	35.00
Additional Entry	50.00	60.00

SCHEDULE G-16.—SPECIAL SERVICE: SPECIAL DELIVERY

Class/weight	Fees (in addition to postage)	
	Current	Proposed
First-class and priority mail:		
Not more than 2 pounds	$2.10	$2.85
More than 2 pounds but not more than 10 pounds	2.35	2.85
More than 10 pounds	3.00	4.00
All other classes:		
Not more than 2 pounds	2.35	3.20
More than 2 pounds but not more than 10 pounds	3.00	3.20
More than 10 pounds	3.40	4.50

SCHEDULE G-17.—SPECIAL SERVICE: SPECIAL HANDLING

Weight	Fees (in addition to postage)	
	Current	Proposed
Not more than 10 pounds	$0.75	$1.10
More than 10 pounds	1.30	1.60

SCHEDULE G-18.—SPECIAL SERVICE: STAMPED ENVELOPES

Type	Fees (in addition to postage)	
	Current	Proposed
Single Sale	$0.04	$0.05
Bulk (500) #6¾ size:		
Regular	5.85	6.40
Window	6.35	7.00
Precanceled	5.85	6.40
Bulk (500) #10 size:		
Regular	6.85	8.40
Window	7.35	9.00
Precanceled	6.85	8.40
Printing charge per 500 envelopes:		
Minimum Order (500 envelopes)	3.00	3.50
Orders for 1,000 or more Envelopes	3.00	3.50

SCHEDULE G-19.—SPECIAL SERVICE: ZIP CODING OF MAILING LISTS

Description	Fee	
	Current	Proposed
Per 1,000 addresses	$33.00	$36.00

SCHEDULE G-20.—SPECIAL SERVICE: CORRECTION OF MAILING LIST

Description	Fee	
	Current	Proposed
Per submitted address[1]	$0.13	$0.15

[1] Current description is: "Per correction of address."

SCHEDULE G-21.—ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS

Description	Fee	
	Current	Proposed
Per change of address	$0.13	$0.15

RATE SCHEDULE G-22.—MAILING LIST SERVICES

	Fee	
	Current (cents)	Proposed (cents)
Corrections associated with arrangement of address cards in sequence of carrier delivery:		
Per correction	10	15

When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

RATE SCHEDULE G-23.—MERCHANDISE RETURN

	Fee	
	Current (cents)	Proposed (cents)
Per transaction	20	30

Shipper must have an advance deposit account.

RATE SCHEDULE 1000.—FEES

	Fee	
	Current (dollars)	Proposed (dollars)
First-class mailing fees:		
E-COM annual fee	50	50
Merchandise Return:		
(Per facility receiving merchandise return labels)	40	50

[FR Doc. 83-31434 Filed 11-23-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 14, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

American General
Series B Preferred (File No. 7-7208)
EDO Corp.
Common Stock, $1 Par Value (File No. 7-7209)
Gulfstream Aerospace Corporation
Common Stock, $.10 Par Value (File No. 7-7210)
Meenan Oil Co.
Common Stock, $1 Par Value (File No. 7-7211)
PSA, Inc.
Convertible Preferred Common Stock (File No. 7-7212)
Quick & Reilly Group
Common Stock, $.10 Par Value (File No. 7-7213)
Syms Corp.
Common Stock, $.05 Par Value (File No. 7-7214)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 9, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31654 Filed 11-23-83; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 17, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Carrols Corporation
Common Stock, $.10 Par Value (File No. 7-7197)
Hesston Corporation
Common Stock, $2 Par Value (File No. 7-7198)
Asamera Inc.
Common Stock, No Par Value (File No. 7-7199)
Designcraft Industries, Inc.
Common Stock, $.02 Par Value (File No. 7-7200)
Guilford Mills, Inc.
Common Stock, $.02 Par Value (File No. 7-7201)
Standard Products Company (The)
Common Stock, $1 Par Value (File No. 7-7202)

Integrity Entertainment Inc.
Common Stock, $.01 Par Value (File No. 7-7203)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 9, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31652 Filed 11-23-83 8:45 am]

BILLING CODE 8010-01-M

[Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 17, 1983.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Northwestern Steel and Wire Company (DE)
Common Stock, $5 Par Value (File No. 7-7215)
Americus Trust
Units, Series A (File No. 7-7216)
Americus Trust
Prime, Series A (File No. 7-7217)
Americus Trust
Score, Series A (File No. 7-7218)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 9, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31653 Filed 11-23-83; 8:45 am]

BILLING CODE 8010-01-M

Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

AGENCY: Securities and Exchange Commission.

ACTION: Listing of personnel serving as members of this agency's senior executive service performance review board and announcement of schedule for awarding bonuses.

SUMMARY: Public Law 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. George G. Kundahl, Executive Director, PRB Chairman;

2. Daniel L. Goelzer, General Counsel;

3. John S. Daniels, Executive Assistant to the Chairman.

Subject to the Office of Personnel Management's approval of the distribution pattern of bonus awards, the Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Kellerman, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 (202-272-2705).

November 17, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31651 Filed 11-23-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 884]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting its January-September, 1983 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

Dated: October 14, 1983.

Kevin E. Carroll,

Director, Office of International Conferences.

United States delegation to the Second Asia Pacific Regional Air Navigation Meeting of the International Civil Aviation Organization (ICAO) Singapore, January 11-29, 1983

Delegate

James R. Nelson, United States Members of the ICAO Air Navigation Commission, Montreal, Canada

Alternate Delegates

John Davies, National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce

Romney E. Pattison, Office of International Aviation, Federal Aviation Administration, Department of Transportation

Willard Reazin, Air Traffic Service, Federal Aviation Administration, Department of Transportation

William Titus, Office of Development and Logistics, Federal Aviation Administration, Department of Transportation

Adviser

Harold H. Sherrard, Department of the Air Force, Honolulu, Hawaii

Private Sector Adviser

Lawrence E. Gillespie, Air Transport Association of America, Washington, D.C.

United States Delegation to the 28th Session of the Subcommittee on Ship Design and Equipment, Intergovernmental Maritime Organization (IMO), London, February 28–March 4, 1983

Representative
Arthur E. Henn, Captain, Office of merchant Marine Safety, United States Coast Guard, Department of Transportation

Alternate Representative
John C. Maxham, Commander, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers
Harvey Clew, Shipping Attache, United States Embassy, London
Eugene J. Holler, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
John S. Spencer, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Private Sector Advisers
Harris Knecht, Zapata Offshore, Houston, Texas
William A. Mayberry, Captain, USG (Ret.), Offshore Marine Service Association, New Orleans, Louisiana

United States Delegation to the Intergovernmental Group on Oilseeds, Fats, and its Statistical Sub-Group, Food and Agriculture Organization (FAO), Rome, February 28–March 4, 1983

Representative
Beverly Simmons, Oilseeds and Products Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative
George J. Dietz, Office of FAO Affairs, United States Embassy, Rome

Private Sector Advisor
Shelton Hauck, National Soybean Processors Association, Washington, D.C.

United States Delegation to the 50th Session of the Legal Committee, International Maritime Organization (IMO), London, March 7–11, 1983

Representative
Frederick E. Burgess, Jr., Captain, Chief, Maritime and International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Alternate Representative
Frederick D. Presley, Maritime and International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Congressional Staff Adviser
Rudolph V. Cassani, Counsel, Subcommittee on Merchant Marine, Committee on Marchant Marine and Fisheries, United States House of Representative

Advisers
Robert Blumberg, Attorney Adviser, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Harvey Clew, Shipping Attache, United States Embassy, London
Charles R. Corbett, Captain, Chief, Environmental Response Division, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation

Private Sector Advisers
Ernest J. Corrado, Vice President, American Institute of Merchant Shipping, Washington, D.C.
Sidney A. Wallace, Rear Admiral (Ret.), Marine Ecology Committee, Maritime Law Association, Washington, D.C.

United States Delegation to the 20th Meeting of the North Atlantic Systems Planning Group, International Civil Aviation Organization (ICAO), Paris, March 14–25, 1983

Representative
John Matt, Office of International Aviation, Federal Aviation administration

Advisers
Allen C. Busch, Technical Center, Federal Aviation Administration, Atlantic City, New Jersey
Howard Rubenstein, Air Traffic Service, Federal Aviation Administration

Private Sector Adviser
Richard Covell, Aeronautical Radio Incorporated, Annapolis, Maryland

United States Delegation to the Working Party of the Maritime Mobile Service (SMM); Consultative Committee of the International Telephone and Telegraph International Telecommunication Union (CCITT/ITU), Geneva, March 22–25, 1983

Representative
Earl S. Barbely, Federal Communications commission, Washington, D.C.

Private Sector Advisers
Edward R. Slack, Communications Satellite Corporation, Washington, D.C.
John Klotsche, RCA Global Communications, New York, New York
Edward Robinson, AT&T Bedminster, New Jersey
Roger Hubbell, Mobile Maritime Marine, Mobile, Alabama

United States Delegation to the Working Party of the World Plan Committee, Consultative Committee of the International Telephone and Telegraph International Telecommunication Union (CCITT/ITU) Geneva, March 23–25, 1983

Representative
William J. Lowell, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Adviser
George Li, Common Carrier Bureau, Federal Communications Commission

Private Sector Adviser
Cecil R. Crump, American Telephone and Telegraph Company, Bedminster, New Jersey

United States Delegation to the Steel Committee Working Party, Organization for Economic Cooperation and Development (OECD) Paris, April 11–12, 1983

Representative
Donald Darroch, Director, Office of Basic Industries, Department of Commerce

Adviser
Jorge Perez Lopez, Bureau of International Labor Affairs, Department of Labor

Private Sector Advisers
Frank Fenton, Vice President, American Iron and Steel Institute, Washington, D.C.
Peter Mulloney, Vice President, United States Steel Company, Pittsburgh, Pennsylvania
John Sheehan, Director, Legislative Department, United Steel Workers of America, Washington, D.C.

United States Delegation to the 16th Session of the Subcommittee on Standards of Training and Watchkeeping, International Maritime Organization (IMO), London, April 18–22, 1983

Representative
Richard A. Sutherland, Captain, Chief, Merchant Vessel Personnel Division, United States Coast Guard, Department of Transportation

Alternate Representative
John J. Hartke, III, Merchant Vessel Personnel Division Staff, United States Coast Guard, Department of Transportation

Advisers
Harvey Clew, Shipping Attache, United States Embassy, London
Arthur W. Freidberg, Director, Office of Maritime Labor and Training, Maritime Administration, Department of Transportation

George N. Naccara, Lieutenant Commander, Chief, Personnel Qualifications Branch, Merchant Vessel Personnel Division, United States Coast Guard, Department of Transportation

Private Sector Adviser

John Fay, Seafarers International Union of North America, AFL–CIO, New York, New York

United States Delegation to the Spring Session, Committee on Disarmament (CD), Geneva, February 2–April 23, 1982

Representative

The Honorable Louis G. Fields, Ambassador, Arms Control and Disarmament Agency

Alternate Representative

Morris D. Busby, Arms Control and Disarmament Agency

Advisers

Susan Burk, Office of the Under Secretary of Defense, Department of Defense

Pierce S. Corden (February 18–March 2), Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Katharine Crittenberger, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Jon Gunderson (February 2–26), Office of United Nations Political Affairs, Bureau of International Organization Affairs, Department of State

James J. Hogan, Col., USAF (March 8–April 20), Joint Chiefs of Staff, Department of Defense

Mary Elizabeth Hoinkes (March 31–April 23), Deputy Assistant Director, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

John P. Leonard (February 2–28), Multilateral Affairs Bureau, Arms Control and Disarmament Agency

John Martin (March 1–April 10), Office of United Nations Political Affairs, Bureau of International Organization Affairs, Department of State

Robert Mikulak (March 7–28), Multilateral Affairs Bureau, Arms Control and Disarmament Agency

John Miskel, Department of Energy

Rogert F. Scott, Col., USMC (February 2–March 8), Joint Chiefs of Staff, Department of Defense

Laural M. Shea (February 2–13), Multilateral Affairs Bureau, Arms Control and Disarmament Agency

United States Delegation to the Committee on Disarmament Spring Session Geneva, February 1–April 29, 1983

Representative

The Honorable, Louis G. Fields, Ambassador, U.S. Representative to the Committee, on Disarmament

Alternate Representative

Morris D. Busby, Arms Control and Disarmament Agency

Advisers

Harold L. Brown, II, Colonel, USA, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Herert L. Calhoun, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Pierce S. Corden, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Katharine Crittenberger, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

Warren Heckrotte, Department of Energy

James J. Hogan, Colonel, USAF, Joint Chiefs of Staff, Department of Defense

John Martin, Office of United Nations Political Affairs Bureau of International Organization Affairs, Department of State

Michael McDonald, Office of the Under Secretary of Defense, Department of Defense

Robert Mikulak, Multilateral Affairs Bureau, Arms Control and Disarmament Agency

United States Delegation to the Joint Meeting of the Permanent Technical Committees II and III of the Inter-American Telecommunication Commission (CITEL), of the Organization of American States (OAS), Lima, Peru, April 25–29, 1983

Representative

William H. Jahn, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Advisers

Lewis C. Bradley, Spectrum Plans and Policies, National Telecommunications and Information Administration, Department of Commerce

Edward Jacobs, Acting Chief, International Staff, Office of Science and Technology, Federal Communications Commission

Edward F. Miller, National Aeronautics and Space Administration

Private Sector Advisers

Edward E. Reinhardt, Satellite Television Corporation

Ronald F. Stowe, Satellite Business Systems

United States Delegation to the Committee on International Investment and Multinational Enterprises (CIME), Working Group on the Guidelines Organization for Economic Cooperation and Development (OECD), Paris, May 30–June 1, 1983

Representative

John T. McCarthy, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State

Private Sector Adviser

Richard L. Rowman, Warton School of Finance, University of Pennsylvania, Philadelphia, Pennsylvania

United States Delegation to the First Meeting of the Panel of Experts on Route Facility Costs, International Civil Aviation Organization (ICAO) Montreal, June 6–10, 1983

Member

Harvey B. Safeer, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, Department of Transportation

Adviser

C. Corneilia Reshard, Office of International Policy Programs, Office of the Secretary, Department of Transportation

Private Sector Adviser

William M. Hawkins, Vice President, Air Transport Association, Washington, D.C.

United States Delegation to the 48th and Expanded Session of the Maritime Safety Committee, International Maritime Organization (IMO), London, June 6–17, 1983

Representative

Clyde T. Lusk, Jr., Rear Admiral, Chief, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Alternate Represenative

Daniel F. Sheehan, Technical Adviser, Officer of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers

Donald J. Kerlin, Chief, Fire Protection Section, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Robert Markle, Acting Chief, Survival System Branch, Merchant Vessel Inspection Division, United States Coast Guard, Department of Transportation

Gerard P. Yoest, International Affairs Staff, United States Coast Guard, Department of Transportation

Private Sector Advisers

John Fay, Assistant Secretary Treasurer, Seafarers International Union of North America, AFL–CIO, New York, New York

William Hannan, Vice President, American Bureau of Shipping, New York, New York

Donald C. Hintze, Executive Consultant, National Ocean Industries Association, Washington, D.C.
Edward H. Middleton, Technical Adviser, Maritime Institute for Research and Industrial Development, Washington, D.C.

United States Delegation to the Sixth Session of the United Nations, Conference on Trade and Development (UNCTAD VI), Belgrade, June 6–30, 1983

Ministerial Representative
The Honorable Kenneth W. Dam, Deputy Secretary of State

Representative
Gordon L. Streeb, Deputy Assistant Secretary, International Economic and Social Affairs, Bureau of International Organization Affairs, Department of State

Alternate Representatives
The Honorable Geoffrey Swaebe, Ambassador, United States Mission to the European Office of the United Nations and other International Organizations, Geneva
Robert Brungart, Deputy Chief of Mission, U.S. Mission to the Organization for Economic Cooperation and Development, Paris

Special Advisers
The Honorable David Anderson, Ambassador to Yougoslavia
Henry Nau, Director for International Economic Affairs, National Security Council

Advisers
Peter Allgeier, Deputy Assistant, U.S. Trade Representative, Office of the U.S. Trade Representative, Executive Office of the President
Martin Bailey, Special Assistant to the Under Secretary for Economic Affairs, Department of State
Manuel Barrera, Office International Trade, Bureau of Economic and Business Affairs, Department of State
Adrian Basora, Director, Office of Finance, Bureau of Economic and Business Affairs, Department of State
Jon Berlin, United States Mission, Geneva
Alice Dress, Office of the Assistant Secretary for International Affairs, Department of the Treasury
Charles English, Office of Development Finance, Bureau of Economic and Business Affairs, Department of State
Kenneth Kaufman, United States Representative to the Development Assistance Committee, OECD, Paris
William E. Kost, International Economics Division, Economic Research Service, Department of Agriculture
Frederick McEldowney, Office of the U.S. Trade Represenative, Geneva
Partick J. Nichols, U.S. Embassy, Belgrade
Russell O. Prickett, U.S. Embassy, Belgrade
I. Lee Sanders, Director, Office of International Economic Policy, Bureau of International Organization Affairs, Department of State
Judith Sever, Director, International Organizations Division, Department of Commerce
J. Michael Shelton, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State
John St. John, United States Mission, Geneva

Private Sector Adviser
Alpheus William Jessup, Washington Representative of the United States Council for International Business, Washington, D.C.

United States Delegation to the Commodities: International Wheat Council and Conference, London, June 28–July 1, 1983

Representative
Donald Novotny, Director, Grain and Feed Division, Foreign Agricultural Service Department of Agriculture

Alternate Representative
Donald F. Hart, Acting Deputy Assistant Secretary for International Resources and Food Policy, Department of State

Advisers
Michael Goldman, Acting Director, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State
Cleveland Marsh, U.S. Embassy, London

Private Sector Adviser
Winston Wilson, President, U.S. Wheat Associates, Washington, D.C.

United States Delegation to the Commodities: International Coffee Organization Executive Board Meeting, London, August 3–5, 1983

Representative
Anthony Wallace, U.S. Embassy, London

Private Sector Advisers
Andrew Scholtz, President, Scholtz and Company, New York, New York
Marvin H. Schur, President, J. Aron and Company, Inc., New York, New York

United States Delegation to the Anarctica: Commission for the Conservation of Antarctic Marine Living Resources, Hobart, Tasmania, August 29–September 9, 1983

Representative
R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers
Robert Hofman, Senior Scientific Adviser, Marine Mammal Commission
Alan Ryan, Office of International Fisheries Affairs, National Marine Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce
Joy Yanagida, Office of the Legal Adviser, Department of State

Private Sector Adviser
William Y. Brown, Environmental Defense Fund, Washington, D.C.

United States Delegation to the Study Group for Transmission of Broadcasting Signals Over Long Distances (CMTT), International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, August 29–September 13, 1983

Representative
Joseph M. McNulty, Staff Manager, American Telephone and Telegraph Company, Basking Ridge, New Jersey

Alternate Representative
Neal K. McNaughten, International Staff, Office of Science and Technology, Federal Communications Commission

Private Sector Advisers
Abraham Goldberg, Manager, Digital Television, CBS Technology Center, CBS, Inc., Stamford, Connecticut
John J. McGrath, Staff Engineer, World Systems Operations, Communications Satellite Corporation, Washington, D.C.
Charles Rhodes, Scientific-Atlantic Corporation, Atlanta, Georgia
John Serafin, Manager, TV Quality Control, Broadcast Operations, American Broadcasting Company, New York, New York
P. R. Wickliffe, Supervisor, Broadcast Systems Group, Bell Telephone Laboratories, Holmdel, New Jersey
Roman Zaputowycz, Director, Communication Systems, Western Union Telegraph Company, Upper Saddle River, New Jersey

United States Delegation to the 26th Session of the Subcommittee on Radiocommunications, International Maritime Organization (IMO), London, September 12–16, 1983

Representative
Marshall E. Gilbert, Captain, Chief, Plans and Policy Division, United States Coast Guard, Department of Transportation

Alternate Representative
Richard L. Swanson, Marine Radio Policy Branch, United States Coast Guard, Department of Transportation

Advisers
Harvey Clew, Shipping Attache, United States Embassy, London
Gordon F. Hempton, Private Radio Bureau, Federal Communications Commission
Robert C. McIntyre, Engineer, Federal Communications Commission
Private Sector Advisers
Charles Dorian, Communications Satellite Corporation, Washington, D.C.
John Fuechsel, Telecommunications Director, National Ocean Industries Association, Washington, D.C.
Ed M. James, Manager, Arco Marine, Inc., Long Beach, California
Harvey Strichartz, Technical Director, American Radio Association, AFL-CIO, New York, New York

United States Delegation to the 51st Session of the Legal Committee, International Maritime Organization (IMO), London, September 19–23, 1983

Representative
Frederick F. Burgess, Captain, Office of the Chief Counsel, United States Coast Guard, Department of Transportation
Alternate Representatives
Robert Blumberg, Attorney Adviser, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Frederick D. Presley, Office of the Chief Counsel, United States Coast Guard, Department of Transportation
Congressional Staff Advisers
Brooks Bowen, Minority Counsel, Committee on Merchant Marine and Fisheries, United States House of Representatives
James S. W. Drewry, Committee on Commerce, Science and Transportation, United States Senate
Duncan Smith, Minority Counsel, Subcommittee on Coast Guard and Navigation, United States House of Representatives
Advisers
Harvey Clew, Shipping Attache, United States Embassy, London
Charles R. Corbett, Captain, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation
Geoffrey Greiveldinger, Office of the Legal Adviser, Department of State
Private Sector Advisers
Ernest J. Corrado, Vice President, American Institute of Merchant Shipping, Washington, D.C.
Clifton Curtis, Center for Law and Social Policy, Washington, D.C.
Sidney A. Wallace, Rear Admiral (Ret.), Chairman, Marine Ecology Committee, Maritime Law Association, Washington, D.C.

United States Delegation to the 12th Antarctic Treaty Consultative Meeting, Canberra, Australia, September 13–27, 1983

Representative
R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Envoronmental and Scientific Affairs, Department of State
Advisers
Joseph Bennett, Division of Polar Programs, National Science Foundation
William brewer, Director, International Affairs, National Oceanic and Atmospheric Administration, Department of Commerce
Michael Danaher, Office of the Legal Adviser, Department of State
John Raymond, Arms Control and Disarmament Agency
John B. Rigg, Assistant Director, Offshore Minerals Management, Minerals Management Service, Department of the Interior
Private Sector Adviser
Lee Kimball, International Institute for Environment and Development, Washington, D.C.

United States Delegation to the Commodities: International Coffee Organization (ICO) Council Session, London, September 19–30, 1983

Representative
Donald M. Phillips, Director for Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President
Alternate Representative
Melvin Harrison, U.S. Embassy, London
Advisers
Ralph Ives, International Resources Division, Department of Commerce
Stephen Muller, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State
Private Sector Advisers
September 19–24, 1983
Kenneth R. Dunnivant, Vice President, The Folger Coffee Company, Cincinnati, Ohio
Paul J. Keating, Director, General Foods Corporation, New York, New York
Edward Rosen, President, ACLI Coffee Company, White Plains, New York
Andrew Scholtz, President, Scholtz & Company, Inc., New York, New York
Marvin H. Schur, President, J. Aron & Company, Inc., New York, New York
September 26–30, 1983
George E. Boecklin, President, National Coffee Association, New York, New York
John C. Buckley, Vice President, Purchasing, The Nestle Company, Inc., White Plains, New York
Vincent J. Diez, President, Machado & Company, Inc., New York, New York
H. Grady Tiller, president of the Coffee Unit, Coca-Cola Company, Houston, Texas

United States Delegation to the International Oil Pollution Compensation Fund, Executive Committee and Assembly Meetings, Intergovernmental Maritime Organization (IMO), London, September 26–30, 1983

Principal Observer
Bobby F. Holligsworth, Rear Admiral, Chief, Office of Marine Enviroment and Systems, United States Coast Guard, Department of Transportation
Advisers
Robert Blumberg, Attorney Adviser, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Frederick F. Burgess, Captain, Chief, Maritime and International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation
Harvey Clew, Shipping Attache, United States Embassy, London
Private Sector Adviser
Sidney A. Wallce, Rear Admiral (Ret.), Deputy Chairman, Marine Ecology Committee, Maritime Law Association

United States Delegation to the Committee on International Investment and Multinational Enterprises (CIME), Working Group on the Guidelines, Organization for Economic Cooperation and Development (OECD), Paris, September 12–13, 1983

Representative
Philip T. Lincoln, Jr., Acting Director, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State
Private Sector Adviser
Richard Rowan, Wharton School of Finance, University of Pennsylvania, Philadelphia, Pennsylvania

United States Delegation to the Meeting of Study Group 11 of the International Telecommunication Union (ITU), Geneva, September 13–30, 1983

Representative
Neal K. McNaughten, International Staff, Office of Science and Technology, Federal Communications Commission
Private Sector Advisers
Leroy E. DeMarsh, Research Associate, Eastman Kodak, Rochester, New York

Abraham Goldberg, Manager, Digital Television, CBS, Technology Center, Stamford, Connecticut
Richard Green, National Association of Broadcasters, Washington, D.C.
Martin H. Meaney, Director, Allocations Engineering, National Broadcasting Company, Inc., New York, New York
Robert A. O'Connor, Director, Transmission Engineering, CBS Television Network, CBS, Inc., New York, New York
Kerns Powers, Staff Vice President, Communications Research, RCA Laboratories, RCA Corporation, Princeton, New Jersey
Charles Rhodes, Scientific-Atlanta Corporation, Atlanta, Georgia
John Serafin, Manager, TV Quality Control, Broadcast Operations, American Broadcasting Company, New York, New York

United States Delegation to the Meeting of Study Group 10 of the International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU) Geneva, September 13–30, 1983

Representative
Neal K. McNaughten, International Staff, Office of Science and Technology, Federal Communications Commission

Advisers
Lewis L. Bradley, Engineer, Spectrum Plans and Policies, National Telecommunications and Information Administration, Department of Commerce
Bohdan Bulawka, Engineer, Spectrum Plans and Policies, National Telecommunications and Information Administration, Department of Commerce
Warren G. Richards, Chief, Frequency Utilization Branch, United States Information Agency

Private Sector Advisers
George Jacobs, Consultant, Board for International Broadcasting, Washington, D.C.
Emil L. Torick, Director, Audio Technology, CBS Technology Center, CBS, Inc., Stamford, Connecticut
Edmond A. Williams, Engineering Staff, National Association of Broadcasters, Washington, D.C.

United States Delegation to the International Sugar Negotiation Conference, United Nations Conference on Trade and Development (UNCTAD), Geneva, September 12–30, 1983

Representative
The Honorable Peter O. Murphy, Ambassador, Office of the U.S. Trade Representative, Geneva

Alternate Representative
Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Advisers
Charles W. Reynolds, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State
James A. Truran, Chief of the Sugar Group, Foreign Agricultural Service, Department of Agriculture
Anthony Wallace, U.S. Embassy, London

Private Sector Advisers

September 12–16
Walter Cornell, President, Westway Trading Corporation, Englewood Cliffs, New Jersey
Edward J. Neville, Sales manager, Colonial Sugars, Inc, Mobile, Alabama
Robert G. Owens, Buyer, Hershey Foods Corporation, Hershey, Pennsylvania
Eiler Ravnholt, Vice President, Hawaiian Sugar Planter's Association, Washington, D.C.
Don Wallace, President, Don Wallace Associates, Inc., Washington, D.C.

September 19–23
Charles Azarow, Vice Chairman, Finance & Marketing, Holly Sugar Corporation, Colorado Springs, Colorado
William P. Cleaver, Consultant, M. Golodetz & Company New York, New York
Joseph L. Fraites, Senior Vice President, Czarnikow-Rionda Trading Co. Inc., New York, New York
Francisco B. Pons, President, Atlantic Sugar Association, Belle Glade, Florida
Joel C. Williams, Jr., Attorney, Savannah Foods and Industries, Inc., Savannah, Georgia

September 26–30
Kim Badenhop, Partner, B. W. Dyer & Company, New York, New York
David Carter, President, U.S. Beet Sugar Association, Washington, D.C.
Horace Godfrey, President Godfrey Associates, Washington, D.C.
Ralph G. Kazi, Vice President, Czarnikow-Rionda Trading Co., Inc., New York, New York
Nicholas Kominus, President, United States Cane Sugar Refiners' Association, Washington, D.C.
Luther A. Markwart, Executive Vice President, American Sugar Beet Growers Association, Washington, D.C.
Hans B. Thorelli, Professor of Marketing, Indiana, Blooming, Indiana

United States Delegation to the Meeting of Study Groups 10 and 11 of the International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, September 13–30, 1983

Representative
Neal K. McNaughten, International Staff, Office of Science and Technology, Federal Communications Commission

Advisers
John W. Kiebler, Manager, Orbit and Spectrum Utilization Studies, National Aeronautics and Space Administration
John E. Miller, Program Manager, Office of Tracking and Data Acquisition, National Aeronautics and Space Administration
Wayne E. Whyte, Electronics Engineer, Technical Consultations Office, National Aeronautics and Space Administration, Cleveland, Ohio

Private Sector Advisers
Jack Kelleher, Consultant, Annandale, Virginia
George F. Knight, CBS Television Network, CBS, Inc., New York, New York
Michael W. Mitchell, Senior Regulatory Engineer, Satellite Business Systems, McLean, Virginia
Harley Radin, Vice President, Direct Broadcasting, Satellite Systems Engineering Company, Bethesda, Maryland
Edward E. Reinhart, Director, Spectrum Management, Satellite Television Corporation, Washington, D.C.
Peter Sawitz, Principal Scientist, Operations Research, Inc., Silver Spring, Maryland

United States Delegation to the Group of Experts on the Transport of Perishable Foodstuffs, 37th Session, Economic Commission for Europe (ECE), Geneva, October 11–15, 1983

Representative
Robert F. Guilfoy, Jr., Chief, Transportation and Packaging Research Branch, Office of Transportation, Department of Agriculture

Advisers
Anthony Cruit, Agricultural Counselor, United States Mission, Geneva
George Dempsey, United States Mission, Geneva

Private Sector Adviser
James L. Clark, American Maritime Association, Washington, D.C.

United States Delegation to the Timber Committee, 41st Session, Economic Commission for Europe (ECE), Geneva, October 10–14, 1983

Representative
Dwight Hair, Forest Resources Economics Research, Forest Service, Department of Agriculture

Alternate Representative
George Dempsey, United States Mission, Geneva

Private Sector Advisers
John Muench, Jr., Director of Economics, National Forest Products Association, Washington, D.C.
Louis O. Vargha, Director, International Planning, Weyerhaeuser Company, Tacoma, Washington

United States Delegation to the Chemical Industry Committee, Economic Commission for Europe (ECE), Geneva, October 4–7, 1983

Representative
Vincent J. Kamenicky, Director, Chemical and Rubber Division, Bureau of Industrial Economics, Department of Commerce

Private Sector Adviser
Myron Foveaux, Legislative Representative, International Trade, Chemical Manufacturers Association, Washington, D.C.

United States Delegation to the Group of Experts on the Transport of Perishable Foodstuffs, 37th Session, Economic Commission for Europe (ECE), Geneva, October 3–7, 1983

Representative
Robert F. Guilfoy, Jr., Chief, Transportation and Packaging Research Branch, Office of Transportation, Department of Agriculture

Advisers
Anthony Cruit, Agricultural Counselor, United State Mission, Geneva
George Dempsey, United State Mission, Geneva

Private Sector Adviser
James L. Clark, American Maritime Association, Washington, D.C.

United States Delegation to the Commodities: International Wheat Council and Food Aid Committee, London, June 30–July 1, 1983

Representative
Donald F. Hart, Acting Deputy Assistant Secretary for International Resources and Food Policy, Department of State

Alternate Representative
Michael Goldman, Acting Director, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Adviser
Cleveland Marsh, U.S. Embassy, London

Private Sector Adviser
Winston Wilson, President, U.S. Wheat Associates, Washington, D.C.

United States Delegation to Study Group 7, International Radio Consultative Committee, International Telecommunication Union (ITU/CCIR), Geneva, November 23–December 2, 1983

Delegate
Hugh S. Fosque, Director of Advanced Systems, Office of Space Tracking and Data Systems, National Aeronautic and Space Administration

Advisers
Roger E. Beehler, Chief, Time/Frequency Services, National Bureau of Standards, Department of Commerce, Boulder, Colorado
Harris Stover, Defense Communications Engineering Center, Defense Communications Agency, Reston, Virginia
Gernot M. R. Winkler, Director, Time Service Division, U.S. Naval Observatory, Washington, D.C.

Private Sector Advisers
Lauren J. Rueger, Head, Advanced Technology Planning Office, Space Department, Applied Physics Laboratory, The Johns Hopkins University, Laurel, Maryland
Richard L. Sydnor, Group Supervisor, Time and Frequency Systems Research, Telecommunications Science and Engineering Division, Jet Propulsion Laboratory, Pasadena, California

[FR Doc. 83-31607 Filed 11-23-83; 8:45 am]
BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Selection of Hearing Officers for Cases Involving the Transportation or Shipment by Air of Hazardous Materials

The Federal Aviation Administration (FAA) has been procuring by contract the services of licensed attorneys to act as Hearing Officers in proceedings conducted under Part 13 of the Federal Aviation Regulations. These proceedings are held in cases involving the transportation and shipment by air of hazardous material, aircraft registration, and certain final orders issued by FAA. Procedures applicable to such proceedings are set forth in 14 CFR Part 13. The licensed attorneys who have presided over these hearings have been selected from a list of the best qualified attorneys. The list was developed from responses to a notice published in the **Federal Register** on March 13, 1978 (43 FR 10456). The FAA now finds it appropriate to update the list of qualified attorneys.

Interested attorneys should submit resumes and references by December 30, 1983 to: Office of Hearing Officers, Rm. 915b, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

The selection of individuals for the updated list, will be based primarily upon their demonstrated experience. Fee rates and geographic location of individuals will also be considered. Primary experience factors to be considered include: recency of experience as an administrative law judge or analogous experience; degree of complexity of hearings conducted; aviation experience; transportation experience; experience with the subject matter involved in these types of cases; and technical, economic or engineering experience as appropriate. No individuals will be considered for cases in which the individual has a conflict or a potential conflict of interest.

Details of the selection process will be furnished upon request.

Issued in Washington, D.C., on November 16, 1983.

J. J. Honeck,

Assistant Manager, Contracts Division, Acquisition and Material Service.

[FR Doc. 83-31555 Filed 11-23-83; 8:45 am]
BILLING CODE 4910-13-M

Advisory Circular on Airworthiness Approval of Airborne Loran–C Systems for Use in the U.S. National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 20–XX; Coments Invited.

SUMMARY: Proposed AC 20–XX is intended to establish an acceptable means, but not the only means, of obtaining airworthiness approval of airborne Loran–C navigation Systems for use under Visual Flight Rules (VFR) and Instrument Flight Rules (IFR) as an Areas Navigation (RNAV) system within the conterminous United States, Alaska, and surrounding U.S. waters.

Availability of Proposed AC: Copies of the proposed AC 20–XX are available at the address listed below.

Comments Invited: Comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 20–XX, and comments must be received on or before February 1, 1984.

ADDRESS: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration; Office of Airworthiness; Aircraft Maintenance Division (Attention: AWS-350); 800 Independence Avenue, SW.; Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: John Flavin, Aircraft Maintenance Division, (Attention: AWS-350); Office of Airworhtiness; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, D.C. 20591; Telephone: (202) 426-8177.

Issued In Washington, D.C. on November 18, 1983.

Raymond E. Ramakis,

Acting Director of Airworthiness.

[FR Doc. 83-31549 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

November 18, 1983.

On November 18, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

United States Customs Service

OMB Number: 1515-
Form Number: None
Type of Review: Existing Collection
Title: Records of Serially Numbered Substantial Holders or Containers Which Enter the United States Duty-Free

OMB Number: 1515-0007
Form Number: 7506
Type of Review: Existing Regulation
Title: Warehouse Withdrawal Conditionally Free of Duty, and Permit
OMB Reviewer: Judy McIntosh, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Internal Revenue Service

OMB Number: 1545-0112
Form Number: 1099-INT
Type of Review: Revision
Title: Statement for Recipients of Interest Income
OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,

Departmental Reports, Management Office.

[FR Doc. 83-31662 Filed 11-23-83; 8:45 am]

BILLING CODE 4810-25-M

Worldwide Unitary Taxation Working Group; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) the Department of the Treasury announces the second meeting of the Worldwide Unitary Taxation Working Group. The Working Group is studying the complex issues raised by states' use of the worldwide unitary method of taxation and is to advice and assist the Administration in resolving the issues.

The Working Group will meet at 10:30 a.m. on December 6 in the Cash Room of the Main Treasury Building. At the meeting, the Working Group will receive and discuss a status report from the staff level Task Force which was established at the previous meeting of the Working Group. Directions for further study by the Task Force also will be discussed by the Working Group. The meeting will conclude with a preliminary discussion of the possible options available for resolution of the issues.

Inquiries concerning the Working Group should be addressed to the staff director, Dr. Charles E. McLure, Deputy Assistant Secretary (Tax Analysis), Room 3106, Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Dated: November 21, 1983.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 83-31661 Filed 11-23-83; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Commissioner's Advisory Group; Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II), and with the approval of the Secretary of the Treasury and the concurrence of the Office of Management and Budget, the Office of the Commissioner of Internal Revenue announces the renewal of the following advisory committee:

Title: The Advisory Group to the Commissioner of Internal Revenue

Purpose: The primary purpose of the Advisory Group is to provide an organized public forum for discussion of relevant tax administration issues between officials of IRS and representatives of the public. The Advisory Group also offers constructive observations about IRS' current or proposed policies, programs, and procedures and, where necessary, suggests ways to improve IRS' operations.

The Commissioner and other senior officials receive from the Advisory Group a significant amount of information about the problem taxpayers encounter, not only in dealing with IRS, but also in meeting obligations imposed on them statutorily. The Service uses the advice of the Advisory Group to develop a tax administration system which reflects the simplest, most equitable approach to administering the tax system that it is within our power to pursue. Accordingly, the Advisory Group conveys to the Service the public's perceptions of IRS activities.

Termination Date: The services of the Group are expected to be needed for an indefinite period of time. No termination date has been established which is less than two years from the date the Advisory Group's Charter is approved. The Advisory Group's Charter is approved by signature of the Assistant Secretary of the Treasury for Administration.

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83-31649 Filed 11-23-83; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on the Readjustment Problems of Vietnam Veterans will be held in the Nathan Hale Room of the Sheraton Washington Hotel located at 2660 Woodley Road, at Connecticut Avenue, NW., Washington, D.C., on December 8 and 9, 1983. The December 8 meeting will begin at 10 a.m. and conclude its deliberations at 4:30 p.m. The second meeting of the

Committee will begin at 8 a.m. and run until 4:30 p.m.

Both meetings will be open to the public to the seating capacity of the room. Anyone having questions concerning the meetings may contact Mr. Edward Lord, Assistant Director for Administration and Development, Readjustment Counseling Service, Veterans Administration Central Office, phone number 202/389-3317.

Dated: November 17, 1983.

By direction of the Administrator.

Larry R. Moen,

Deputy Director, Office of Public and Consumer Affairs.

[FR Doc. 83-31584 Filed 11-23-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 228
Friday, November 25, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, November 29, 1983.

PLACE: Commission Conference Room No. 200-C, second floor, Columbia Plaza Office Building, 2401 E Street NW. Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-7-FOIA-76-CL, concerning a request for records from a closed age discrimination charge file.
4. Freedom of Information Act Appeal No. 83-9-FOIA-170-PA, concerning a request for contents of two ADEA charge files.
5. Freedom of Information Act Appeal No. 83-10-FOIA-154-SL, concerning a request for information from a closed ADEA charge file.
6. Freedom of Information Act Appeal No. 83-07-FOIA-144-CH, concerning a request for a memorandum from a charge file.
7. Freedom of Information Act Appeals No. 83-8-FOIA-183-MK, concerning a request for release of certain documents from a closed Title VII charge file.
8. Proposed Section 616 of Volume II of the Compliance Manual, Seniority.
9. Proposed Notice N-915, Kremer v. Chemical Construction Co.
10. Proposed Handicap Employment Issues under Title V of the Rehabilitation Act of 1973.

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. Consideration of certain ORA Decisions.
3. Consideration of a decision in a Commissioner Charge, No. 072-81-0005.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

Issued: November 22, 1983.

[S-1642-83 Filed 11-22-83; 4:09 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2 p.m. on Monday, November 28, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for consent to merge and establish branches:

Application of The Jefferson Bank and Trust Company, Jefferson Parish (P.O. Metairie), Louisiana, an insured State nonmember bank, for consent to merge, under its charter and with the title "The Jefferson Guaranty Bank," with Guaranty Bank & Trust Company, Gretna, Louisiana, and for consent to establish the five offices of Guaranty Bank & Trust Company as branches of the resultant bank.

Application of Citizens & Northern Bank, Ralston, Pennsylvania, an insured State nomember bank, for consent to merge, under its charter and title, with The Farmers National Bank of Athens, Athens, Pennsylvania, and for consent to establish the two offices of The Farmers National Bank of Athens as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish one branch:

Application of Southern Bank, Richmond, Virginia, an insured State member bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Kingsmill Branch, Williamsburg, Virginia, of Atlantic Permanent Savings and Loan Association, Norfolk, Virginia, and to establish that branch as a branch of Southern Bank.

Application of Farmers and Merchants Bank and Trust of Watertown, Watertown, South Dakota, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Rosholt Branch of United National Bank, Sioux Falls, South Dakota, and to establish that branch as a branch of Farmers and Merchants Bank and Trust of Watertown.

Request for reconsideration of a previous denial of an application for consent to purchase assets and assume liabilities and establish fourteen branches:

Application of Commonwealth Bank, Bay Springs, Mississippi, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay the deposits made in First United Bank of Mississippi, Meridian, Mississippi, and Central Bank of Mississippi, Brandon, Mississippi, and to establish the ten offices of First United Bank of Mississippi and the four offices of Central Bank of Mississippi as branches of Commonwealth Bank.

Application for consent to purchase assets and assume liabilities and establish three branches:

Application of Valley National Bank, Bridgewater, Virginia, for consent, upon

conversion to a state charter, to purchase certain assets of and assume the liability to pay certain deposits made in the Staunton Main Branch and the Springhill Road Branch, both located in Staunton, Virginia, of Virginia National Bank, Norfolk, Virginia, and in the Waynesboro Branch, Waynesboro, Virginia, of First & Merchants National Bank, Richmond, Virginia, and for consent to establish those three offices as branches of Valley National Bank.

Applications for consent to merge, purchase assets and assume liabilities, and establish 45 branches:

Applications of First American Bank of Virginia, McLean, Virginia, an insured State nonmember bank: (1) For consent to merge, under its charter and title, with First Peninsula Bank and Trust Company, Hampton, Virginia, Valley National Bank, Bridgewater, Virginia (to be a state-chartered institution), The Peoples National Bank of Leesburg, Leesburg, Virginia, The First National Bank of Lexington, Lexington, Virginia, and The Shenandoah Valley National Bank of Winchester, Winchester, Virginia, and for consent to establish the three offices of First Peninsula Bank and Trust Company, the eight offices of Valley National Bank (five existing offices and three offices to be acquired in a separate transaction), the four offices of The Peoples National Bank of Leesburg, the two offices of The First National Bank of Lexington, and the five offices of The Shenandoah Valley National Bank of Winchester as branches of the resultant bank; and (2) for consent to purchase certain assets of and assume the liability to pay certain deposits made in twelve branches of Virginia National Bank, Norfolk, Virginia, and in eleven branches of First & Merchants National Bank, Richmond, Virginia, and for consent to establish those twenty-three offices as branches of First American Bank of Virginia.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 21, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1647-83 Filed 11-22-83; 2:27 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5 p.m. on Monday, November 21, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Recommendations, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain national bank and a certain State member bank to determine the condition of such banks for insurance purposes: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Dated: November 22, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1651-83 Filed 11-22-83; 3:27 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, November 21, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain national bank to determine the condition of such bank for insurance purposes: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Western Nebraska Savings Company, Alliance, Nebraska, an operating noninsured industrial bank, for Federal deposit insurance

Application of First of Omaha Savings Co., Omaha, Nebraska, an operating noninsured industrial bank, for Federal deposit insurance

Application of Union Bank and Trust Company, Lincoln, Nebraska, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Lincoln Savings Company, Lincoln, Nebraska, a State-chartered noninsured financial institution, and to establish the sole office of Lincoln Savings Company as a branch of Union Bank and Trust Company

Recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain State member bank to determine the condition of such bank for insurance purposes: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine

Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: November 22, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1650-83 Filed 11-22-83; 3:27 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, November 21, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Apppointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda from consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Valley Interim Bank, Parkersburg, West Virginia, a proposed new bank in organization, for Federal deposit insurance and for consent to merge with Valley Bank, Parkersburg, West Virginia, a noninsured commercial bank resulting from the proposed converston of the charter of Valley Savings and Loan Company, Parkersburg, West Virginia, a noninsured industrial loan company.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

The Board further determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), the Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, of the following matter:

Application of Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a remote service facility at St. Ambrose College, South Hall, 518 West Locust Street, Davenport, Iowa

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be consider in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: November 22, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1649-83 Filed 11-22-83; 3:27 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 29, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance, Litigation, Audits, Personnel, RAD Review and Referral Procedures for Authorized Committees.

* * * * *

DATE AND TIME: Thursday, December 1, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1983-35: F. G. Von Huben for Texas-New Mexico Power Company
Draft Advisory Opinion #1983-36: J. Curtis Berge on behalf of NCPAC
Draft Advisory Opinion #1983-39: Nina Guinn (Friends of Bob Kruegar Committee)
Fiscal year 1983 year end management report
Fiscal year 1983 year end budget execution report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1648-83 Filed 11-22-83; 3:00 pm]

BILLING CODE 6715-01-M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:30 a.m., Wednesday, December 7, 1983

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain woodworking machines (Docket No. 990).
   b. Certain metal and wire shelf products and accessories (Docket No. 991).
   c. Certain outboard motors from Japan (Docket No. 992).
5. Investigation 22-46 (Certain Articles Containing Sugar)—briefing and vote.
6. Investigation 731-TA-151 (Preliminary) (Certain Hot-Rolled Carbon Steel Plate from the Republic of Korea)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1643-83 Filed 11-22-83; 9:27 am]

BILLING CODE 7020-02-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[MN-83-27]

TIME AND DATE: 9 a.m., Tuesday, November 29, 1983.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the remainder will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report:* El Paso Natural Gas Company Compressor Station Explosion and Fire, Bloomfield, New Mexico, May 26, 1983.
2. *Railroad Accident Report:* Derailment of Amtrak Train No. 820 (The Crescent) on Southern Railway System Track, Rockfish, Virginia, April 3, 1983.
3. *Marine Accident Report:* Ramming of the Poplar Street Bridge by the Towboat M/V *City of Greenville* and its Four-Barge Tow, St. Louis, Missouri, April 2, 1983.
4. *Reconsideration of Probable Cause:* Airplane Accident Report—Cessna 441, N36941, Butte, Montana, April 1, 1980.
5. *Opinion and Order:* Administrator v. Kelso, Paul, and Nichols, Dkts. SE-5534, 5541, and 5543; disposition of appeals of Administrator and respondents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

November 18, 1983.

[S-1644-83 Filed 11-22-83; 10:31 am]

BILLING CODE 4910-58-M

9

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters)

TIME AND DATE: 10 a.m., Tuesday, November 29, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S-1645-83 Filed 11-22-83; 10:25 am]

BILLING CODE 4410-01-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: To be published.

STATUS: Open meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 15, 1983.

CHANGE IN THE MEETING: Additional item. The following item will be considered at an open meeting scheduled for Tuesday, November 22, 1983, at 9 a.m. in Room 1C30:

Consideration of whether to approve for issuance: (1) Revised versions of Form BD and Form BDW which are designed to make the forms more uniform and (2) a rule proposal which would implement Form BD. For further information, please contact Elizabeth S. York at (202) 272–2377.

Chairman Shad and Commissioners Longstreth and Treadway determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Lipsher at (202) 272–3195.

Novmeber 21, 1983.

[S-1646-83 Filed 11-22-83; 2:26 pm]

BILLING CODE 8010-01-M

federal register

Friday
November 25, 1983

Part II

Department of Labor

Mine Safety and Health Administration

Wire Rope Standards; Final Rules

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75, and 77

Wire Rope Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rules.

SUMMARY: These final rules revise existing safety standards for the selection, use, examination, and retirement of wire ropes used at coal, metal, and nonmetal mines. The standards apply to wire ropes used to hoist persons in shafts and slopes at all underground mines and at incline hoists at surface mines. The purpose of this rulemaking is to clarify the Agency's existing wire rope standards; update the standards to reflect current mining practices and state-of-the art technology; reduce recordkeeping and paperwork requirements where possible; and include alternative methods of compliance.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: .

I. Rulemaking Background

On November 16, 1982, the Mine Safety and Health Administration (MSHA) published in the **Federal Register** (47 FR 51684) proposed changes to the Agency's existing wire rope safety standards in 30 CFR 55.19, 56.19, and 57.19 for metal and nonmetal mines and in 30 CFR 75.1401-1, 77.1402-1, and 77.1903(b) for coal mines.

The purpose of this rulemaking is to clarify the Agency's existing wire rope standards; update the standards to reflect current mining practices and state-of-the-art technology; reduce recordkeeping and paperwork requirements where possible; and include alternative methods of compliance.

On January 4, 1983, MSHA extended the comment period (48 FR 273) to February 18, 1983. In that notice, the Agency addressed issues concerning the scope of the proposed rules and requested specific comment on the application of the wire rope standards to cranes used to hoist persons. On February 22, 1983, MSHA published a notice of public hearings (48 FR 7558) which outlined the major issues raised during the comment period. During March 1983, public hearings were held in Denver, Colorado; Phoenix, Arizona; Pittsburgh, Pennsylvania; and Birmingham, Alabama. All four hearings were well attended. Transcripts of the proceedings were taken and made available for public inspection. Following the public hearings, interested persons were allowed to submit supplementary statements and data until the record closed on April 8, 1983. During this rulemaking process, MSHA has reviewed written and oral statements from over 80 commenters.

II. Discussion and Summary of the Final Rules

A. General Discussion

These final rules set safety requirements for wire rope used to transport persons into and out of underground mines and in certain personnel hoisting applications at surface mines. They also contain provisions for use of wire rope when persons work below loads suspended by wire ropes during the development of shafts or slopes.

The final rules contain provisions for the following safety requirements: Wire rope strength; initial diameter measurements for subsequent evaluations of rope wear; periodic examination of the wire rope for determining if unsafe conditions are developing; retirement criteria; and requirements for termination, retermination, and removal of end attachments. These provisions emphasize inspection and retirement procedures and include performance-oriented requirements where possible. They address safety hazards associated with the use of wire rope as opposed to requirements that extend the service period of a wire rope. MSHA believes that work practices and machinery design requirements that serve only to reduce rope wear and prolong the service period of a wire rope should be left to the discretion of the mine operator. The final rules require close scrutiny of a wire rope's condition through comprehensive examination and retirement requirements so that a wire rope is removed from service before it becomes hazardous to use.

To reflect state-of-the-art technology, the final rules revise several standards related to wire rope use. The rules are primarily based on MSHA's existing wire rope standards and provisions of the latest edition of the American National Standards Institute's (ANSI) "American National Standard for Wire Rope for Mines," ANSI M11.1-1980. However, requirements in the rules are also based on comments and testimony received during the rulemaking process and Agency experience, including data gained from reviewing petitions for modification. For example, the final rules allow alternative methods of attachment that achieve secure and safe attachment of the rope at the drum and load ends. Also, the requirements for periodic cutting and retermination of hoist ropes are changed. Under the final rules, cutting and retermination requirements are based on the condition of the rope.

MSHA anticipates that the final rules will result in a reduction of petitions for modification. Paperwork burdens are also reduced by replacing recordkeeping requirements with certification provisions which allow the person conducting required examinations to certify that the examination has been made. However, a record is required to be made of hazardous conditions affecting safety.

The standards applicable to coal mines replace incorporations by reference of the American National Standards Institute's "Specifications for and Use of Wire Rope for Mines," ANSI M11.1-1960, with specific safety standards. In *Secretary of Labor* v. *Jim Walter Resources, Inc. and Cowin and Co., Inc.*, 3 FMSHRC 2488, 2 MSHC 1489 (1981), the Federal Mine Safety and Health Review Commission held that 30 CFR 77.1903(b), which applied to shaft and slope development at coal mines, was not a mandatory standard and therefore imposed no responsibility on mine operators. The Commission based its decision on the fact that § 77.1903(b) states that the ANSI standard is to be used only as a guide. The same ANSI M11.1-1960 incorporation by reference appears in two other wire rope standards for coal mining, §§ 75.1401-1 and 77.1402-1. The final rules replace these sections to clarify the wire rope safety requirements that apply to coal mining operations.

The final rules also revoke separate wire rope provisions for coal mine shaft or slope development (§ 77.1903(b)). Under the final rules, the wire rope standards for surface coal mines apply to these operations.

During the comment period, some commenters suggested that the issuance of uniform wire rope standards for the entire mining community would not recognize differences between coal and metal and nonmetal mining operations. Several commenters stated that uniform standards do not address Congressional intent that coal standards be separate from metal and nonmetal standards.

The final rules were proposed as distinct revisions to the existing parts of Title 30 of the Code of Federal Regulations to apply specifically to coal

mines and specifically to metal and nonmetal mines. During the rulemaking process, MSHA requested comment on whether the hazards arising from use of wire rope in personnel hoisting applications are different at coal mines and metal and nonmetal mines. MSHA received no written comments or oral testimony that substantively supports a need for having different wire rope safety standards for the coal industry and the metal and nonmetal industry. The final rules provide uniform protection to workers in the Nation's mines who depend on the integrity of a wire rope whether at a coal, metal, or nonmetal mine.

B. Discussion of the Final Rules

Scope: 55/56/57.19a–20 and §§ 75/77.1430.[1] The final rules apply to wire rope used to: (1) Hoist persons in shafts or slopes underground; (2) hoist persons with incline hoists on the surface; and (3) hoist loads during shaft or slope development where persons must work below suspended loads. The standards are codified in 30 CFR Parts 55, 56, and 57 which apply to metal and nonmetal mines and 30 CFR Parts 75 and 77 which apply to coal mines. The standards do not apply to production hoists used to hoist persons for examination, inspection, or maintenance of the condition of the hoisting system, shaft, or appurtenances.

The scope statement for the proposed rules stated that the standards would apply to wire rope used to hoist persons and to wire rope used to hoist loads that may endanger the safety of persons. Commenters interpreted this to mean that MSHA intended to broadly apply the proposed standards to all equipment using wire rope.

In the **Federal Register** notice which extended the comment period (48 FR 273), MSHA clarified the Agency's intent with respect to the scope of the proposal and stated that the Agency did not intend to broaden the scope of the existing standards for the use of wire rope. The notice stated that the rules would not apply to draglines; elevators equipped with a governor rope; or cranes used to lift materials, other than cranes used in shaft sinking operations where persons work below suspended loads. In the same notice, however, MSHA requested further comment on whether the standards were appropriate for the use of wire rope on cranes used to hoist persons.

In the opening statement for each of the public hearings, MSHA further addressed the proposed scope statement. MSHA stated that the Agency intended to apply the standards to the use of wire rope in two distinct situations: (1) Where it is used to hoist persons and (2) in shaft or slope development where work must be performed below suspended loads.

MSHA received several comments on whether the proposed standards should be applied to wire rope on cranes used to hoist persons. The commenters generally agreed that hoisting persons by such equipment creates hazardous situations because of the equipment's design. However, the commenters questioned whether the proposed standards would adequately address these hazards. Analysis by MSHA of recent fatalities and injuries reflect these concerns. The Agency will further study the need to develop specific standards for the use of cranes to hoist persons. For this reason, these final rules will not apply to cranes. Similarly, the final rules also do not apply to other specialized personnel hoisting applications such as derricks. MSHA will also study the need to develop specific standards addressing the safety aspects of the use of cranes, derricks, and other such equipment used to hoist personnel at mines.

MSHA also received several comments on the existing introductory text to the metal and nonmetal standards covering personnel hoisting in 30 CFR 55.19, 56.19, and 57.19. The Agency will consider these comments when these sections are reviewed as part of the Agency's comprehensive review of all metal and nonmetal standards. The final rules do not change the existing scope of the personnel hoisting standards in §§ 55.19, 56.19, and 57.19. However, so that the metal and nonmetal wire rope standards accurately reflect the scope of these final rules, they will be codified in new §§ 55.19a, 56.19a, and 57.19a with separate scope statements. These standards will be recodified with the other hoisting standards when the Agency completes it comprehensive standards review project.

Minimum Rope Strength: 55/56/57.19a–21 and §§ 75/77.1431. These provisions require that wire ropes meet minimum strength values when they are installed, consistent with the specific hoisting application to be used. The standards contain simple formulas for deriving the required minimum rope strength values for a particular hoisting operation. The formulas take into account the length of rope, the hoisting equipment used, and a design (safety) factor. All of the minimum rope strength formulas in the proposed rules are derived from ANSI M11.1–1980.

Some commenters requested that MSHA require use of Table 33 of ANSI M11.1–1960 to calculate minimum rope strength rather than use formulas. Table 33 contains safety factors for new rope and for the removal of worn rope. Commenters stated that the removal factors in Table 33 were consistent with their practical experiences related to wire rope use.

In updating ANSI M11.1 from 1960 to 1980, the American National Standards Institute deleted this table and adopted performance formulas. In the final rules, MSHA has included performance formulas consistent with the current ANSI provisions. The Agency's experience with Table 33 has shown that the minimum safety factors for wire rope removal are difficult for both MSHA and mine operators to determine for a wire rope in service. The minimum rope strength values given by the formulas in the final rules, however, encompass the initial rope strength values of the 1960 ANSI Table 33 and values in the existing metal and nonmetal requirements. All wire ropes that meet the metal and nonmetal or ANSI M11.1 1960 safety factors should meet the minimum values required by the final rules.

Several commenters thought that the rope strength formulas might require operators to order wire rope manufactured to meet the precise design factor determined by the formulas for their hoisting operation. When the specific length of rope and static load (weight of rope for tail ropes) to be used at a hoisting operation are used with the appropriate formula, the formula produces a *minimum* rope strength value. If the value calculated has no exact catalog equivalent, compliance could be achieved by installing a wire rope with the next higher catalog strength.

Many commenters, including some wire rope manufacturers, objected to the proposed design factor of ten for rotation resistant ropes. They stated that in very deep shafts a factor of ten could limit the load to the weight of the rope itself with no conveyance load. Under the proposal, they stated, existing hoists used in shaft or slope development would have to use larger diameter ropes which would be subject to greater bending and crushing forces.

Rotation resistant ropes are commonly used in shaft sinking operations to minimize the tendency of muck buckets to spin. In these operations, the bucket may be the conveyance used by persons to reach

[1] Standards that appear in 30 CFR Parts 55, 56, 57, and 75 and 77 are referred to in the preamble to these rules as "55/56/57" and "75/77".

their work stations. Wire rope manufacturers have traditionally specified a design factor of ten for such rope to ensure optimum rotation resistant performance for the rope. However, commenters pointed out that when shaft sinking buckets are used to hoist persons, the effective design factor of the rope improves significantly because the weight of the bucket with persons is considerably less than the weight of the bucket loaded with muck.

In response to the commenters' concerns, MSHA has changed the proposed design factors for rotation resistant rope. The final rules require rotation resistant ropes to meet the same minimum strength values as winding drum ropes. These values range from four to seven, depending on the extended length of the rope in the shaft. MSHA believes that these design factors will provide an adequate measure of safety for persons who must work below suspended loads during shaft or slope development. Inclusion of rotation resistant ropes with winding drum ropes for calculation of minimum strength values is also consistent with MSHA's experience under existing standards.

The final rules applicable to underground operations include specific minimum strength provisions for guide ropes. These provisions are included as separate requirements in 57.19a–19 and § 75.1429 because guide ropes do not need to meet the same examination requirements as wire ropes used for hoisting. Guide and rubbing ropes are primarily subjected to static loads and do not undergo the repeated high dynamic and bending stresses of ropes used for hoisting conveyances. However, MSHA considers ropes used during shaft or slope development to hoist and support construction work decks (staging) or to guide bucket crossheads to be winding drum ropes subject to standards covering winding drum ropes.

One commenter questioned the proposed design factor of seven for tail (balance) ropes. This design factor is consistent with that required by ANSI Mll.1–1980. Tail ropes are often subjected to significant bending stresses and acceleration loads as a result of hanging free in the shaft. For these reasons, MSHA has retained the proposed design factor of seven for tail ropes in the final rules.

Initial Measurement: 55/56/57.19a–22 and §§75/77.1432. These provisions require that the initial diameter of newly installed wire ropes be measured. The measurements are required to be taken after the initial (construction) stretch has occurred and before visible wear appears.

Many variables affect the length of time it takes for the wires and strands of a wire hoist rope to set and the initial stretch to occur before a baseline diameter can be measured and used to determine the amount of future wear. These variables include the load on the rope, the number of cycles the rope is run during a shift, and the construction characteristics of the rope. In some instances, initial stretch occurs almost immediately or it may take more than a month. The final rules allow a mine operator flexibility in determining when the operational diameter is reached and baseline measurements should be taken. However, these initial measurements must be taken before the rope begins to wear and lose strength.

The final rules require initial rope measurements to be made at least once in every third interval of rope length. For example, a mine operator with a 1500-foot rope could comply by taking a diameter measurement in the center of every third interval at 250 feet, 750 feet, and 1250 feet.

Because of the importance of these measurements in determining wire rope wear, the person making the measurements must record the measurements and the date they were taken. The final rules require that this record be kept until the rope is retired from service.

Several commenters believed that mine operators who rely on nondestructive testing to determine rope wear should not have to make initial diameter measurements. MSHA believes that these baseline measurements provide an essential record of a rope's pre-wear condition, regardless of whether the mine operator uses nondestructive testing or further diameter measurements to determine rope wear. Therefore, the Agency has retained the proposed requirement that initial diameter measurements be made on all newly installed ropes.

In the proposed rules, MSHA related initial measurements to a ten-cycle break-in procedure. In the final rules, the Agency has deleted the proposed ten-cycle breakin procedures. MSHA agrees with the many commenters who stated the proposed break-in procedures did not clearly relate to setting a rope into its operational diameter.

Examinations: 55/56/57.19a–23 and §§ 75/77.1433. These provisions require periodic examination of wire ropes to determine if unsafe conditions may be developing.

Paragraph (a) requires wire ropes to be visually examined over their entire active length once every fourteen calendar days. This examination is only required for wire ropes in service and consists of checking for the following: (1) Obvious structural damage such as kinks, "doglegs," "birdcaging," loose or high strands, or protruding core; (2) corrosion, especially on portions of the rope subject to localized corrosion; and (3) improper lubrication or dressing. Proper lubrication or dressing of a wire rope minimizes wear and helps to prevent corrosion. Since internal corrosion is particularly difficult to detect, the rope should be kept properly lubricated or dressed to prevent corrosion. However, other than manufacturers' recommendations, there are no industry-widee guidelines for either the frequency or the amount of lubrication a particular wire rope might need because of differences in environment and application at each mine site. Mine operators must determine the lubrication or dressing needs for their particular site. Therefore, the standards provide that the ropes be routinely examined to see that lubrication needs are met.

In addition to requiring examination of the entire active length of a wire rope for obvious conditions affecting the rope's strength, the fourteen-day examination provisions require a closer visual examination for wear and broken wires at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer-regions.

Tail ropes must also be examined on a fourteen-day basis. A broken tail rope can damage the shaft or shaft appurtenances and create safety hazards.

When a fourteen-day examination reveals any conditions that may result in a reduction of rope strength, the affected portion of the rope must be examined on a daily basis. This daily requirement focuses attention on areas of the rope showing signs of deterioration. By conscientiously monitoring deteriorating portions of the rope on a daily basis, the mine operator can remove the rope from service before the rope becomes unsafe to hoist persons.

Paragraph (b) requires all newly installed wire ropes or any ropes that have not been examined in the previous fourteen days to be examined before any person is hoisted. This provision clarifies that ropes that have been idle are required to be examined only just prior to being placed back into service to hoist persons.

The proposed provisions would have required daily examination of the entire wire rope, regardless of the rope's condition. The coal standards replaced

by this rulemaking also contained a requirement for daily examination of wire ropes; metal and nonmetal standards required monthly examinations. Generally, commenters stated that time spent in a daily examination of the entire length of a wire rope does not substantially increase safety. A daily examination for wear along the entire length of wire rope, they argued, would result in unwarranted downtime. On the other hand, they suggested that a more cursory examination at faster hoisting speeds might reveal only very obvious structural damage.

In response to commenters and based on the Agency's field experience, MSHA has changed the daily examination requirement for coal mines and the monthly requirement for metal and nonmetal mines to a fourteen calendar day examination requirement for all mines. If the fourteen-day examination reveals any condition which results in a reduction of rope strength, the affected portion of the rope will have to be examined on a daily basis to monitor for further deterioration that may necessitate removal of the weakened portion of rope or removal of the entire rope. MSHA believes that this fourteen-day examination requirement, in conjunction with the daily requirement as necessary, improves the existing examination provisions for both coal and metal and nonmetal mines. The Agency intends the revised examination procedure to eliminate unnecessary downtime while affording an opportunity for close examination of critical stress points along the rope. Information received during this rulemaking process indicates that many mine operators currently conduct a fourteen-day examination in conjunction with scheduled maintenance procedures such as relubrication of the wire rope.

The fourteen-day examination requirement does not require the use of any manual techniques such as feeling for broken wires along the rope with the hand in a protective glove. Manual examination techniques, however, may be used in conjunction with the six-month examination requirements in paragraph (c). These provisions require nondestructive testing to be conducted on the active length of the rope or diameter measurements to be made at specific points along the rope where ropes wear during normal use.

Some commenters asked MSHA to define nondestructive testing. MSHA intends that nondestructive testing be applied as it is generally understood by the mining community. Nondestructive testing usually involves a type of electromagnetic testing to detect broken wires or loss of cross-sectional area. However, MSHA does not want to limit the application of technological advances by restricting nondestructive testing to electromagnetic methods.

At the completion of each fourteen-day examination, the person making the examination must certify, by signature and date, that the examination has been made. If any conditions reducing the strength of the rope are present, the person must also record the conditions and the date. The requirement for daily examinations of portions of the rope with reduced strength allows the mine operator to closely monitor any further deterioration of the rope so that the rope can be retired in a timely manner before safety is impaired. These records and certifications must be kept for one year from the date on which they were taken. The person making the six-month diameter measurements or conducting the six-month nondestructive testing, which may be used as a basis for retiring the wire rope, must record the date and the measurements or test results. These records indicate the presence of any weakened areas in the wire rope and aid in determining the remaining safe service the rope will provide. Under the final rules, these records must be kept until the wire rope is removed from service.

As was proposed, the final rules retain the existing metal and nonmetal provisions in 55/56/57.19–131 and the existing coal provisions in §§ 75.1400–3 and 77.1403 that require daily examination of conveyance end attachments. MSHA believes that the rope at end attachments is especially subject to deterioration under normal operating conditions due to the variable stresses and stress concentrations at the end attachment. In addition, moisture often collects at the end attachment making the area susceptible to localized corrosion. For these reasons, the final rules do not change the existing requirements that conveyance end attachments be examined on a daily basis.

Retirement Criteria: 55/56/57.19a–24 and §§ 75/77.1434. These provisions contain criteria for the removal of damaged or excessively worn wire rope from service. Conditions that could necessitate wire rope retirement include broken wires, diameter reduction, distortion of the rope structure, deterioration from corrosion, heat damage, and loss of rope strength. Unless the damage or deterioration is removed by cutoff, the standards require removal of the entire wire rope.

Rope retirement is required if the number of broken wires within a rope lay length exceeds five percent of the total number of wires in the rope or fifteen percent of the total number of wires within any strand. Broken filler wires are not counted because filler wires do not contribute significantly to the strength of a wire rope. The total number of wires in a rope is determined by the actual construction of the rope. For example, by percentage calculation, the number of broken wires requiring retirement of 6 x 19 construction rope is six broken wires in a lay length or three broken wires within a single strand within a lay length. In figuring these percentages, fractions are rounded up to the next whole number.

The proposed provisions would have required retirement for all ropes with six broken wires in a lay length or three broken wires in a strand, regardless of the number of wires in any particular class rope. Commenters suggested using percentages to calculate the number of broken wires that necessitate rope retirement. They stated that the proposed criterion of six broken wires would require premature retirement of ropes with more total wires than a 6 x 19 rope and late retirement for ropes with fewer wires than a 6 x 19 rope. MSHA agrees and believes that percentage calculation of the number of broken wires requiring rope retirement results in a retirement criterion which is appropriate for the various classes of rope construction used in hoisting applications. It is also consistent with the current requirements of the Province of Ontario, Canada. Ontario has developed some of the most comprehensive hoisting standards in the world that are widely recognized throughout Canada and in the United States.

The proposed provisions would have counted snagged, nicked, or severely bent wires as broken wires. Commenters stated that such wires should not be counted until actually broken. Because the examination provisions in the final rules will require daily monitoring of snagged, nicked, or severely bent wires, MSHA has deleted this proposed provision from the final retirement criteria.

The final rules require removal of regular lay wire ropes if there is more than one broken wire in the valley between strands in one rope lay length. Although they may be difficult to detect, valley breaks between strands are an important indication of unseen dangerous deterioration from fatigue, breakage, or corrosion of wires within the rope. Valley breaks may be visually

detected as broken wires protruding slightly above the surface of the rope. The valley-break retirement criterion was proposed for all wire ropes, and not just regular lay ropes. Wire rope manufacturers, however, pointed out that valley breaks are normal in lang lay ropes. In response to these commenters, MSHA has revised this criterion in the final rules to apply only to regular lay ropes. The valley-break criterion is derived from ANSI A10.5–1980, "Personnel Hoists" and the American Iron and Steel Institute's "Wire Rope Users Manual" (1981).

The final rules require retirement of a wire rope with a loss of more than one-third the original diameter of the outer (crown) wires. Outer wire diameter loss is determined with the aid of nomograms. Nomograms are graph tables used for percentage calculation of the amount of wire loss. Some commenters stated that the proposed criterion did not account for wires flattened by peening. These commenters stated that peened wires do not necessarily indicate loss of cross-sectional area. Although the cross-sectional areas of a peened wire may be redistributed within the wire and not lost, any plastic deformation of the wires in a rope may substantially reduce the strength of the rope because of work-hardening and loss of resiliency. Also, it is difficult to distinguish between a peened wire and an abraded or worn wire. Therefore, in the final rules, MSHA has not distinguished peened wires from abraded wires.

Several commenters stated that outer wire wear is not an appropriate criterion for wire rope retirement. One commenter calculated that a rope with one-third outer wire diameter wear would still have 80 percent of its total diameter intact, and reasoned that the rope would have 80 percent of its nominal strength intact. This commenter assumed a one-to-one ratio between cross-sectional rope area and nominal rope strength. Breaking strength tests conducted by the Ontario Ministry of Natural Resources, Canada, reveal that as a rope wears, its strength loss is not proportional to diameter wear. These tests have been confirmed by statistical analysis performed by Batelle's Columbus Laboratories, "Statistical Analysis of Wire Rope," (U.S. Bureau of Mines Contract J0215012, February 1983). Based on these reports and the Agency's field experience, MSHA believes that outer diameter wear is a valid criterion for removal of wire rope from service.

The final rules require rope retirement if there is rope deterioration from corrosion. Commenters requested that MSHA specify the amount of corrosion that would necessitate rope retirement. Corrosion often occurs inside a wire rope and can cause extreme deterioration before any external signs are evident.

It may also progress very rapidly, creating a hazardous condition that is difficult to detect. MSHA does not believe that it is necessary to specify an amount of corrosion since any evidence of rope deterioration due to corrosion must be taken as evidence of possibly serious interior rope deterioration. Rope deterioration due to corrosion is evidenced by surface pitting or a loss of cross-sectional area. Corrosion does not include surface discoloration from rust that can be cleaned with a wire brush, provided that the rope does not show any evidence of pitting or loss of cross-sectional area.

The final rules require rope retirement if there is any distortion of the rope structure. Examples of distortion of the rope structure include "birdcaging," kinks, high strands, or protruding core. Some commenters stated that MSHA should have included the ANSI M11.1–1980 criterion that requires rope removal if there is evidence of "rope abuse." MSHA believes that the rope distortion retirement criterion in the final rules is consistent with the ANSI requirement since distortion of the rope structure encompasses the types of structural deformations that occur from rope abuse.

The final rules require rope retirement if there is heat damage to the rope from any source. Commenters requested that MSHA limit this criterion to heat damage from cutting torches and electrical wires. However, MSHA believes that damage from any heat source can reduce the strength of a wire rope. Discolored or fused wires are clear indicators of heat damage requiring cutoff of the affected portion of a rope or removal of the entire rope.

The final rules require rope retirement if there is a diameter reduction due to wear that exceeds six percent of the baseline diameter measurement. As proposed, this retirement criterion was set out in a table of minimum allowable reductions in baseline diameter. Many commenters, however, stated that unless diameter reduction is correlated to wear, the diameter reduction criterion would result in premature retirement of many ropes. Some commenters stated the proposed diameter criterion would penalize mine operators using oversized ropes, particularly in slope operations where oversized ropes are used because of rope abrasion from rubbing.

MSHA has revised the final rules to explicitly state that the diameter reduction must be due to wear. The final rules do not require rope retirement for diameter reduction due to such variables as initial stretch or core compaction. Diameter reductions due to internal corrosion would require rope removal under the corrosion retirement criterion. MSHA also has revised the proposed values for this retirement criterion to allow for a more precise determination of the wear. The Agency believes that six percent reduction criterion for retirement will not penalize using oversize ropes since that amount of wear takes longer to occur in oversize ropes. Six percent diameter wear approaches a hazardous condition for all ropes.

Finally, the final rules require rope retirement if there is a loss of more than ten percent of rope strength, as determined by nondestructive testing. Commenters pointed out that although the proposed provisions accepted nondestructive testing as an alternative method of performing the six-month examination , there was no retirement criterion addressing the results of the testing. The ten percent criterion is consistent with Agency experience and the current nondestructive testing requirements of the Province of Ontario, Canada. In terms of loss of rope strength, the criterion is also consistent with the six percent diameter reduction criterion.

The final rules do not include the proposed criteria for rope retirement because of "a rapid increase in the number of broken wires" or "broken wire and diameter reductions that in combination create a hazardous condition." Commenters stated that these criteria were very vague. These proposed criteria are not necessary since the criteria contained in the final rules, along with the examination requirements, will provide appropriate protection. Because the frequency and conditions of wire rope use varies from operation to operation, MSHA did not adopt a commenter's suggestion that all wire ropes be retired according to a specific period of use. Similarly, MSHA did not adopt another commenter's suggestion that retirement criteria be made site-specific to accommodate locally successful practices. There are too many variables to develop specific retirement criteria which are responsive to this suggestion.

Load End Attachments: §§ 55/56/57.19a-25 and 75/77.1435. Failure of a load end attachment or the rope in the immediate area of the attachment represents one of the most significant

hazards in personnel hoisting. These final rules require wire ropes to be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope. In addition, the standards allow the use of new and improved attachment methods as the state-of-the-art progresses. However, except for terminations where use of other methods is a design feature, zinc (spelter) must be used for socketing the ropes. Proper zinc socketing provides a reliable load and attachment fitting with a very high efficiency rating. In these final rules, "design feature" means either the manufacturer's original design or a design approved by a registered professional engineer.

In the proposal, MSHA included a table for determining proper spacing and torque values for the use of wire rope clips as load end terminations. Several commenters stated that the values in the table were obsolete. They cited Canadian research indicating that the proposed torque values were too high and could possibly cause severe rope distortion in some instances. The Canadian research suggested use of reduced torquing and installation of additional clips. The proposed rules were inconsistent with the Canadian method. In response to commenters' concerns, MSHA has deleted the wire rope clip table in the final rules. Mine operators attaching the wire rope to the load by the thimble-and-clip method must, however, ensure that the attachment meets the 80 percent criterion for end attachments required by the final rules. MSHA believes that torque and spacing values given in wire rope handbooks will aid mine operators in complying with this criterion.

The final rules prohibit the use of splices as a means of load end attachment. The proposed rules would have also prohibited the use of swaged fittings for end terminations. The final rules will permit the use of fittings that meet the 80 percent strength criterion.

Several commenters expressed confusion as to what constitutes a load end attachment. The load end attachment is the portion of the attachment that actually terminates the rope, including the rope itself in the immediate area of the termination fittings.

Drum End Attachments: §§ 55/56/57.19a–26 and 75/77.1436. These provisions require wire ropes to be attached at the drum end by using one of the following methods: clips after making one full turn around a spoke; clips after making one full turn around the shaft, if the shaft is fixed to the drum; or properly assembled anchor bolts, clamps, or wedges, if these devices are a design feature of the hoist drum. The term "design feature" in these standards means either the manufacturer's original design or a design approved by a registered professional engineer. These methods do not allow attachment of wire rope to a shaft that can rotate independently of the drum because the rope could rub and wear on the shaft, creating a hazardous condition.

The final rules also require a minimum of three full turns of the rope on the drum when the rope is extended to its maximum working length. This minimizes strain on the drum attachment.

The proposed rules would have required that whenever a length of wire rope wound in multiple layers was cut off at the drum end, the length of rope cutoff could not be a whole number multiple of the circumference of the drum. Several commenters stated that this was an operating procedure which extended the service of the rope without directly affecting the safety of persons and should not be mandatory. MSHA agrees and has deleted this proposed cutoff requirement in the final rules. The examination and retirement provisions of these final rules, however, will require that worn wire rope be removed from service before safety is affected.

Several commenters noted that the preamble to the proposed rules stated that set screws would not be allowed for drum end attachments. They stated that if a set screw connection is factory designed and manufactured, such a connection should be considered a "design feature." The final rules allow the use of set screws for drum end attachments, provided that the set screws secure but do not damage the rope. Attachment assemblies that damage the rope structure will necessitate that the affected portion of the rope be cut off or the entire rope be retired from service.

A commenter requested that MSHA specifically exempt friction hoists from the requirements for drum end attachments. Friction hoist ropes attach to a conveyance at one end and to another conveyance or a counterbalance at the other end. The friction of the rope on the drum causes movement of the conveyance. There is no drum attachment on a friction hoist because the rope does not attach to the drum. Therefore, there is no need to include a specific exemption for friction hoists.

End Attachment Retermination: §§ 55/56/57.19a–27 and 75/77/.1437. These provisions require damaged or deteriorated wire rope at an attachment to be cut off and the rope refastened if there is more than one broken wire, improper installation, slippage of the attachment fittings, or evidence of deterioration from corrosion. This performance requirement replaces the existing periodic cutoff requirement in the metal and nonmetal standards.

A commenter stated that broken wires at an attachment are no more serious than broken wires elsewhere in a wire rope. Based on Agency experience, attachments and the wire rope near attachments are continually subject to bending, vibration, and other stresses as well as localized corrosion from moisture collection. These conditions make the attachment potentially the weakest part of the hoist rope. Broken wires at an attachment can present serious safety hazards.

Commenters stated that the proposed retermination criterion for evidence of corrosion was vague. MSHA has revised the proposal to require retermination if there is evidence of *deterioration* from corrosion. This deterioration is often marked by pitting or loss of cross-sectional area. Surface discoloration that cannot be removed by a wire brush is evidence of deterioration. Other commenters believed that retermination should only be required if slippage cannot be remedied by repositioning and retorquing of the attachment fittings. The final rules do not reflect these comments because MSHA believes that end attachment slippage may be an indication of an improperly installed end attachment which may reduce rope strength or cause failure of the attachment. When any of the criteria for end attachment retermination standards is present, corrective action must be taken to ensure safe rope strength or safe termination efficiency.

End Attachment Replacement: 55/56/57.19a–28 and §§ 75/77.1438. These standards require cracked, deformed, or excessively worn wire rope attachments to be replaced. Prompt replacement of unsafe attachments is necessary to prevent failure of the rope at these locations.

Several commenters stated that "deformed" and "excessively worn" are vague terms. Deformed fittings indicate a structural change that is indicative of a loss of efficiency or a potential failure of the attachment. For example, deformation may be evidenced by changes in shape or dimension of a socket, thimble, nut, or bolt. Excessively worn fittings also indicate a loss of efficiency, and therefore safety, of the end attachment. Excessively worn threads on a wire rope clip nut are apparent when the fitting fails to hold proper torque values. In the final rules, MSHA has retained this requirement

and believes that it is a generally understood safety practice.

Other Changes. The proposed rules included a provision to change the headings of §§ 55.19, 56.19, and 57.19 from "Man hoisting" to "Hoisting." Many commenters believed that this change would broaden the scope of the personnel hoisting standards in these sections. MSHA did not intend this result, and has changed the proposed section heading of "Hoisting" to "Personnel hoisting" to clearly reflect the Agency's intent. MSHA has also changed the heading of Subpart O of Part 77 from "Man Hoisting" to "Personnel Hoisting."

The metal and nonmetal provisions revoked are: §§ 55/56/57.19–39, D/d drum and sheave tread diameter requirements; §§ 55/56/57.19–40, groove radius requirements; 55/56/57.19–123, lubrication requirements; and 55/56/57.19–125, periodic cutoff of winding drum ropes. MSHA agrees with commenters that these provisions represent design requirements which should be left to the discretion of the mine operator. In addition, 55/56/57.19–53 which concern shaft sinking ropes are replaced by the minimum rope strength requirements in 55/56/57.19a–21.

As proposed, the final rules revoke §§ 75.1403–3(b) and 77.1907(b). These sections required that bridle chains or cables be connected securely between ropes and conveyances. Several commenters requested that MSHA revise these standards rather than delete them. The revocation of these provisions does not prohibit mine operators from installing bridle chains. However, MSHA does not recommend that bridle chains be used because these attachments can induce stress concentrations on the wire rope or increase collection points for moisture that can cause corrosion. Such conditions can lead to breakage of the wire rope at or above the point of attachment.

Several commenters suggested that MSHA should also revoke metal and nonmetal 55/56/57.19–26 which concern secondary attachments. The Agency will address these standards as part of the overall review of the metal and nonmetal hoisting standards.

The final rules also revoke §§ 75.1401–2 and 77.1403(d) which require MSHA approval of any change to a hoist or elevator that affects its rated capacity. These sections duplicated §§ 75.1401 and 77.1402, which required that hoists have rated capacities consistent with the loads handled.

Sections 75.1400, 75.1400–3, 75.1401, 77.1402, and 77.1403 are revised to delete references to wire rope provisions which duplicated provisions of the final rules. In the proposed rules, MSHA republished each affected section, although the only substantive changes made related to wire ropes. This republication apparently confused some commenters because they commented on provisions in the republished sections that were not the subject of this rulemaking. The final rules also correct a typographical error in § 75.1401–3 by deleting the reference to "§ 17.1401" and inserting "§ 75.1401."

Consistent with the goals of the Paperwork Reduction Act to minimize recordkeeping requirements, the final rules retain the proposed changes to the Agency's hoist examination recordkeeping requirements. Countersigning provisions in §§ 75.1400–4, 77.1403(b), and 77.1906(c) are revoked. These sections required hoist examination records to be countersigned by responsible company officials after the person making the examination has signed them. MSHA believes that safe wire rope and hoisting practices, as required by the final rules and other existing standards, can be attained without countersigning requirements. The final rules also revise the recordkeeping provisions in 55/56/57.19–121, 75.1400–4, 77.1403(b), and 77.1906(c) by requiring certification that an inspection has been made. A record is required only if unsafe conditions are present, and the record must be dated. In addition, the final rules retain the proposed requirement that certifications and records of hoist examinations be kept for one year. The existing metal and nonmetal standards require hoist records to be retained for three years; existing coal standards do not specify a retention period. A one-year period for retention of certifications and records for hoist equipment provides an adequate basis for evaluating compliance with the hoist examination requirements. Finally, the final rules revoke § 75.1807 which required that the results of hoist examinations be recorded in an approved book. MSHA does not believe that there is a need to prescribe the form of the record which an operator must keep. These revised hoist examination recordkeeping requirements do not alter the mine operator's responsibilities to conduct the required examinations.

III. Drafting Information

The principal persons responsible for preparing these final rules are: Donald Hutchinson, Technical Support, MSHA; Dale Cavanaugh, Coal Mine Safety and Health, MSHA; Paul Talley, Metal and Nonmetal Mine Safety and Health, MSHA; Richard V. Zeutenhorst, Office of Standards, Regulations, and Variances, MSHA; and Bernard R. McGuire and M. Peter Garcia, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

Under Executive Order 12291, MSHA has prepared an analysis to identify potential costs and benefits associated with the changes to its safety standards for wire ropes used at coal, metal, and nonmetal mines. The Agency has incorporated this analysis into the Final Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the final rules will not result in major cost increases or have an effect of $100 million or more on the economy. The final rules do not meet the criteria for a major rule, and therefore a Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that in developing regulatory proposals, agencies should evaluate and include, wherever possible, compliance alternatives that minimize any adverse impact on small business entities. Because the practices of safe wire rope use do not vary from large mines to small mines, the Agency has not exempted small mines from any provisions of the final rules. However, MSHA's final rules simplify compliance responsibilities by the removal of incorporations by reference, adopting performance-oriented standards for end attachments and rope requirement, and reducing recordkeeping to the minimum necessary.

In the following summary of the Regulatory Flexibility Analysis, MSHA has compared the costs and benefits of the final rules with the costs of the existing requirements. A copy of the detailed analysis is available upon request.

MSHA estimates that the annual compliance costs associated with the wire rope requirements in the final rules would amount to $619,000. This represents a net decrease of over $256,000 from the existing requirements. The costs associated with the final rules do not represent a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The requirements of the final rules will affect about 450 mining operations. Of these, 300 are metal and nonmetal mines and 150 are coal mines. MSHA estimates that approximately 250 of these mines are small businesses with fewer than 20 employees.

In developing cost estimates, MSHA has taken into consideration industry-

wide safety practices. Compliance costs associated with the existing requirements were related to: Examination and recordkeeping; equipment repair and replacement; and retirement of wire ropes. In calculating the cost of the final rules, the Agency considered the following new or changed requirements: initial rope measurements for all mines affected; an increase in wire rope examinations for metal and nonmetal operations from monthly to every fourteen days and a decrease for coal operations from daily to every fourteen days; semiannual examinations of the wire rope by measurement or nondestructive testing; and more specific wire rope retirement criteria. MSHA projects cost reductions due to: revocation of countersigning requirements at coal mines; replacement of periodic cutoff requirements by requirements linked to the condition of the rope; and removal of sheave-to-rope diameter requirements and sheave and drum groove radii requirements. The change in frequency in examinations will decrease examination costs at coal operations and increase examination costs at metal and nonmetal operations. Revocation of countersigning provisions will also result in reduced recordkeeping costs at coal operations. New provisions for drum and load end attachments will allow all operators greater flexibility in meeting compliance responsibilities with state-of-the-art equipment and procedures.

In the final rules, MSHA has reorganized, updated, and clarified standards for wire ropes. The Agency has also revoked provisions that would have duplicated the new standards. MSHA has limited recordkeeping and certification requirements to the minimum necessary to ensure protection for persons working at mines; simple log entries can be used to satisfy these requirements. Based upon Agency experience and current industry practices, MSHA also believes that the inspection, recordkeeping, and certification requirements for wire ropes can be performed in conjunction with other hoist requirements.

The primary benefit of the final rules is the protection that the standards will provide for persons at mines who rely on hoists as personnel conveyances or who work under materials hoisted by wire ropes. Wire rope failure can result in injuries and fatalities. The final rules provide uniform protection for all miners whose lives often depend on the integrity of a wire rope.

The final rules contain performance-oriented provisions that include technological advancements. These provisions permit operators greater compliance flexibility and reduce the need for operators to request variances from the Agency for the use of state-of-the-art equipment and techniques. The final rules also replace incorporations by reference with specific requirements to clarify compliance responsibilities for coal mine operators.

V. Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 1219-0034.

List of Subjects in 30 CFR Parts 55, 56, 57, 75, and 77

Mine safety and health, Hoisting, Wire rope.

Dated: November 18, 1983.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

PART 55—SAFETY AND HEALTH STANDARDS—METAL AND NONMETAL OPEN PIT MINES

Part 55, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. The heading to § 55.19 is revised to read as follows:

§ 55.19 Personnel hoisting.

* * * * *

2. The undesignated centered heading "Wire Rope" in § 55.19 is removed.

3. Reserved numbers 55.19-19, 55.19-20, 55.19-23, 55.19-25, 55.19-27 through 55.19-34, 55.19-41 through 55.19-44, 55.19-46 through 55.19-48, 55.19-51, 55.19-52, 55.19-59 and 55.19-60, 55.19-64, 55.19-82, 55.19-84 through 55.19-89, 55.19-97 through 55.19-99, 55.19-112 through 55.19-119, and 55.19-127 are removed.

4. Standard 55.19-26 is redesignated as standard 55.19-30.

5. Standards 55.19-39, 55.19-40, 55.19-53, 55.19-123, and 55.19-125 are removed.

6. Standard 55.19-121 is revised to read as follows:

55.19-121. At the time of completion, the person performing inspections, tests, and maintenance of hoisting equipment required in standard 55.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

7. At the end of § 55.19 an authority citation is added to read as follows:

(Standard 55.19-121: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

8. Standard 55.19-21 is redesignated as 55.19a-21 and revised as set forth in item 15 below.

9. Standard 55.19-22 is redesignated as 55.19a-26 and revised as set forth in item 15 below.

10. Standard 55.19-24 is redesignated as 55.19a-25 and revised as set forth in item 15 below.

11. Standard 55.19-124 is redesignated as 55.19a-27 and revised as set forth in item 15 below.

12. Standard 55.19-126 is redesignated as 55.19a-23 and revised as set forth in item 15 below.

13. Standard 55.19-128 is redesignated as 55.19a-24 and revised as set forth in item 15 below.

14. New standards 55.19a-22 and 55.19a-28 are added as set forth in item 15 below.

15. A new § 55.19a is added to read as follows:

§ 55.19a Wire ropes.

55.19a-20 *Scope.* Standards 55.19a-21 through 55.19a-28 apply to wire ropes in service used to hoist persons with an incline hoist on the surface.

55.19a-21 *Minimum rope strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0 − 0.001L)

For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0.

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)

For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0.

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0.

55.19a-22 *Initial measurement.* After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the

measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

55.19a-23 *Examinations.* (a) At least once every fourteen calendar days each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this standard.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this standard, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this standard is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this standard shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

55.19a-24 *Retirement criteria.* Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand;

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

(c) A loss of more than one-third of the original diameter of the outer wires;

(d) Rope deterioration from corrosion;

(e) Distortion of the rope structure;

(f) Heat damage from any source;

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement; or

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

55.19a-25 *Load end attachments.* (a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

55.19a-26 *Drum end attachment.* (a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

55.19a-27 *End attachment retermination.* Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

55.19a-28 *End attachment replacement.* Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

PART 56—SAFETY AND HEALTH STANDARDS—SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

Part 56, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. The heading to § 56.19 is revised to read as follows:

§ 56.19 Personnel hoisting.

* * * * *

2. The undesignated centered heading "Wire Rope" in § 56.19 is removed.

3. Reserved numbers 56.19-19, 56.19-20, 56.19-23, 56.19-25, 56.19-27 through 56.19-34, 56.19-41 through 56.19-44, 56.19-46 through 56.19-48, 56.19-51 and 56.19-52, 56.19-59 and 56.19-60, 56.19-64, 56.19-82, 56.19-84 through 56.19-89, 56.19-97 through 56.19-99, 56.19-112 through 56.19-119, and 56.19-127 are removed.

4. Standard 56.19-26 is redesignated as standard 56.19-30.

5. Standards 56.19-39, 56.19-40, 56.19-53, 56.19-123, and 56.19-125 are removed.

6. Standard 56.19-121 is revised to read as follows:

56.19-121. At the time of completion, the person performing inspections, tests, and maintenance of hoisting equipment required in standard 56.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

7. At the end of § 56.19 an authority citation is added to read as follows:

(Standard 56.19-121: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

8. Standard 56.19-21 is redesignated as 56.19a-21 and revised as set forth in item 15 below.

9. Standard 56.19-22 is redesignated as 56.19a-26 and revised as set forth in item 15 below.

10. Standard 56.19-24 is redesignated as 56.19a-25 and revised as set forth in item 15 below.

11. Standard 56.19-124 is redesignated as 56.19a-27 and revised as set forth in item 15 below.

12. Standard 56.19-126 is redesignated as 56.19a-23 and revised as set forth in item 15 below.

13. Standard 56.19-128 is redesignated as 56.19a-24 and revised as set forth in item 15 below.

14. New standards 56.19a-22 and 56.19a-28 are added as set forth in item 15 below.

15. A new § 56.19a is added to read as follows:

§ 56.19a Wire ropes.

56.19a-20 *Scope.* Standards 56.19a-21 through 56.19a-28 apply to wire ropes in service used to hoist persons with an incline hoist on the surface.

56.19a-21 *Minimum rope strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:

Minimum Value-Static Load $\times (7.0 - 0.001L)$

For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)
For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0

56.19a-22 *Initial measurement.* After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

56.19a-23 *Examinations.* (a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this standard.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of layer regions.

(d) At the completion of each examination required by paragraph (a) of this standard, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this standard is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this standard shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

56.19a-24 *Retirement criteria.* Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand;

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

(c) A loss of more than one-third of the original diameter of the outer wires;

(d) Rope deterioration from corrosion;

(e) Distortion of the rope structure;

(f) Heat damage from any source;

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement; or

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

56.19a-25 *Load end attachments.* (a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

56.19a-26 *Drum end attachment.* (a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

56.19a-27 *End attachment retermination.* Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

56.19a-28 *End attachment replacement.* Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

PART 57—SAFETY AND HEALTH STANDARDS—METAL AND NONMETAL UNDERGROUND MINES

Part 57, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. The heading to § 57.19 is revised to read as follows:

§ 57.19

Personnel hoisting.

* * * * *

2. The undesignated centered heading "Wire Rope" in § 57.19 is removed.

3. Reserved numbers 57.19-15, 57.19-16, 57.19-19, 57.19-20, 57.19-23, 57.19-25, 57.19-27, 57.19-28, through 57.19-34, 57.19-41 through 57.19-44, 57.19-46 through, 57.19-48, 57.19-51 and 57.19-52, 57.19-59, and 57.19-60, 57.19-64, 57.19-82, 57.19-84 through 57.19-89, 57.19-97 through 57.19-99, 57.19-112 through 57.19-119, and 57.19-127 are removed.

4. Standard 57.19-26 is redesignated as standard 57.19-30.

5. Standards 57.19-39, 57.19-40, 57.19-53, 57.19-123, and 57.19-125 are removed.

6. Standard 57.19-121 is revised to read as follows:

57.19-121. At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required in standard 57.19-120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

7. At the end of § 57.19 an authority citation is added to read as follows:

(Standard 57.19-121: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

8. Standard 57.19-21 is redesignated as 57.19a-21 and revised as set forth in item 15 below.

9. Standard 57.19-22 is redesignated as 57.19a-26 and revised as set forth in item 15 below.

10. Standard 57.19-24 is redesignated as 57.19a-25 and revised as set forth in item 15 below.

11. Standard 57.19-124 is redesignated as 57.19a-27 and revised as set forth in item 15 below.

12. Standard 57.19-126 is redesignated as 57.19a-23 and revised as set forth in item 15 below.

13. Standard 57.19-128 is redesignated as 57.19a-24 and revised as set forth in item 15 below.

14. New Standards 57.19a–22 and 57.19a–28 are added as set forth in item 15 below.

15. A new § 57.19a is added to read as follows:

§ 57.19a Wire ropes.

57.19a–19 *Guide ropes.* If guide ropes are used in shafts for personnel hoisting applications other than shaft development, the nominal strength (manufacturer's published catalog strength) of the guide rope at installation shall meet the minimum value calculated as follows:

Minimum value = Static Load × 5.0.

57.19a–20 *Scope.* (a) Standards 57.19a–21 through 57.19a–28 shall apply to wire ropes in service used to hoist—

(1) Persons in shafts and slopes underground;

(2) Persons with an incline hoist on the surface; or

(3) Loads in shaft or slope development when persons work below suspended loads.

(b) These standards do not apply to wire ropes used for elevators.

57.19a–21 *Minimum rope strength.* At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0 − 0.001L)

For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)

For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0

57.19a–22 *Initial measurement.* After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219–0034)

57.19a–23 *Examinations.* (a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this standard.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this standard, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this standard is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this standard shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219–0034)

57.19a–24 *Retirement criteria.* Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand;

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

(c) A loss of more than one-third of the original diameter of the outer wires;

(d) Rope deterioriation from corrosion;

(e) Distortion of the rope structure;

(f) Heat damage from any source;

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement; or

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

57.19a–25 *Load end attachments.* (a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

57.19a–26 *Drum end attachment.* (a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

57.19a–27 *End attachment reterminations.* Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

57.19a–28 *End attachment replacement.* Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

(Sec. 101 Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

Subpart O—Hoisting and Mantrips

Part 75, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. The table of contents to Part 75 under the heading "Subpart O—Hoisting and Mantrips" is revised to read as follows:

Subpart O—Hoisting and Mantrips

Sec.
75.1400 Hoisting equipment; general.
75.1400–1 Hoists; brakes, capability.
75.1400–2 Hoists; tests of safety catches; records.
75.1400–3 Daily examination of hoisting equipment.
75.1400–4 Certifications and records of daily examinations.
75.1401 Hoists; rated capacities; indicators.
75.1401–1 Hoists; indicators.
75.1402 Communication between shaft stations and hoist room.
75.1402–1 Communication between shaft stations and hoist room.
75.1402–2 Tests of signaling systems.
75.1403 Other safeguards.
75.1403–1 General criteria.

Sec.
75.1403-2 Criteria—Hoists transporting materials; brakes.
75.1403-3 Criteria—Drum clutch; cage construction.
75.1403-4 Criteria—Automatic elevators.
75.1403-5 Criteria—Belt conveyors.
75.1403-6 Criteria—Self-propelled personnel carriers.
75.1403-7 Criteria—Mantrips.
75.1403-8 Criteria—Track haulage roads.
75.1403-9 Criteria—Shelter holes.
75.1403-10 Criteria—Haulage; general.
75.1403-11 Criteria—Entrances to shafts and slopes.
75.1404 Automatic brakes; speed reduction gear.
75.1401-1 Braking system.
75.1405 Automatic couplers.
75.1405-1 Automatic couplers, haulage equipment.

Wire Ropes

75.1429 Guide ropes.
75.1430 Wire ropes; scope.
75.1431 Minimum rope strength.
75.1432 Initial measurement.
75.1433 Examinations.
75.1434 Retirement criteria.
75.1435 Load end attachments.
75.1436 Drum end attachment.
75.1437 End attachment retermination.
75.1438 End attachment replacement.

2. Section 75.1400 is revised to read as follows:

§ 75.1400 Hoisting equipment; general.

(a) Every hoist used to transport persons shall be equipped with overspeed, overwind, and automatic stop controls.

(b) Every hoist handling a platform, cage, or other device used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device.

(c) Cages, platforms, or other devices used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency. Such catches or devices shall be tested at least once every two months.

(d) Hoisting equipment, including automatic elevators, used to transport persons shall be examined daily.

(e) Where persons are transported into or out of a mine by a hoist, a qualified hoisting engineer shall be on duty while any person is underground. No such engineer, however, shall be required for automatically operated cages, platforms, or elevators.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

3. Section 75.1400-3 is revised to read as follows:

§ 75.1400-3 Daily examination of hoisting equipment.

Hoists and elevators shall be examined daily and such examinations shall include, but not be limited to, the following:

(a) *Elevators.* A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points such as near the attachments and where the rope rests on sheaves;

(b) *Hoists and elevators.* (1) An examination of the rope fastenings for defects;

(2) An examination of safety catches;

(3) An examination of the cages, platforms, elevators, or other devices for loose, missing or defective parts;

(4) An examination of the head sheaves to check for broken flanges, defective bearings, rope alignment, and proper lubrication; and

(5) An observation of the lining and all other equipment and appurtenances installed in the shaft.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

4. Section 75.1400-4 is revised to read as follows:

§ 75.1400-4 Certifications and records of daily examinations.

At the completion of each daily examination required by § 75.1400, the person making the examination shall certify, by signature and date, that the examination has been made. If any unsafe condition is found during the examinations required by § 75.1400-3, the person conducting the examination shall make a record of the condition and the date. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

5. Section 75.1401 is revised to read as follows:

§ 75.1401 Hoists; rated capacities; indicators.

Hoists shall have rated capacities consistent with the loads handled. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

§§ 75.1401-1 and 75.1401-2 [Removed]

6. Sections 75.1401-1 and 75-1401-2 are removed.

7. Section 75.1401-3 is redesignated as § 75.1401-1 and revised to read as follows:

§ 75.1401-1 Hoists; indicators.

The indicator required by § 75.1401 of this subpart shall be placed so that it is in clear view of the hoisting engineer and shall be checked daily to determine its accuracy.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

8. Section 75.1403-3 is revised to read as follows:

§ 75.1403-3 Criteria—Drum clutch; cage construction.

(a) The clutch of a free-drum on a personnel hoist should be provided with a locking mechanism or interlocked with the brake to prevent accidental withdrawal of the clutch.

(b) Cages used for hoisting persons should be constructed with the sides enclosed to a height of at least six feet and should have gates, safety chains, or bars across the ends of the cage when persons are being hoisted or lowered.

(c) Self-dumping cages, platforms, or other devices used for transportation of persons should have a locking device to prevent tilting when persons are transported.

(d) An attendant should be on duty at the surface when persons are being hoisted or lowered at the beginning and end of each shift.

(e) Precautions should be taken to protect persons working in shaft sumps.

(f) Workers should wear safety belts while doing work in or over shafts.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

9. An undesignated centered heading, authority citation and new §§ 75.1429 through 75.1438, are added to read as follows:

Wire Ropes

Authority: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

§ 75.1429 Guide ropes.

If guide ropes are used in shafts for personnel hoisting applications other than shaft development, the nominal strength (manufacturer's published catalog strength) of the guide rope at installation shall meet the minimum value calculated as follows: Minimum value = Static Load × 5.0.

§ 75.1430 Wire ropes; scope.

(a) Sections 75.1430 through 75.1438 apply to wire ropes in service used to hoist—

(1) Persons in shafts or slopes underground; or

(2) Loads in shaft or slope development when persons work below the suspended loads.

(b) These standards do not apply to wire ropes used for elevators.

§ 75.1431 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0 − 0.001L)
For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)
For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0

§ 75.1432 Initial measurement.

After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 75.1433 Examinations

(a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this section.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this standard is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 75.1434 Retirement criteria.

Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand;

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

(c) A loss of more than one-third of the original diameter of the outer wires;

(d) Rope deterioriation from corrosion;

(e) Distortion of the rope structure;

(f) Heat damage from any source;

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement; or

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

§ 75.1435 Load end attachments.

(a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

§ 75.1436 Drum end attachment.

(a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

§ 75.1437 End attachment retermination.

Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

§ 75.1438 End attachment replacement.

Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

Subpart S—Approved Books and Records

Part 75, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is amended as follows:

§ 75.1807 [Removed]

1. Section 75.1807 is removed.

PART 77—MANDATORY SAFETY STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Subpart O—Man Hoisting

Part 77, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. The table of contents to Part 77 under the heading of "Subpart O—Man Hoisting" is revised as follows:

Subpart O—Personnel Hoisting

Sec.
17.1400 Personnel hoists and elevators.
17.1401 Automatic controls and brakes.
17.1402 Rated capacity.
17.1401–1 Maximum load; posting.
17.1403 Daily examination of hoisting equipment.
17.1404 Certifications and records of daily examinations.
17.1405 Operation of hoisting equipment after repairs.

Wire Ropes

17.1430 Wire ropes; scope.
17.1431 Minimum rope strength.
17.1432 Initial measurement.
17.1433 Examinations.
17.1434 Retirement criteria.
17.1435 Load end attachments.
17.1436 Drum end attachment.
17.1437 End attachment retermination.
17.1438 End attachment replacement.

2. The heading of Subpart O is revised to read as follows:

Subpart O—Personnel Hoisting

3. Section 77.1400 is revised to read as follows:

§ 77.1400 Personnel hoists and elevators.

Except as provided in § 77.1430, the sections in this Subpart O apply only to hoists and elevators, together with their appurtenances, that are used for hoisting persons.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

4. Section 77.1402 is revised to read as follows:

§ 77.1402 Rated capacity.

Hoists and elevators shall have rated capacities consistent with the loads handled.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

§ 77.1402–1 [Removed]

5. Section 77.1402–1 is removed.

§ 77.1402–2 [Redesignated as § 77.1402–1]

6. Section 77.1402–2 is redesignated as § 77.1402–1.

§ 77.1403 [Amended]

7. Sections 77.1403(d) and 77.1403(e) are removed.

8. Section 77.1403(a) is redesignated as § 77.1403 introductory text, (a) and (b) and revised to read as follows:

§ 77.1403 Daily examination of hoisting equipment.

Hoists and elevators shall be examined daily and such examinations shall include, but not be limited to, the following:

(a) *Elevators.* (1) A visual examination of the ropes for wear, broken wires, and corrosion, especially at excessive strain points such as near the attachments and where the rope rests on the sheaves;

(2) An examination of the elevator for loose, missing or defective parts;

(b) *Hoists and elevators.* (1) An examination of the rope fastenings for defects;

(2) An examination of sheaves for broken flanges, defective bearings, rope alignment, and proper lubrication; and

(3) An examination of the automatic controls and brakes required under § 77.1401.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

9. Section 77.1403(b) is redesignated as § 77.1404 and revised to read as follows:

§ 77.1404 Certification and records of daily examinations.

At the completion of each daily examination required by § 77.1403, the person making the examination shall certify, by signature and date, that the examination has been made. If any unsafe condition is found during the examinations required by § 77.1403, the person conducting the examination shall make a record of the condition and the date. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219–0034)

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

10. Section 77.1403(c) is redesignated § 77.1405 and revised to read as follows:

§ 77.1405 Operation of hoisting equipment after repairs.

Empty conveyances shall be operated at least one round trip before hoisting persons after any repairs.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

11. An undesignated centered heading, authority citation and new §§ 77.1430 through 77.1438 are added to read as follows:

Wire Ropes

Authority: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811).

§ 77.1430 Wire ropes; scope.

(a) Sections 77.1431 through 77.1438 apply to wire ropes in service used to hoist—

(1) Persons in shafts and slopes underground;

(2) Persons with an incline hoist on the surface; or

(3) Loads in shaft or slope development when persons work below suspended loads.

(b) These standards do not apply to wire ropes used for elevators.

§ 77.1431 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0 − 0.001L)
For rope lengths less than 3,000 feet or greater:
Minimum Value = Static Load × 4.0

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)
For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0

§ 77.1432 Initial measurement.

After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219–0034)

§ 77.1433 Examinations.

(a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this section.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this standard is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 77.1434 Retirement criteria.

Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand;

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

(c) A loss of more than one-third of the original diameter of the outer wires;

(d) Rope deterioriation from corrosion;

(e) Distortion of the rope structure;

(f) Heat damage from any source;

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement; or

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

§ 77.1435 Load end attachments.

(a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

§ 77.1436. Drum end attachment.

(a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

§ 77.1437 End attachment retermination.

Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

§ 77.1438 End attachment replacement.

Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

Subpart T—Slope and Shaft Sinking

Part 77, Subchapter O, Chapter I, Title 30 of the Code of Federal Regulations, is amended as follows:

1. Section 77.1903 is revised to read as follows:

§ 77.1903 Hoists and hoisting; minimum requirements.

(a) Hoists and used in transporting persons and material during drilling, mucking, or other excavating operations in any slope or shaft shall have rated capacities consistent with the loads to be handled.

(b) Each hoist used in drilling, mucking, or other excavating operations shall be equipped with an accurate and reliable indicator of the position of the cage, platform, or bucket. The indicator shall be installed in clear view of the hoist operator.

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

2. Section 77.1906 is revised to read as follows:

§ 77.1906 Hoists; daily inspection.

(a) Hoists used to transport persons shall be inspected daily. The inspection shall include examination of the headgear (headframe, sheave wheels, etc.), connections, links and chains, and other facilities.

(b) Prior to each working shift, and before a hoist is returned to service after it has been out of normal service for any reason, the hoist shall be run the hoist operator through one complete cycle of operation before any person is permitted to be transported.

(c) At the completion of each daily examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any unsafe condition in the hoisting equipment is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

(Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

3. Section 77.1907 is revised to read as follows:

§ 77.1907 Hoist construction; general.

If hooks are used to attach cages or buckets to the socket or thimble of a hoisting rope, the hooks shall be self-closing.

(Sec. 101,Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811))

[FR Doc. 83-31500 Filed 11-23-83; 8:45 am]

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federal register

Friday
November 25, 1983

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL83-1007	February 18, 1983.
AL83-1009	Do.
AL83-1053	July 29, 1983.
AL83-1001	Jan. 21, 1983.
California:	
CA83-5112	July 1, 1983.
CA83-5119	Sept. 16, 1983.
Florida:	
FL83-1016	April 1, 1983.
FL83-1084	Oct. 28, 1983.
Illinois: IL83-2053	Aug. 5, 1983.
Iowa: IA83-4056	July 29, 1983.
Louisiana:	
LA83-4059	Aug. 5, 1983.
LA83-4019	Feb. 4, 1983.
Maryland: MD81-3031	May 15, 1981.
Mississippi:	
MS83-1015	Apr. 1, 1983.
MS83-1014	Mar. 3, 1983.
Nevada:	
NV83-5103	Mar. 18, 1983.
NV83-5121	Sept. 23, 1983.
New Mexico: NM83-4071	Oct. 7, 1983.
Pennsylvania:	
PA81-3091	Dec. 26, 1981.
PA82-3010	Mar. 5, 1982.
PA82-3027	Oct. 8, 1982.
PA82-3028	Sept. 10, 1982.
PA83-3009	May 10, 1083.
Rhode Island: RI83-3042	Aug. 19, 1983.
Tennessee:	
TN82-2060	Nov. 19, 1982.
TN82-2059	Do.
Texas:	
TX83-4005	Jan. 7, 1983.
TX83-4058	Aug. 5, 1983.
Virginia: VA81-3015	Mar. 6, 1981.
Washington: WA83-5110	June 3, 1983.
West Virginia: WV83-3022	Nov. 18, 1983.
Wisconsin: WI83-2078	Oct. 7, 1983.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL82-1039 (AL83-1065)	Sept. 3, 1982.
Kansas: KS83-4018 (KS83-4084)	Feb. 4, 1983.
Ohio: OH83-2006 (OH83-5122)	Feb. 11, 1983.
Pennsylvania:	
PA81-3027 (PA83-3051)	July 17, 1981
PA81-3047 (PA83-3052)	Do.
PA81-3029 (PA83-3053)	July 10, 1981
South Carolina: SC78-1085 (SC83-1089)	Sept. 29, 1978.
Tennessee:	
TN82-2058 (TN83-1086)	Nov. 19, 1982.
TN82-2056 (TN83-1087)	Nov. 11, 1982.
TN82-2057 (TN83-1088)	Nov. 19, 1982.
West Virginia: WV83-3000 (WV83-3023)	Mar. 11, 1983.

Signed at Washington D.C. this 18th day of November 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #AL83-1007-MOD#2
(47 FR 7367-February 18, 1983)
Madison County, Alabama

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & Pipefitters	$14.10	$2.42
Sheet Metal Workers	14.46	2.31

DECISION #AL83-1009-MOD#1
(48 FR 7366-February 18, 1983)
Etowah County, Alabama

CHANGE:		
Asbestos Workers	15.66	2.26
Bricklayers	13.25	.30
Ironworkers	14.17	1.92
Laborers, unskilled	7.67	.88
Sheet Metal Workers	14.46	2.31
Sprinkler Fitters	14.57	3.23

DECISION #AL83-1053-MOD#1
(48 FR 34682-July 29,1983)
Tuscaloosa County, Alabama

CHANGE:		
Sheet Metal Workers	14.46	2.31

DECISION #AL83-1001-MOD#3
(47 FR 2929-January 21, 1983)
Colbert & Lauderdale Counties, Alabama

CHANGE:		
Cement Mason	11.01	.65
Painters:		
Commercial	10.95	1.15
Industrial	12.10	1.15
Plasterers	11.33	.65
Sheet Metal Workers	14.46	2.31

DECISION NO. CA83-5119 - Mod. #1
(48 FR 41702 - September 16, 1983)
San Diego, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Divers:		
Divers	$42.12	$3.89
Stand-by Divers	21.06	3.89
Tenders	20.06	3.89
Drywall Installers/ Lathers	19.14	3.97
Elevator Constructors:		
Mechanics	22.74	3.00+ a
Helpers	15.92	3.00+ a
Probationary Helpers	11.37	
Omit:		
Electricians:		
Utility Technicians	16.50	.47+ 3%
Add:		
Electricians:		
Utility Technician (covers street lights, traffic signals, and underground systems in streets and/or established easements)	16.50	.47+ 3%

DECISION NO. FL83-1016-MOD. # 6
(48 FR 14307-April 1,1983)
Dade County,Florida
Building Construction

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS & SOFT FLOOR LAYERS	$13.75	1.59

DECISION NO. FL83-1084-MOD. # 1
(48 FR 49999-October 28, 1983)
Cape Canaveral AFS,Patrick AFB,Kennedy Space Flight Center, & Malabar Radar Site in BREVARD & VOLUSIA COUNTIES IN FLORIDA
BUILDING, HEAVY & HIGHWAY CONSTRUCTION

CHANGE:		
MILLWRIGHTS	15.59	2.72

DECISION NO. CA83-5112 - Mod. #4
(48 FR 30557 - July 1, 1983)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 11:		
Electricians	$18.89	$6.68+ 3%
Cable Splicers	21.25	6.68+ 3%

DECISION #IA83-4056-MOD#5 (48 FR 34611-July 29,1983) Black Hawk,Cerro Grodo, Clinton,Des Moines,Dubuque,Johnson,Linn & Polk Counties,Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 4	$16.72	1.80+ 3-3/4%
Carpenters:		
Zone 4:		
Remodeling (change appearance or purpose of any type of present existing structures) & renovation (for any work on or replacement of any existing machinery, or structures, or related manufacturing items,within any type of manufacturing complex:		
Carpenters	13.57	1.08
Millwrights	14.27	1.08
All other work:		
Carpenters	14.37	1.08
Millwrights/Pile-drivermen	15.07	1.08

DECISION NO. IL83-2053 - Mod #1 (48 FR 35826 - August 5, 1983) Alexander, Champaign, Christian, Clark, Clay, Coles, Crawford, Cumberland, Dewitt, Douglas, Edgar, Edward, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson Johnson, Lawrence, Marion, Massac, Moultrie, Perry, Piatt, Pope, Pulaski, Richland, Saline Shelby, Union, Vermillion, Wabash, Wayne, White, and Williamson Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Decision No. IL82-2001 Mod #5 issued November 14, 1983, to read:		
Decision No. IL83-2053 Mod #3		

DECISION NO. MD81-3031- MOD. #8 (45 FR 27051-May 15, 1981) ALLEGANY & GARRETT CITYS, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.88	5.29

DECISION NO. VA81-3015 - MOD. #14 (46 FR 15666-March 6, 1981) RADFORD ARMY AMMUNITION PLANT, VIRGINIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	11.25	1.17

DECISION NO. LA83-4059 - MOD. #5 (48 FR 35836 - 8/5/83) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & pipefitters:		
Zone 5	$17.98	3.00
Sheet metal workers:		
Zone 2	15.47	3.03+3%
OMIT ALL WAGE RATES & CLASSIFICATIONS FOR PAINTERS ZONES 5,6,7 & 8		
ADD:		
Painters:		
ZONE 5 - Avoyelles,Bienville(western 1/2), Bossier,Caddo,Catahoula,Claiborne,DeSoto, Evangeline,Grant, LaSalle,Natchitoches (except northeast corner),Rapides,Red River, Sabine,St.Landry(northern portion),Vernon, Webster & Winn(southern 1/2 from a line running east & west through the intersection of Rts. 84 & 71 including the town of Winnfield at that intersection): Brush,swing stage, steel,spray,sandblasting,paperhanger, drywall,pointing & taping	10.50	1.10
ZONE 6 - Bienville (eastern portion,everything east of Rt. 9 inclusive),Caldwell, East Carroll,Franklin, Jackson,Lincoln,Madison, Morehouse,Natchitoches (northeast corner), Ouachita,Richland,Tensas,Union,West Carroll & Winn(northern 1/2 everything north of a line running east & west through Winnfield excluding Winnfield):		

DECISION NO. LA83-4059 MOD. #5 (CONT'D)	Basic Hourly Rates	Fringe Benefits
PAINTERS ZONE 6(CONT'D)		
GROUP 1-Painters,paperhangers,tapers & floaters	$10.05	
GROUP 2-Stage,window jacks,bosun chairs, structural steel, rollers,equipment painting,sandblasting, spray,stack,sign,tank painting,steeple jack	10.55	
GROUP 3-Structural steel brush	11.05	
ZONE 7-Acadia,Iberia, Lafayette,St.Landry (south 1/2),St.Martin, St.Mary(except Morgan City Area) & Vermilion:		
Painters	10.85	.83
Industrial	13.42	1.33

DECISION NO. LA83-4019 - MOD. #9 (48 FR 5448 - 2/4/83) Calcasieu Par.,Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	16.10	2.42
Plumbers & pipefitters	17.98	3.00

DECISION #MS83-1015-MOD#3 (48 FR 14312-April 1, 1983) Hinds County, Mississippi	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$14.19	$1.79
Boilermakers	17.70	3.315
Carpenters:		
Carpenters	11.50	1.00
Power Saw Operators (1 hp or over)	11.75	1.00
Fiber Glass Insulation	11.65	1.00
Millwrights	12.10	1.00
Piledrivermen	11.85	1.00
Elevator Constructors:		
Mechanic	12.27	3.00+ a+b
Helper	70%JR	3.00+ a+b
Probationary Helper	50%JR	
Glaziers	11.79	.50
Ironworkers	12.80	2.29
Lathers	10.85	1.00
Line Construction:		
Lineman	13.43	3%+.75
Cable Splicer	13.73	3%+.75
Groundman	8.13	3%+.75
Plasterers	10.85	1.10
Plumbers, Steamfitters & Pipefitters	12.50	2.15
Sprinkler Fitters	14.57	3.23

DECISION #MS83-1014-MOD#1 (48 FR 12646-March 3, 1983) Warren County, Mississippi	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	14.29	1.79
Boilermaker	17.70	3.315
Elevator Constructors:		
Mechanic	12.27	3.00+a +b
Helper	70%JR	3.00+a +b
Probationary Helper	50%JR	
Glazier	11.79	.50
Ironworker	12.80	2.29
Lathers	11.35	.85
Plumbers & Pipefitters	14.64	1.60
Power Equipment Operators:		
Group 1	13.43	.95
Group 2	12.55	.95
Group 3	12.28	.95
Group 4	11.46	.95
Group 5	9.35	.95

DECISION #MS83-1014-MOD#1 (48 FR 12646 - March 3, 1983) Warren County, Mississippi (Cont'd):	Basic Hourly Rates	Fringe Benefits
Booms, including jib:		
100-200 ft. - $.50 above regular pay		
201-300 ft. - 1.00 " " "		
301-400 ft. - 2.00 " " "		
401-500 ft. - 3.00 " " "		
501 & above - 3.25 " " "		
Sprinkler Fitter	$14.57	$3.23

DECISION NO. NV83-5103 - Mod. #6 (48 FR 11629 - March 18, 1983) Statewide (Does not include the Nevada Test Site and Tonopah Test Range and Highway Construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers: Stonemasons:		
Area 2	$14.30	$2.06
Carpenters:		
Area 1:		
Carpenters: Drywall; Floor Layer; Lather; Patent Scaffold Erectors: Power Saw Operator	18.41	4.05
Ironworkers:		
Area 2:		
Fence Erector	18.99	5.95
Ornamental; Reinforcing; Structural	19.88	5.95
Laborers:		
Clark, Esmeralda, and Lincoln Counties; Nye County (South half, including highway #6):		
Group 1	15.00	3.14
Group 2	15.21	3.14
Group 3	15.31	3.14
Group 4	15.40	3.14
Group 5	15.50	3.14
Marble Setters:		
Area 2	15.04	2.28
Marble, Terrazzo, and Tile Finishers:		
Area 2	8.85	2.19
Plaster Tenders:		
Area 1	17.80	3.19
Soft Floor Layers:		
Area 2	16.74	1.58
Terrazzo Workers; Tile Setters:		
Area 2	15.04	2.28

DECISION NO. NV83-5121 - Mod. #2 (48 FR 43532 - September 23, 1983) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Carpenters; Drywall; Floor Layers; Patent Scaffold Erector; Lathers:		
Power Saw Operator	$18.41	$4.05
Millwrights	16.91	6.55
Piledrivermen	18.61	4.05
Ironworkers:		
Fence Erectors	18.99	5.95
Ornamental; Reinforcing; Structural	19.88	5.95
Laborers:		
Group 1	15.00	3.14
Group 2	15.21	3.14
Group 3	15.31	3.14
Group 4	15.40	3.14
Group 5	15.50	3.14
Plaster Tenders	17.80	3.19

DECISION #NM83-4071-MOD.#2
(48 FR 45910-October 7, 1983)
Statewide, New Mexico

CHANGE:
DESCRIPTION OF WORK: GENERAL BUILDING AND HEAVY ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of buildings, including office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all air conditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydro-electric projects; and well drilling, telephone and electrical transmission lines which are part of GENERAL BUILDING AND HEAVY ENGINEERING PROJECTS: mining appurtenances such as tipples, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering spaces and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA, TAOS SANDOVAL, CIBOLA AND VALENCIA COUNTIES.

DECISION NO. PA81-3091 MOD. NO. 7 (46 FR 62761 - December 28, 1981) Green, Somerset and Potter Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Greene and Somerset Counties	$15.88	$5.29
Boilermakers		
Greene and Somerset Counties	16.67	.79+ 14 1/2%
Carpenters:		
Greene County	15.00	29%
Somerset and Potter Counties	14.00	30%
Cement Masons		
Greene County	15.94	3.98
Bricklayers & Stonemasons		
Greene County	15.02	3.70
Somerset County	14.70	2.65
Potter County	15.34	2.60
Electricians:		
Greene and Somerset Counties	17.70	2.85+ 3%
Potter County	12.61	3.56
Ironworkers:		
Potter County	14.195	3.695
Laborers:		
Greene County		
Class 1	13.42	20%
Class 2	13.56	20%
Class 3	13.69	20%
Class 4	13.96	20%
Class 5	14.14	20%
Potter County		
Class 1	13.00	20%
Class 2	13.25	20%
Class 3	13.80	20%
Laborers:		
Somerset County		
Class 1	11.92	20%
Class 2	12.42	20%
Class 3	12.52	20%
Class 4	12.42	20%
Class 5	11.97	20%
Line Construction:		
Green and Somerset Counties		
Linemen	18.06	.80+ 3 3/4%
Groundman	10.76	.80+ 3 3/4%
Winch Truck Operator	12.59	.80+ 3.3/4%

DECISION NO: PA81-3091 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Potter County		
Linemen, Dynamite man Heavy equipment operators	15.64	.65+ 3 3/8%
Winch Truck operators	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
Millwrights:	13.91	39%
Plasterers:		
Somerset County	14.85	.01
Piledrivermen	16.14	28%
Plumbers:		
Remainder of County	16.40	4.34
Roofers:		
Greene and Somerset County	16.89	2.65
Sheet Metal Workers		
Greene and Somerset County	16.59	4.38
Potter County	15.92	2.00
Soft Floor Layers		
Somerset and Potter County	14.00	30%
Power Equipment Operators:		
Somerset and Potter Counties		
Class 1	15.795	3.47
Class 1-A	16.045	3.47
Class 1-B	16.295	3.47
Class 1-C	16.545	3.47
Class 1-D	17.795	3.47
Class 2	15.645	3.47
Class 3	13.37	3.47
Class 3-A	13.87	3.47
Class 4	12.67	3.47
Class 5	11.62	3.47
Class 6	11.92	3.47
Class 6-A	12.02	3.47
Class 6-B	12.17	3.47
Class 6-C	12.92	3.47
Greene County		
Class I	16.825	3.44
Class I-A	17.075	3.44
Class I-B	13.325	3.44
Class I-C	17.575	3.44
Class II	16.625	3.44
Class III	14.54	3.44
Class III-A	15.04	3.44
Class IV	13.53	3.44
Class V	13.22	3.44
Class V-A	13.32	3.44

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3091 (CONT'D)		
Class V-B	$14.47	3.44
Class V-C	14.22	3.44
DECISION NO. PA82-3013 MOD. NO 10 (47 FR 9684- March 5, 1982) Clinton, Centre, Huntingdon, Fulton and Mifflin Counties, Pennsylvania		
Change:		
Carpenters and Soft Floor Layers	$14.00	30%
Bricklayers and Stonemasons		
Clinton County in its entirety, and the Remainder of County	12.25	2.575
Fulton and Huntingdon County	14.00	2.65
Electricians:		
Clinton County in its entirety; Townships in Centre County: Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines	12.61	3.56
Elevator Constructors	15.56	3.00+ a+b
Elevator Constructors Helpers	10.89	3.00+ a+b
Elevator Constructors Helpers (Prob.)	7.78	
Ironworkers Centre and Clinton Counties	14.195	3.695
Laborers:		
Clinton County		
Unskilled Laborers	11.92	20%
Plasterers Tenders	11.97	20%
Centre, Huntingdon, Fulton and Miffin Counties		
Unskilled Laborers	11.65	20%
Plasterers Tenders	11.69	20%

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3010		
Line Construction: Centre, Fulton and Huntingdon Counties		
Lineman	$18.06	.80+ 3 3/8%
Groundman	10.67	.80+ 3 3/8%
Winch Truck Operator	11.68	.80+ 3 3/8%
Plasterers		
Huntingdon County	14.85	.01
Piledrivermen	16.14	28%
Painters:		
Clinton County		
Brush	12.55	2.35
Tapers	13.21	2.35
Hazardous	14.21	2.35
Plumbers and Steamfitters		
Clinton County	17.06	2.44
Roofers:		
Fulton County		
Compisition Dampand Waterproof Workers	11.35	1.75
Huntingdon County	16.89	2.65
Power Equipment Operators:		
Class 1	15.795	3.47
Class 1-A	16.045	3.47
Class 1-B	16.295	3.47
Class 1-C	16.545	3.47
Class 1-D	17.795	3.47
Class 2	15.645	3.47
Class 3	13.37	3.47
Class 3-A	13.87	3.47
Class 4	12.67	3.47
Class 5	11.62	3.47
Class 6	11.92	3.47
Class 6-A	12.02	3.47
Class 6-B	12.17	3.47
Class 6-C	12.92	3.47

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3027 MOD. NO. 7 (47 FR 44670 - October 8, 1982) Bedford, Cambria, Cameron Clarion, Clearfield, Jefferson, Crawford and Venango Counties, Pennsylvinia		
Change:		
Asbestos Workers Zone 1	$15.88	5.29
Bricklayers and stonemasons		
Zone 1	14.70	2.65
Zone 2	16.80	2.35
Zone 3	16.20	3.02
Zone 4	15.34	2.60
Zone 6	15.02	3.70
Cement Masons Zone 3	17.85	1.37
Electricians		
Zone 2	16.72	5.33+ 3%
Zone 3	17.50	1.50+ 10 1/2%
Ironworkers: Zone 5	14.195	3.695
Painters Zone 2		
Commercial:		
Brush and Roller	15.70	2.80
Spray	16.70	2.80
Industrial		
Brush and Roller	16.20	2.80
Spray	17.20	2.80
Plasterers		
Zone 1	17.85	1.37
Zone 3	14.85	.01
Plumbers and Steamfitters Zone 3		
Contracts under $10,000	13.25	3.10
Contracts over $10,000	18.10	3.10
Glaziers Zone 2	16.54	1.42
Ironworkwes Zone 3	16.25	3.62

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3028 MOD. NO. 7 (47 FR 39972 - September 10, 1982) Elk, Forest, Mc Kean and Warren County, Pennsylvania		
Change:		
Asbestos Workers Elk County	$15.88	$5.29
Boilermakers	16.67	.79+ 14%
Carpenters and Soft Floor Layers:		
Elk, Froest, all of McKean County except Kane and Bradford	14.00	30%
McKean County: Townships of Kane and Bradford: Warren County in its entirety	13.83	27 1/2
Ironworkers Elk and McKean Counties Forest and Warren Counties	14.195	3.695
Electircians:	16.25	3.62
Warren and Froest Counties	16.15	5.20+ 3%
Glaziers (Forest and Warren Counties	16.54	1.42
Painters: Elk, Forest and Warren Counties: Townships in McKean County Wetmore, Hamilton, Sergent and Norwich		
Bursh and Roller	15.60	2.80
Spray	16.70	2.80
Industrial:		
Brush and Roller	16.20	2.80
Spray	17.20	2.80
Piledrivermen	16.14	28%
Plumbers and Steamfitters Forest County		
Contracts under $10,000	13.25	3.10
Contracts over $10,000	18.10	3.10
Roofers: Elk and Forest Counties	16.89	2.65
Sheet Metal Workers	16.59	4.38

DECISION NO. PA83-3009
MOD. NO. 1
(48 FR 20610 - May 10, 1983)
Erie County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters	$14.57	28%+ .05
Elevator Constructors	16.99	3.00+ a+b
Elevator Constructors Helpers	70%JR	3.00+ a+b
Elevator Constructors Helpers (Prob.)	50%JR	
Electricians	16.15	5.20+ 3%%
Drywall Finishers	13.75	1.52
Glaziers	16.54	1.42
IRONWORKERS: Structural, Ornamental & Reinforcing	16.25	3.62
LINE CONSTRUCTION: Linemen, dynamite man, heavy equipment ops.	15.64	.65+ 3-3/8%
Winch truck Operators	10.94	.65+ 3-3/8%
Groundman	10.46	.65+ 3-3/8%
Marble, Tile & Terrazzo Workers	14.95	2.02
Painters:		
Brush	13.50	1.52
Structural Steel	14.50	1.52
Spray	14.25	1.52
Piledrivermen	16.14	28%
Roofers	16.33	1.73
Sheet metal workers	16.59	4.38
Soft floor layers	14.57	28%+ .05
Truck Drivers	10.57	c+d+e

FOOTNOTES:
c. Employer contributes $220.46 per month to a Health & Welfare fund.
d. Employer contributes $32.00 per month to a Pension Fund.

Basic Hourly Rates	Fringe Benefits

DECISION NO. RI83-3042 - MOD. #4
(48 FR 37809 - August 19, 1983)
Statewide, Rhode Island

	Basic Hourly Rates	Fringe Benefits
Change:		
Power Equipment Operators:		
Water, Sewerline Projects, Highway and Bridge, Incidental Highway Construction Projects.		
Class 2: Forklifts	$14.49	2.90
Class 4: Oilers	10.625	2.90
Ironworkers	15.28	4.70
Add:		
Truck drivers (Building)		
Dump & Two Axle Equipment Drivers	11.64	2.2925
Trailers & Three Axle Equipment Drivers	11.72	2.2925
Low Bed Trailers (24 Ton Rated Cap. & over) T Beam Trailers Specialized Earth Moving Equipment - Euclid Type	11.97	2.2925
Euclid Type Equipment over 35 Ton capacity	12.22	2.2925

DECISION #TN82-2060-MOD#2
(47 FR 52323-November 19, 1982)
Carter, Greene, Hawkins, Johnson, Sullivan, Unicoi and Washington Counties, Tennessee

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.70	$3.315
Elevator Constructors:		
Mechanic	12.46	2.69+a
Helper	8.72	2.69+a
Probationary Helper	6.23	

FOOTNOTES:
a - Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day, Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

DECISION #TN82-2059-MOD#2
(47 FR 52323-November 19, 1982)
Davidson County, Tennessee

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	16.15	2.81
Boilermakers	17.70	3.315
Electricians	14.10	3%%+ 1.65
Elevator Constructors		
Mechanic	12.44	2.69+a
Helper	8.71	2.69+a
Probationary Helper	6.22	
Plumbers & Pipefitters	13.70	1.89
Sprinkler Fitters	14.57	3.23

FOOTNOTES:
a - Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

MODIFICATIONS P. 13

DECISION NO.: WV83-3002 - MOD. #1
(48 FR -November 18, 1983)
Statewide West Virginia excluding the counties of Berkeley, Jefferson and Morgan.

Change:	Basic Hourly Rates	Fringe Benefits
Asbestos Workers:		
Area 2	$15.88	$5.29
Roofers:		
Area 2	15.50	2.60

DECISION NO. WA83-5110 - Mod #9
(48 FR 25108 + June 3, 1983)
Statewide Washington

CHANGE:	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 3	$20.15	63.28
ELECTRICIANS:		
Area 6:		
Electricians	21.00	TL+3.20
Cable Splicers	23.10	TL+3.20
GLAZIERS:		
Area 5	17.84	b+1.85
SHEET METAL WORKERS:		
Area 4	19.65	TL+2.33
POWER EQUIPMENT OPERATORS:		
Area 2:		
Fringes (Groups 1 to 6)		4.01

DECISION #TX83-4005-MOD#5
(48 FR 934-January 7,1983)
Lubbock County,Texas

CHANGE:	Basic Hourly Rates	Fringe Benefits
Laborers:		
Group 1	$ 7.56	$ .85
Group 2	7.83	.85
Group 3	7.76	.85
Group 4	7.91	.85
Group 5	8.16	.85

DECISION #TX83-4058-MOD#1
(48 FR 35850-August 5, 1983)
Gregg County,Texas

CHANGE:		
Electricians	14.35	.80+3%

DECISION #WI83-2078-MOD #1
(48 FR 45919-October 7, 1983)
Columbia, Dane, Iowa, and Sauk Countis, Wisconsin

CHANGE:		
Sauk County Only:		
Bricklayers	10.62	1.07
Carpenters	10.59	.97
Cement Masons	11.48	1.44
Electricians	11.29	1.43
Ironworkers	14.08	2.95
Laborers	8.27	1.11
Painters	13.08	1.79
Plumbers	11.50	1.64
Sheet Metal Workers	10.22	1.37

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: Jefferson,Shelby,St. Clair
DECISION NO.: AL83-1085 DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1039 dated September 3, 1982 in 47 FR 39074.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 (four) stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$13.03	$1.72
CARPENTERS	12.67	1.37
CEMENT MASONS	8.35	
ELECTRICIANS	14.70	3.5%+ 1.20
GLAZIERS	12.14	2.07a
IRONWORKERS	14.17	1.92
PAINTERS	12.60	.70
PLASTERERS	11.31	.70
PLUMBERS & PIPEFITTERS	14.45	2.07
ROOFERS	11.45	.60
SHEET METAL WORKERS	14.46	2.31
SPRINKLER FITTERS	14.57	3.23
TILE SETTERS	11.00	.60
TRUCK DRIVERS	6.06	
LABORERS:		
GROUP A	8.91	1.15
GROUP B	8.84	1.15
GROUP C	8.78	1.15
GROUP D	8.71	1.15
GROUP E	9.21	1.15
GROUP F	9.76	1.15
GROUP G	9.63	1.15
LABORERS (Cont'd):		
GROUP H	59.69	$1.15
GROUP I	9.58	1.15
GROUP J	9.40	1.15
GROUP K	10.55	1.15
POWER EQUIPMENT OPERATORS:		
GROUP A	12.75	1.50
GROUP B	12.10	1.50
GROUP C	10.79	1.50
GROUP D	13.62	1.50
GROUP E	12.74	1.50
GROUP F	10.95	1.50
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

FOOTNOTE:
a. Paid Holidays include New Year's Day,Independence Day,Labor Day, Thanksgiving Day,Friday after Thanksgiving Day, and Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS:

Classification Definitions

GROUP A - Asphalt plant,boom tractor,bulldozer,cableways,core driller, compressors (2 or more),crane-derrick-dragline,dinky locomotive,dredges, forklift,front end loader,gradall,heavy-duty mechanic,hoist (1 drum or more),mixers,push tractor,scrapers,shovels,trenching machine, (and all similar equipment),winch trucks,motor graders,concrete pump,piledriver, rotary drill.

GROUP B - Air compressor(over 125),asphalt spreaders,blade graders,(pull type),boat operator,conveyor (2 or more up to 4),crawler tractor,distributors, (bituminous surface),farm tractors,finishing machine,pumps over 4 inches, rollers,welding machine (4 or more).

GROUP C - Air Compressor(125 & under),oilers-fireman,conveyor (1 tended by oiler),pumps (under 4 inches),welding machines (3 or under).

STEEL ERECTION-

GROUP D - Crane,dragline,derricks,hoist,piledrivers,winch truck,forklift, tower cranes,climbing cranes,cherry picker,mechanics,locomotives,tug boat.

GROUP E - Tractors, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel).

GROUP F - Gas or diesel driven welding machine (3 or less),air compressor 125 and under (2 or less),oiler,fireman,small boat.

LABORERS:

Classification Definitions:

Group A - Air or electrical tool operators and asphalt rakers

Group B - Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers

Group C - Plasterers' tenders and hod carriers

Group D - Mason tenders and building laborers

Group E - Burners on demolition, wagon drill operators and tunnel laborers

Group F - Powderman

Group G - Caisson-driller (10' diameter)

Group H - Tunnel miner

Group I - Pneumatic concrete gun operator and nozzleman

Group J - Chuck Tender

Group K - Oxygon operator

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Sedgwick
DECISION NO.: KS83-4084 DATE: Date of Publication
Supersedes Decision No. KS83-4018 dated February 4, 1983 in 45 FR 5437.
DESCRIPTION OF WORK: Residential projects consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
Airconditioning Mechanic	$ 8.00	
Bricklayers	11.03	
Carpenters	10.00	
Cement Masons	9.00	
Electricians	8.65	
Laborers:		
Unskilled:		
General	5.00	
Semi Skilled:		
Carpenter Tender	6.00	
Mason Tender	6.00	
Plasterer Tender	6.00	
Skilled:		
Air Tool Operators	8.79	
Jackhammer Operator	8.79	
Mortar Mixer	8.79	
Concrete Saws	8.79	
Painters:		
Brush	6.93	
Spray	7.21	
Plumbers	9.00	
Roofers	7.14	
Sheet Metal Workers	8.00	
Soft Floor Layers:		
Carpet	11.50	
Resilient	8.67	
Tile Setters	7.00	
Truck Drivers	6.00	
Power Equipment Operators:		
Backhoe	8.58	
Blade	8.50	
Bulldozer	7.67	
Graders	7.76	
Loader	8.14	
Mechanic	7.75	
Rollers	7.03	
Scrapers	7.45	
Trenching Machines	8.36	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-5122
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. OH83-2006, dated February 11, 1983, in 48 FR 6459
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS and STONE MASONS:		
Area 1	$17.60	$ .55
Area 2	16.29	1.87
Area 3	16.73	3.34
Area 4:		
Bricklayers	18.37	2.50
Sewer Bricklayers	18.62	2.50
Area 5	15.15	2.35
Area 6	15.82	2.44
Area 7	17.225	1.99
Area 8	16.99	3.07
Area 9	15.60	3.58
Area 10	12.50	
Area 11	17.10	2.80
Area 12	16.00	2.30
Area 13	14.25	3.25
Area 14	18.59	4.12
Area 15	15.60	3.58
Area 16	16.10	2.86
Area 17	16.54	2.44
Area 18	16.18	3.33
Area 19	16.06	1.55
Area 20	17.385	3.29
Area 21	16.45	2.00
Area 22	19.37	3.30+a
Area 23	15.60	3.58
Area 24	16.01	2.14
Area 25	14.25	2.85
Area 26	16.81	.55
Area 27	18.20	.81+b
Area 28	18.47	2.67
Area 29	16.35	2.05
Area 30	17.05	2.85
CARPENTERS and PILEDRIVERMEN:		
Area 1:		
Carpenters	14.33	2.05
Piledrivermen	14.62	2.05
Area 2:		
Carpenters	14.81	2.82
Piledrivermen	15.46	2.82
Area 3:		
Carpenters	16.89	3.11+c
Piledrivermen	18.00	4.81

	Basic Hourly Rates	Fringe Benefits
CARPENTERS and PILEDRIVERMEN: (Cont'd)		
Area 4:		
Carpenters	$18.45	$4.36
Piledrivermen	18.00	4.81
Area 5:		
Carpenters	15.05	2.58
Piledrivermen	15.70	2.58
Area 6:		
Carpenters	15.76	3.52
Piledrivermen	16.58	3.52
Area 7:		
Carpenters	15.80	2.075
Piledrivermen	15.80	2.075
Area 8:		
Carpenters	17.18	3.02
Piledrivermen	17.66	3.02
Area 9:		
Carpenters	15.76	3.52
Area 10:		
Carpenters	15.15	2.47
Piledrivermen	15.15	2.47
Area 11:		
Carpenters	17.51	1.81
Piledrivermen	18.81	2.73
Area 12:		
Carpenters	16.89	3.11+c
Piledrivermen	18.81	2.73
Area 13:		
Carpenters; Piledrivermen	18.81	2.73
Area 14:		
Carpenters	15.76	3.52
Piledrivermen	16.58	3.52
Area 15:		
Carpenters	16.20	3.44
Piledrivermen	17.11	3.44
Area 16:		
Carpenters	16.90	3.24
Piledrivermen	18.00	4.81
CEMENT MASONS:		
Area 1	16.23	1.92
Area 2	15.38	1.92
Area 3	15.03	1.92

DECISION NO. OH83-5122

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1	$17.03	$3.11+ 3%
Area 2	16.90	2.37+ 3%+d
Area 3	18.22	1.83+ 3.1%
Area 4	18.20	3.50+ 3-1/2%
Area 5	18.56	1.51+ 9.7%
Area 6:		
Electricians	16.35	4.37+ 3%
Cable Splicers	16.60	4.37+ 3%
Area 7:		
Electricians	15.43	4.08+ 3%
Cable Splicers	15.68	4.08+ 3%
Area 8:		
Within 18 miles of Hamilton County Court House	18.75	3.30+ 3-1/2%
From 18 to 21 miles	19.05	3.30+ 3-1/2%
From 21 to 25 miles	19.15	3.30+ 3-1/2%
Over 25 miles	19.30	3.30+ 3-1/2%
Area 9:		
Electricians	17.40	2.50+ 3-1/2%
Cable Splicers	17.90	2.50+ 3-1/2%
Area 10:		
Electricians	18.00	43%
Cable Splicers	18.50	43%
Area 11	17.59	2.85+ 10.8%
Area 12	17.14	2.44+ 3%
Area 13:		
Within 11 mile radius of 3rd and Main Streets, Dayton, Ohio	17.13	2.80+ 3.5%
Beyond 11 mile radius	17.36	2.80+ 3.5%
Area 14:		
Electricians	13.30	2.62+ 3%
Cable Splicers	13.70	2.62+ 3%

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 15	$18.02	$1.30+ 13.5%
Area 16	15.95	2.05+ 3%
Area 17	19.83	2.77+ 3%
Area 18:		
Electricians	20.40	3.00 3.3%
Cable Splicers	23.46	3.00+ 3.3%
Area 19:		
Electricians	16.90	2.08+ 3%
Cable Splicers	17.50	2.08+ 3%
Area 20	17.33	1.25+ 3.2%
Area 21:		
Electricians	16.80	2.06+ 3%
Cable Splicers	18.06	2.06+ 3%
Area 22:		
Electricians	17.32	3.06+ 3%
Cable Splicers	18.19	3.06+ 3%
Area 23:		
Electricians	17.93	3.10+ 3.2%
Cable Splicers	18.18	3.10+ 3.2%
Area 24	18.95	2.90+ 3.1%
Area 25:		
Electricians	18.82	1.99+ 3.2%
Cable Splicers	20.14	1.99+ 3.2%
IRONWORKERS:		
Area 1:		
Up to 10 miles from Union Hall in Ashland, Kentucky	17.23	3.61
10 to 60 miles from Union Hall in Ashland, Kentucky	17.56	3.61
60 miles and over from Union Hall in Ashland, Kentucky	19.52	3.61

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	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: (Cont'd)		
Area 2:		
Reinforcing	$16.58	$3.62
Ornamental; Structural	16.68	3.68
Fence Erectors	15.01	3.68
Area 3:		
Within 15 miles radius of Local Union Office #290	16.81	3.70
Outside 15 miles radius of Local Union Office #290	16.96	3.70
Area 4	15.00	6.11
Area 5	15.66	5.44
Area 6	15.50	3.62
Area 7	18.62	4.12
Area 8	17.51	3.31
Area 9	16.38	3.67
Area 10	14.79	5.17+ 8%
Area 11	16.10	4.66
Area 12	18.74	3.44
Area 13	16.00	4.66
Area 14	15.85	4.66
PAINTERS:		
Area 1:		
Brush	15.55	2.54
Spray	16.55	2.54
Bridges	16.30	2.54
Area 2	14.00	1.89
Area 3:		
Brush	13.70	.95
Structural Steel	14.20	.95
Spray	14.45	.95
Area 4:		
Brush	18.46	3.22
Bridge and Open Steel; Closed Steel over 55'; Closed Steel below 55'; Spray	19.16	3.22
Area 5:		
Brush; Roller	18.86	3.22
Spray; Sandblasting Hopper Tender; Bridges	15.60	
Area 6	16.25	
Area 7:	15.50	1.75
Brush	16.90	1.00
Spray	17.40	1.00
Area 8:		
Brush; Roller	14.98	e
Bridges (when highest point of clearance is 40 ft. or over)	15.48	e
Spray; Sandblasting	15.98	e

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	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 9:		
Brush; Roller	$16.12	$3.04
Spray	16.65	3.04
Structural Steel; Bridges	16.83	3.04
Area 10:		
Brush	14.75	1.00
Spray	15.45	1.00
Area 11:		
Brush; Roller	17.62	1.00
Structural Steel	18.02	1.00
Spray; Sandblast	18.12	1.00
Area 12:		
Brush	15.74	3.16
Sandblasting; Spray	16.44	3.16
Area 13:		
Brush; Roller	14.84	2.87
Structural Steel	15.39	2.87
Spray	15.59	2.87
Sandblasting; Steam Cleaning	15.79	2.87
Area 14:		
Brush; Roller	15.10	2.25+f
Structural Steel	15.55	2.25+f
Spray; Sandblasting	15.60	2.25+f
Area 15:		
Brush	14.90	3.36
Spray	15.45	3.36
Bridge Railings	15.15	3.36
Bridges	16.20	3.36
Area 16:		
Brush; Roller	14.20	.70+g
Sandblasting; Spray; Waterblasting	14.90	.70+g
Bridges over 40 feet	15.20	.70+g
Area 17:		
Brush	13.36	
Steel	13.95	
Spray	14.86	
Sandblasting	14.36	
Bridges	15.82	
Area 18:		
Brush	16.72	2.55+h
Spray; Sandblasting	17.22	2.55+h
Area 19:		
Brush; Roller	16.25	2.42
Structural Steel	17.00	2.42
Spray	17.10	2.42
Sandblasting; Bridges	17.25	2.42
Area 20:		
Bridges; Structural Steel; Guard Rails	15.24	1.95
Spray	15.13	1.95

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	Basic Hourly Rates	Fringe Benefits
PLUMBERS; STEAMFITTERS and PIPEFITTERS:		
Area 1:		
Within 10 mile radius of Portsmouth	$17.25	$2.80
Over 10 and within 20 mile radius of Portsmouth	17.50	2.80
Over 20 and within 35 mile radius of Portsmouth	17.60	2.80
Over 35 mile radius of Portsmouth	17.85	2.80
Area 2	18.85	2.20
Area 3	17.63	3.12
Area 4:		
Plumbers	19.43	3.22
Pipefitters and Steamfitters	17.67	3.18
Area 5	15.63	1.00+ 19%
Area 6:		
Plumbers; Gas Pitters	16.47	3.90
Steamfitters; Pipefitters	17.54	4.56
Area 7	20.10	2.50
Area 8	16.91	3.07+i
Area 9	19.24	1.81
Area 10	19.15	2.22
Area 11:		
Within 12 mile radius of 3rd and Main Streets, Dayton, Ohio	18.56	2.98
Outside 12 mile radius of 3rd and Main Streets Dayton, Ohio	18.81	2.98
Area 12	18.13	2.72
Area 13	17.57	5.36
Area 14	18.90	3.42
Area 15	19.09	2.75
Area 16	17.40	3.90
Area 17	17.39	1.83
Area 18	16.64	4.63

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
(Excluding Railroad Maintenance, Renovation and Repair):		
Group 1:		
Zone 1	$14.48	$3.00
Zone 2	13.25	3.00
Zone 3	12.82	3.00
Group 2:		
Zone 1	14.605	3.00
Zone 2	13.375	3.00
Zone 3	12.945	3.00
Group 3:		
Zone 1	14.68	3.00
Zone 2	13.45	3.00
Zone 3	13.02	3.00
Group 4:		
Zone 1	14.83	3.00
Zone 2	13.60	3.00
Zone 3	13.17	3.00
Group 5:		
Zone 1	15.13	3.00
Zone 2	13.90	3.00
Zone 3	13.47	3.00
(Railroad Maintenance, Renovation and Repair):		
Cuyahoga, Geauga, Lake, Lorain, Lucas, Portage, and Summit Counties	8.75	2.70
Remaining Counties	8.25	2.70
POWER EQUIPMENT OPERATORS:		
Zone 1: Columbiana, Mahoning and Trumbull Counties:		
Class 1	17.28	3.56
Class 2	16.49	3.56
Class 3	15.73	3.56
Class 4	15.26	3.56
Class 5	15.16	3.56
Class 6	17.55	3.56

DECISION NO. OH83-5122	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Zone 2: Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties:		
Master Mechanic	$17.38	$3.32
Class A	17.13	3.32
Class B	17.03	3.32
Class C	15.99	3.32
Class D	15.52	3.32
Class E	11.83	3.32
Zone 3: Remainder of Counties:		
Master Mechanic	16.64	3.32
Class A	16.39	3.32
Class B	16.27	3.32
Class C	15.23	3.32
Class D	14.80	3.32
Class E	10.94	3.32
TRUCK DRIVERS:		
Zone 1: Cuyahoga, Geauga, and Lake Counties:		
Class 1	12.85	.05+j
Class 2	13.00	.05+j
Class 3	13.35	.05+j
Zone 2: Remainder of State:		
Class 1	13.47	.05+k
Class 2	13.52	.05+k
Class 3	13.57	.05+k
Class 4	13.67	.05+k
Class 5	13.77	.05+k
Class 6	13.94	.05+k
LINE CONSTRUCTION:		
Area 1:		
Cable Splicers; Linemen Welders	20.31	2.35+ 3-1/2%
Linemen	18.46	2.35+ 3-1/2%
Operators: All mechanized equipment	14.77	2.35+ 3-1/2%
Groundmen	12.00	2.35+ 3-1/2%

LINE CONSTRUCTION: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 2:		
Linemen	$17.52	$.85+ 8-1/2%
Equipment Operators	15.77	.85+ 8-1/2%
Groundmen Truck Drivers	11.52	.85+ 8-1/2%
Area 3:		
Equipment Operators; Linemen	18.22	1.83+ 3-1/2%
Line Truck Driver	10.93	1.83+ 3-1/2%
Groundmen	11.84	1.83+ 3-1/2%
Area 4:		
Cable Splicers; Equipment Operators; Line Truck Drivers; and Linemen	18.20	3.50+ 3-1/2%
Groundmen	15.20	3.50+ 3-1/2%
Area 5:		
Cable Splicers; Linemen; Operator - Pole-digging Equipment	18.95	.85+ 10-1/2%
Groundmen	15.16	.85+ 10-1/2%
Area 6:		
Equipment Operators; Linemen and Technicians	15.43	4.08+ 3%
Cable Splicers; Welders	15.68	4.08+ 3%
Groundmen	12.42	4.08+ 3%
Area 7:		
Zone 1:		
Linemen; Machine Operators	17.75	2.55+ 3-1/2%
Groundmen	13.31	2.55+ 3-1/2%
Zone 2:		
Linemen; Machine Operators	18.05	2.55+ 3-1/2%
Groundmen	13.61	2.55+ 3-1/2%

DECISION NO. OH83-5122	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 7: (Cont'd)		
Zone 3:		
Linemen; Machine Operators	$18.15	$2.55+ 3-1/2%
Groundmen	13.71	2.55+ 3-1/2%
Zone 4:		
Linemen; Machine Operators	18.30	2.55+ 3-1/2%
Groundmen	13.86	2.55+ 3-1/2%
Area 8:		
Linemen	17.40	2.50+ 3-1/2%
Cable Splicers	17.90	2.50+ 3-1/2%
Groundmen	12.18	2.50+ 3-1/2%
Area 9:		
Cable Splicers	16.48	2.85+ 10.8%
Linemen	17.59	2.85+ 10.8%
Line Equipment Operators	15.33	2.85+ 10.8%
Groundmen; Truck Drivers	11.73	2.85+ 10.8%
Area 10:		
Linemen; Line Equipment Operators; Truck Drivers	18.00	42-1/2%
Cable Splicers	18.50	42-1/2%
Groundmen	11.70	42-1/2%
Area 11:		
Cable Splicers; Equipment Operators; Linemen	20.00	.85+ 3-1/2%
Groundmen; Truck Drivers (Winch)	13.00	.85+ 3-1/2%
Area 12:		
Zone 1:		
Linemen; Cable Splicer; Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.40+ 3-1/2%

LINE CONSTRUCTION: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 12 - Zone 1: (Cont'd):		
Operators: Line Truck with Winch or Pole and Steel Handling	$12.73	$2.40+ 3-1/2%
Operators: Non-Specialized Trucks and Miscellaneous Equipment	10.12	2.40+ 3-1/2%
Groundmen-Truck Drivers	10.19	2.40+ 3-1/2%
Zone 2:		
Linemen; Cable Splicers; Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	17.21	2.40+ 3-1/2%
Operators: Line Truck with Winch or Pole and Steel Handling	12.96	2.40+ 3-1/2%
Operators: Non-Specialized Trucks and Miscellaneous Equipment	10.35	2.40+ 3-1/2%
Groundmen-Truck Drivers	10.32	2.40+ 3-1/2%
Area 13:		
Cable Splicers	13.70	22-1/2%
Linemen; Heavy Equipment Operators	13.30	22-1/2%
Groundmen and Truck Drivers	11.90	22-1/2%
Area 14:		
Cable Splicers; Equipment Operators; Linemen	17.24	.85+ 3-1/2%
Groundmen	10.25	.85+ 3-1/2%
Area 15:		
Linemen	19.97	.85+1+ 8-1/2%
Technicians	19.37	.85+1+ 8-1/2%
Cable Splicers	22.97	.85+1+ 8-1/2%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd):		
Area 15: (Cont'd):		
Operators, Class 1	$15.78	$.85+1+ 3-1/2%
Operators, Class 2	13.98	.85+1+ 3-1/2%
Groundmen	11.98	.85+1+ 3-1/2%
Area 16:		
Cable Splicers; Equipment Operators and Linemen	18.32	.85+ 3-1/2%
Groundmen	10.25	.85+ 3-1/2%
Area 17:		
Cable Splicers; Equipment Operators and Linemen	17.33	1.25+ 3-1/2%
Truck Drivers (Winch), Groundmen; Groundmen	11.26	2.25+ 3-1/2%
Area 18:		
Cable Splicers; Linemen; Operators: All mechanized equipment	16.50	.85+ 3-1/2%
Groundmen - Truck Drivers	13.08	.85+ 3-1/2%
Groundmen	10.09	.85+ 3-1/2%
Area 19:		
Cable Splicers	18.06	2.00+ 3-1/2%
Linemen; Equipment Operator	16.80	2.00+ 3-1/2%
Truck Drivers	9.99	2.00+ 3-1/2%
Groundmen	9.58	2.00+ 3-1/2%
Area 20:		
Cable Splicers; Linemen	15.83	.85+ 3-1/2%
Equipment Operators	13.84	.85+ 3-1/2%
Groundmen	10.25	.85+ 3-1/2%
Area 21:		
Cable Splicers; Equipment Operators and Linemen	17.93	2.35+ 3-1/2%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 21: (Cont'd):		
Truck Drivers (Winch), Groundman; Groundman	$11.65	$2.35+ 3-1/2%
Area 22:		
Cable Splicers; Equipment Operators; and Linemen	18.95	2.90+ 3-1/2%
Truck Driver (Winch), Groundman; Groundman	12.32	2.90+ 3-1/2%
Area 23:		
Linemen	18.82	1.99+ 3-1/2%
Cable Splicers	20.14	1.99+ 3-1/2%
Equipment Operators	14.12	1.99+ 3-1/2%
Truck Drivers: Groundman	9.41	1.99+ 3-1/2%
Area 24:		
Cable Splicers; Equipment Operators; Linemen	17.24	.60+ 3-1/2%
Groundmen	10.25	.60+ 3-1/2%
POWER EQUIPMENT OPERATORS:		
Statewide, except Columbiana, Mahoning and Trumbull Counties:		
Well and Pump Work (including Drilling and Repair of all Water Wells; Test Holes and Wells; and Installation and Repair of Deep Well type and Shallow Well Pumps on Water Wells):		
Well Driller and Pump Installer	8.10	.61+ m + n

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day; and G-Christmas Day

FOOTNOTES:
a. $75.00 per year per employee
b. 2 Paid Holidays: C & D
c. 2 Paid Holidays: B and C
d. 1 Paid Holiday: D
e. $25.00 per year per employee
f. $50.00 per year per employee
g. 6 Paid Holidays: A, C, E, G, Decoration Day, and Veterans Day
h. 2 Paid Holidays: C and D
i. 1 Paid Holiday: D providing employee has worked 5 consecutive days before and after the Holiday
j. $96.00 per week per employee; 1 week's paid vacation for 1 year of service, 2 weeks' paid vacation for 5 years, 3 weeks' paid vacation for 10 years and 4 weeks' paid vacation for 17 years' service; 7 Paid Holidays: A through E, G and National Election Day
k. $68.00 per week per employee
l. 10 Paid Holidays: A through G and Good Friday, Christmas Eve, and New Year's Eve
m. 9 Paid Holidays: A through G, Good Friday and Christmas Eve Day
n. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 weeks' paid vacation; 11th continuous calendar year - 3 weeks' paid vacation

AREA DESCRIPTIONS

BRICKLAYERS and STONEMASONS:
Area 1: Adams and Scioto Counties
Area 2: Allen, Auglaize, Mercer and Van Wert Counties
Area 3: Ashland, Crawford, Hardin, Holmes, Marion, Morrow, Richland, Wayne (except the Townships of Milton and Chippewa), and Wyandot (except the Townships of Crawford, Richland, Ridge and Tymochtee) Counties
Area 4: Ashtabula County
Area 5: Athens County
Area 6: Belmont, Jefferson (Warren, Mt. Pleasant and Dillonvale) and Monroe Counties
Area 7: Brown, Butler, Clermont, Hamilton, Preble (Townships of Dixon, Gratis, Israel, Lanier, and Somers), and Warren Counties

AREA DESCRIPTIONS (Cont'd)

BRICKLAYERS and STONEMASONS: (Cont'd)
Area 8: Carroll, Columbiana (Townships of Butler, Hanover, Knox and West), Stark and Tuscarawas Counties
Area 9: Champaign, Clark and Logan Counties
Area 10: Clinton and Highland Counties
Area 11: Columbiana County (Townships of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem and Unity), Mahoning County and the City of Youngstown
Area 12: Columbiana (Townships of East Liverpool, Franklin, Madison, St. Clair, Washington, Wayne and Yellow Creek), and Jefferson (Townships of Bush, Creek and Saline) Counties
Area 13: Coshocton, Fairfield, Guernsey, Hocking, Knox, Licking, Morgan, Muskingum and Perry Counties
Area 14: Cuyahoga County and Medina County (except the Townships of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield and Spencer)
Area 15: Darke, Miami, and Shelby Counties
Area 16: Defiance, Fulton (except the Townships of Amboy, Fulton, and Swan Creek), Henry (except the Townships of Barlow, Damascus, Liberty, Marion, Monroe, Richfield, Washington and that part of Harrison outside the City limits of Napolean), Paulding, Putnam and Williams Counties
Area 17: Delaware, Franklin, Madison, Pickaway and Union Counties
Area 18: Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood (Perry and Bloom Townships), Wyandot (Tymochtee, Crawford, Ridge, and Richland Townships) Counties and Island of Lake Erie north of Sandusky
Area 19: Fayette, Pike and Ross Counties
Area 20: Fulton (Remainder of County), Henry (Remainder of County), Lucas, and Wood (Remainder of County) Counties
Area 21: Gallia and Meigs Counties
Area 22: Geauga and Lake Counties
Area 23: Greene, Montgomery, and Preble (Remainder of County) Counties
Area 24: Harrison and Jefferson (Remainder of County) Counties
Area 25: Jackson and Vinton Counties
Area 26: Lawrence County
Area 27: Lorain and Medina (Chatham, Harrisville, Homer, Litchfield, and Spencer Townships) Counties
Area 28: Medina (Remainder of County), Portage, Summit and Wayne (Townships of Milton and Chippewa) Counties
Area 29: Noble (Remainder of County) and Washington Counties
Area 30: Trumbull County (except the City of Youngstown)

AREA DESCRIPTIONS (Cont'd)

CARPENTERS and PILEDRIVERMEN:
Area 1: Adams, Fayette, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, and Scioto Counties
Area 2: Allen, Auglaize, Champaign, Clark, Coshocton, Delaware, Fairfield, Franklin, Guernsey, Hardin, Holmes, Knox, Licking, Logan, Madison, Marion, Mercer, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Putnam, Union, Van Wert, and Wyandot Counties
Area 3: Ashland, Crawford, Erie (East of B & O Railroad Tracks), Huron, Lorain, and Richland Counties
Area 4: Ashtabula, Cuyahoga, Geauga and Lake Counties
Area 5: Athens, Hocking, Vinton and Washington Counties
Area 6: Belmont and Monroe Counties
Area 7: Brown, Butler, Clermont, Clinton, Hamilton, and Warren Counties
Area 8: Carroll, Stark, Tuscarawas, and Wayne Counties
Area 9: Columbiana and Jefferson Counties
Area 10: Darke, Greene, Miami, Montgomery, Preble and Shelby Counties
Area 11: Defiance, Henry, Paulding and Williams Counties
Area 12: Erie (West of B & O Railroad Tracks), Ottawa, Sandusky and Seneca Counties and the City of Fostoria in Hancock and Wood Counties
Area 13: Fulton, Lucas, Hancock and Wood Counties excluding the City of Fostoria
Area 14: Harrison County
Area 15: Mahoning and Trumbull Counties
Area 16: Medina, Portage, and Summit Counties

CEMENT MASONS:
Area 1: Ashtabula, Cuyahoga, Fulton, Geauga, Hancock, Henry, Lake, Lucas, Putnam, and Wood Counties
Area 2: Brown, Butler, Clermont, Columbiana, Defiance, Erie, Hamilton, Highland, Huron, Lorain, Mahoning, Medina, Ottawa, Paulding, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Warren, and Williams Counties
Area 3: Remaining Counties

ELECTRICIANS:
Area 1: Adams, Jackson (all but Coal, Jackson, Liberty, Milton and Washington Townships), Pike (Townships of Camp Creek, Marion, Newton, Scioto, Sunfish, and Union), and Scioto Counties
Area 2: Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert, and Wyandot (west of Crane, Pitt, and Tymochtee Townships) Counties
Area 3: Ashland, Crawford, Huron (Townships of Greenwich, New Haven, Richmond, and Ripley), Knox (North half including Clinton, Howard, Liberty, Monroe, and Union Townships), Marion, Morrow, Richland, and Wyandot (Remainder of County) Counties
Area 4: Ashtabula County (all but Colebrook, Orwell, Wayne, Williamsfield and Windsor Townships)

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 5: Ashtabula (Remainder of County), Geauga (Townships of Auburn, Middlefield, Parkman, and Troy), Mahoning (Milton Township), Portage (Townships of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, and Windham), and Trumbull(except Hubbard and Liberty Townships) Counties
Area 6: Athens, Meigs, Monroe, Morgan, Noble, Vinton (East of Clinton, Elk and Swan Townships), and Washington Counties
Area 7: Belmont County
Area 8: Brown, Clermont, and Hamilton Counties
Area 9: Butler and Warren (excluding Clear Creek, Franklin and Wayne Townships) Counties
Area 10: Carroll (South of Fox, Harrison, Rose and Washington Townships), Harrison and Jefferson Counties
Area 11: Carroll (Remainder of County), Columbiana (Knox Township), Holmes, Mahoning (Smith Township); Stark, Tuscarawas (North half excluding Townships of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks), and Wayne (South of Baugham, Chester, Green, and Wayne Townships) Counties
Area 12: Champaign, Clark and Madison (Townships of Paint, Pike, Somerford, Stokes and Union) Counties
Area 13: Clinton, Darke, Greene, Miami, Montgomery, Preble, and Warren (Remainder of County) Counties
Area 14: Columbiana County (except Townships of Butler, Fairfield, Knox, Perry, Salem and Unity)
Area 15: Columbiana (Townships of Butler, Fairfield, Perry, Salem and Unity), Mahoning (excluding Milton and Smith Townships), and Trumbull (Townships of Hubbard and Liberty) Counties
Area 16: Coshocton, Guernsey, Knox (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Townships), Licking, Muskingum, Perry, and Tuscarawas (South half including Townships of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks) Counties
Area 17: Cuyahoga, Geauga (Townships of Bainbridge, Chester and Russell), and Lorain (Township of Columbia) Counties
Area 18: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams and Wood Counties
Area 19: Delaware, Fairfield, Franklin, Madison (Remainder of County), Pickaway (excluding Deer Creek, Perry, Pickaway, Salt Creek and Wayne Townships), and Union Counties
Area 20: Erie and Huron (Remainder of County) Counties
Area 21: Fayette, Highland, Hocking, Jackson (Remainder of County), Pickaway, Pike, Ross, and Vinton Counties
Area 22: Gallia and Lawrence Counties
Area 23: Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, and Troy Townships), and Lake Counties

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 24: Lorain (Remainder of County), and Medina (Townships of Litchfield and Liverpool) Counties
Area 25: Medina (Remainder of County), Portage (excluding Townships of Charleston, Edinburg, Freedom, Hiran, Palmyra, Paris, and Windham), Summit, and Wayne (remainder of County) Counties

IRONWORKERS:
Area 1: Adams (East half), Gallia, Jackson (South half), Lawrence, Pike (South half), and Scioto Counties
Area 2: Adams (West half), Brown, Butler (South half), Clermont, Clinton (South of a line drawn from Blanchester to Lynchburg), Hamilton, Highland (excluding Eastern 1/5 and portion of County inside lines drawn from Marshall to Lynchburg and from the North County Line through East Monroe to Marshall), and Warren (South half) Counties
Area 3: Allen (South half), Auglaize, Butler (North half), Champaign (West 2/3), Clark (West 3/4), Clinton (excluding South of a line drawn from Blanchester to Lynchburg), Darke, Greene, Highland (inside lines drawn from Marshall to Lynchburg and from the North County Line through East Monroe to Marshall), Logan (West 2/3), Mercer (South half), Miami, Montgomery, Preble, Shelby, and Warren (North half) Counties
Area 4: Allen (North half), Defiance (except portion South of a line drawn from where Rt. #66 meets the North line through Independence to the East County border), Mercer (North half), Paulding, Putnam (except portion East of a line drawn from the North border down through Miller City to where 696 meets the South border), Van Wert, and Williams (except portion East of a line drawn from Pioneer through Stryker to the South border) Counties
Area 5: Ashland, Carroll, Coshocton (excluding portion West of line beginning at Northwest County Line going through Walhonding and Tunnel Hill to the South County Line), Holmes, Richland, Stark, Tuscarawas, and Wayne Counties
Area 6: Ashtabula County (Northeastern 1/4)
Area 7: Ashtabula (Northwestern 1/4), Columbiana (excluding area East of a line from Damascus to Highlandtown), Cuyahoga, Erie (excluding Western 1/3), Geauga (except portion East of a line from Austinburg to Middlefield and South), Huron (excluding portion West of a line drawn from the North border through Monroeville and Willard), Lake, Lorain, Medina, Portage (excluding Ravenna Ordnance Depot), and Summit Counties
Area 8: Ashtabula (South half), Columbiana (East of a line from Damascus to Highlandtown), Geauga (East of a line from Austinburg to Middlefield and South), Mahoning, Portage (east of a line from Middlefield to Shalersville to Deerfield), and Trumbull Counties

AREA DESCRIPTIONS (Cont'd)

IRONWORKERS: (Cont'd)
Area 9: Athens, Meigs, Morgan, Noble and Washington Counties
Area 10: Belmont, Guernsey, Harrison, Jefferson, Monroe, and Muskingum (except portion West of a line starting at Adams Mill going to Adamsville and going from Adamsville through Blue Rock to the South border) Counties
Area 11: Champaign (Eastern 1/3), Clark (Eastern 1/4), Coshocton (West of a line beginning at Northwestern County line going through Walhonding and Tunnel Hill to the South County line), Crawford (South of Route 30), Fayette, Hardin (except a line drawn from Roundhead to Maysville), Highland (Eastern 1/5), Hocking, Jackson (North half), Knox, Logan (Eastern 1/3), Marion, Morrow, Muskingum (West of a line starting at Adams Mill going to Adamsville and going from Adamsville through Blue Rock to the South border), Perry, Pike (North half), Ross, Vinton, and Wyandot (South of Route 30) Counties
Area 12: Crawford (area between lines drawn from where Highway 598 and 30 meet through North Liberty to the North border and from said Highway junction point due West to the border), Defiance (South of a line drawn from where Route 66 meets the North line through Independence to the East County border), Erie (Western 1/3), Fulton, Hancock, Hardin (North of a line drawn from Haysville to a point 4 miles South of the North line on the East line), Henry, Huron (West of a line drawn from the North border through Monroeville and Willard), Lucas, Ottawa, Putnam (East of a line drawn from the North border down through Miller City to where 696 meets the South border), Sandusky, Seneca, Williams (East of a line drawn from Pioneer through Stryker to the South border), Wood and Wyandot (Area North of Route #30) Counties
Area 13: Delaware, Fairfield, Licking, Madison, Pickaway, and Union Counties
Area 14: Franklin County

PAINTERS:
Area 1: Adams, Highland, Jackson, Pike and Scioto Counties
Area 2: Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Shelby, Van Wert, and Williams Counties
Area 3: Ashland, Crawford, Marion, Morrow, and Richland Counties
Area 4: Ashtabula, Cuyahoga, Geauga, Lake, Lorain (Northeastern part), Portage (North of the Ohio Turnpike), and Summit (North of the Ohio Turnpike) Counties
Area 5: Athens and Hocking Counties
Area 6: Belmont, Harrison, and Jefferson Counties
Area 7: Brown, Clermont and Hamilton Counties
Area 8: Butler and Warren Counties
Area 9: Carroll, Holmes, Stark, Tuscarawas, and Wayne Counties
Area 10: Champaign, Clark, Logan, and Madison Counties

AREA DESCRIPTIONS (Cont'd)

PAINTERS: (Cont'd)
Area 11: Clinton, Darke, Greene, Miami, Montgomery, and Preble Counties
Area 12: Columbiana, Mahoning, Portage (Ravenna Ordnance Depot), and Trumbull Counties
Area 13: Delaware, Fairfield, Fayette, Franklin, Pickaway, Ross, and Union Counties
Area 14: Erie, Hancock, Huron, Sandusky, Seneca, and Wyandot Counties
Area 15: Fulton, Henry, Lucas, Ottawa, and Wood Counties
Area 16: Gallia, Lawrence, Meigs, and Vinton Counties
Area 17: Knox, Licking, Muskingum, and Perry Counties
Area 18: Lorain County (Remainder of County)
Area 19: Medina, Portage (up to and including the Ohio Turnpike), and Summit (up to and including the Ohio Turnpike) Counties
Area 20: Monroe, Morgan, Noble, and Washington Counties

PLUMBERS; STEAMFITTERS; and PIPEFITTERS:
Area 1: Adams, Athens, Gallia, Highland, Jackson, Lawrence, Pike, Scioto, and Vinton Counties
Area 2: Allen, Auglaize, Hardin, Mercer, Shelby, and Van Wert Counties
Area 3: Ashland, Crawford, Erie, Huron, Knox, Lorain, Morrow, Richland, and Wyandot Counties
Area 4: Ashtabula, Cuyahoga, Geauga, Lake, Medina (North of Route 18 excluding City of Medina), Portage (North of #303), Summit (North of Route #303, excluding City of Hudson) Counties
Area 5: Belmont, Monroe (North of Route 78) Counties
Area 6: Brown, Clermont and Hamilton Counties
Area 7: Butler, and Warren Counties
Area 8: Carroll (except Townships of Ross, Monroe, Union, Lee, Orange, Perry, and London), Stark and Wayne Counties
Area 9: Carroll (Townships of Ross, Monroe, Union, Lee, Orange, Perry and London), Coshocton, Guernsey, Holmes, Morgan (South of State Route #78 and from McConnelsville West on State Route #37 to the Perry County Line), Muskingum, Noble, and Tuscarawas Counties
Area 10: Champaign, Clark, Greene (Townships of Cedarville, Ceasar Creek, New Jasper, Jefferson, and Ross), Logan, and Madison (West of Route #38 including the City of London) Counties
Area 11: Clinton, Darke, Fayette, Greene (Remainder of County), Miami, Montgomery, and Preble Counties
Area 12: Columbiana (excluding Washington and Yellow Creek Townships and Liverpool Township, sections 35 and 36 - West of County Road #427), Mahoning, and Trumbull (Hubbard and Liberty Townships, Youngstown Municipal Airport and the Filtration Plant of the Mahoning Valley Sanitary District) Counties
Area 13: Columbiana (Washington and Yellow Creek Townships and Liverpool Township Sections 35 and 36 West of County Road #427), Harrison and Jefferson Counties
Area 14: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood Counties

AREA DESCRIPTIONS (Cont'd)

PLUMBERS; STEAMFITTERS; and PIPEFITTERS: (Cont'd)
Area 15: Delaware, Fairfield, Franklin, Hocking, Licking, Madison (Remainder of County), Marion, Perry, Pickaway, Ross, and Union Counties
Area 16: Medina (Remainder of County), Portage (South of Route #303), and Summit (South of Route #303) Counties
Area 17: Meigs, Monroe (Remainder of County), Morgan (Remainder of County), and Washington Counties
Area 18: Trumbull County (Remainder of County)

LINE CONSTRUCTION:
Area 1: Adams, Athens, Gallia, Lawrence, Meigs, Scioto, Jackson (except Coal, Jackson, Liberty, Milton, and Washington Townships), Pike (Townships of Camp Creek, Marion, Newton, Scioto, Sunfish, and Union), and Vinton (East of Clinton, Elk and Swan Townships) Counties
Area 2: Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert, Wyandot (Townships of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge and Salem) Counties
Area 3: Ashland, Crawford, Huron (Townships of Richmond, New Haven, Ripley and Greenwich), Knox (Townships of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown and Jefferson), Marion, Morrow, Richland, and Wyandot (Townships of Sycamore, Crane, Eden, Pitt, Antrim and Tymochtee) Counties
Area 4: Ashtabula County (except Townships of Colebrook, Orville, Wayne, Williamsfield, and Windsor)
Area 5: Ashtabula (Townships of Colebrook, Wayne, Orwell, Williamsfield, and Windsor), Columbiana (Townships of Butler, Fairfield, Perry, Salem, and Unity), Geauga (Townships of Auburn, Middlefield, Parkman, Burton, and Troy), Mahoning (excluding Smith Township), Portage (Charleston; Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, and Windom Townships), and Trumbull Counties
Area 6: Belmont County
Area 7: Brown, Clermont and Hamilton Counties:
  Zone 1: Up to and including 18 mile radius from Hamilton County Court House, Cincinnati
  Zone 2: Over 18 mile radius up to and including 21 mile radius from Hamilton County Court House, Cincinnati
  Zone 3: Over 21 mile radius up to and including 25 mile radius from Hamilton County Court House, Cincinnati
  Zone 4: Over 25 mile radius from Hamilton County Court House, Cincinnati
Area 8: Butler and Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union and Washington Townships) Counties
Area 9: Carroll (Northern half including Fox, Harrison, Rose and Washington Townships), Columbiana (Knox Township), Holmes, Mahoning (Smith Township), Stark, Tuscarawas (North of Auburn, Clay, Rush, and York Townships), and Wayne (South of Baughman, Chester, Green and Wayne Townships) Counties

AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION: (Cont'd)
Area 10: Carroll (South of Fox, Harrison, Rose, and Washington Townships), Harrison and Jefferson Counties
Area 11: Champaign, Clark, Cuyahoga, Geauga (Bainbridge, Russell and Chester Townships), Lorain (Columbia Township), and Madison (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, and Pleasant Townships) Counties
Area 12: Clinton, Darke, Greene, Miami, Montgomery, Preble, and Warren (Wayne, Clear Creek, and Franklin Townships) Counties:
  Zone 1: Within 11 mile radius of 3rd and Main Streets, Dayton, Ohio
  Zone 2: Beyond 11 mile radius of 3rd and Main Streets, Dayton, Ohio
Area 13: Columbiana County (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West and Yellow Creek Townships)
Area 14: Coshocton, Guernsey, Muskingum, Perry, and Tuscarawas (Remainder of County) Counties
Area 15: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood Counties
Area 16: Delaware, Madison (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range and Pleasant Townships), Pickaway (Townships of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, and Washington), and Union Counties
Area 17: Erie and Huron (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, and New London Townships) Counties
Area 18: Fairfield, Knox (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, and Pleasant Townships), and Licking Counties
Area 19: Fayatte, Highland, Hocking, Jackson (Coal, Jackson, Liberty, Milton and Washington Townships), Pickaway (Deer Creek, Perry, Pickaway, Salt Creek and Wayne Townships), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, and Union Townships), Ross, and Vinton (Western half of County, including Clinton, Elk and Swan Townships) Counties
Area 20: Franklin County
Area 21: Geauga (excluding Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman and Troy Townships), and Lake Counties
Area 22: Lorain (excluding Columbia Township), and Medina (Litchfield and Liverpool Townships) Counties
Area 23: Medina (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, and York Townships), Portage (Attwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, and Suffield Townships), Summit, and Wayne (Northern half of County) Counties
Area 24: Monroe, Morgan, Noble and Washington Counties

LABORERS
(Excluding Railroad Maintenance, Renovation, and Repair)

Zone 1: Cuyahoga, Geauga and Lake Counties
Zone 2: Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull, and Wood Counties
Zone 3: Remainder of Counties

Group 1: Asphalt Laborer; Carpenter Tender; Concrete Curing; Applicator; Dump Man (Batch Trucks); Grade Checker; Guardrail and Fence Installers; Joint Setter; Laborers (construction); Landscape Laborer; Mesh Handlers and Placers; Right-of-way Laborers; Riprap Laborer and Grouter; Scaffold Erector; Seal Coating Surface Treatment or Road Mix Laborer; Sign Installer; Slurry Seal; Utility Man or Handyman; and Waterproofing Laborer

Group 2: Asphalt Raker; Concrete Puddler; Kettle Man (Pipeline); Machine Driven Tools; Mason Tender; Mortar Mixer; Power Buggy or Power Wheelbarrow; Sheeting and Shoring Man; Surface Grinder Man; Paint Striper; and Plastic Flushing Machine Operator

Group 3: Air Track and Wagon Drill; Bottom Man; Car Pusher (without air); Cofferdam (below 25 feet deep); Concrete Saw Man; Cutting with Burning Torch; Form Setter; Hand Spiker (Railroad); Pipelayer; Tunnel Laborer (without air) and Caisson; Undergroundman (working in Sewer and Waterline, Cleaning, Repairing and Reconditioning); and Welder Tender (Pipeline)

Group 4: Blaster; Muckers; Powder Man; Top Lander; Wrencher (Mechanical Joints and Utility Pipeline); and Yarner

Group 5: Concrete Crew in Tunnels; Curb Setter and Cutter; Gunnite Nozzle Man; Miner without air; Utility Pipeline Tapper; and Waterline Caulker

POWER EQUIPMENT OPERATORS
Zone 1 - Columbiana, Mahoning, and Trumbull Counties

Class 1: Asphalt Heater Planer; Austin Western and similar type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Beam Builder-Automatic; Backfiller with drag attachments; Boat Derrick; Boat-Tug; Boring Machine attached to Tractor; Bullclam; Bulldozer; C.M.I. Road Builder and similar types; Cable Placer and Layer; Carrier-Straddle; Carryall-Scraper or Scoop; Chicago Boom; Compactor with blade attached; Concrete Spreader Finisher Combination; Crane; Crane-stationary or climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-wheel (not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or similar type; Easy Pour Median Barrier Machine) or similar type); Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High Lift; Hoist-Monorail; Hoist-Stationary and Mobile Tractor; Hoist-2 or 3 drum; Jackall; Jumbo Machine; Kocal or Kuhlman; Land-Seagoing vehicle; Loader-Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Chip Harvester with Boom; Mucking Machine; Paver-Asphalt Finishing Machine; Paver-Road Concrete; Paver-Slipform; Place Crete Machine; Post Driver; Power Driven Hydraulic Pumps and Jacks; Pump Crete Machine; Regulator-Ballast; Hydraulic Power Unit not attached to Rig for Pile Drilling; Rigs-Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller and Loader; Tie Tamper; Tractor-double boom; Tractor with attachments; Trucks-Boom; Truck-tire-assigned to job; Trench Machine; Tunnel Machine (Mark 21 Java or similar); Whirley

Class 2: Asphalt Plant; Bending Machine; Boring Machine; Chip Harvester without boom; Cleaning Machine, Pipeline type; Coating Machine, Pipeline type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Machine; Grease Truck Operator; Grout Pump; Gunnite Machine; Huck Bolting Machine; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgen Derrick; Seeding Machine; Self-propelled Mobile Vibrator Compactor or Roller; Hoist, single drum; Soil Stabilizer (Pump type); Spray Cure Machine, self-propelled; Straw Blower Machine; Sub-grader; Tube Finisher or Broom C.M.I. or similar type; Tugger Hoist

Class 3: Batch Plant, job related; Boiler Operator; Curb Builder (self-propelled); Generator, steam; Hydraulic Manipulator Crane; Jack, hydraulic driven; Mixer, Concrete; Mulching Machine; Pin Puller; Pulverizer; Pump; Road Finishing Machine (Pull type); Roller; Saw, concrete, self-propelled; Spray Cure Machine, motor powered; Spreader (Side Driver Shoulder attachment); Stump Cutter; Tractor; Trencher, Form; Water Blaster

Class 4: Air Curtin Destructor and similar type; Brake Man; Compressor; Conveyor; Conveyor 12 feet or under other than servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heaters, portable power (2 to 5); Ladavator; Roller (Walk Behind, 1 ton and over); Steam Jenny; Syphons; Tender, Mechanic; Jack Hydaulic (Railroad); Vibrator, gasoline; Welding Machines (2) (fuel burning)

POWER EQUIPMENT OPERATORS (Cont'd)
Zone 1 (Cont'd)

Class 5: Oiler

Class 6: Rigs, Pile Driving or Caisson type; Rigs (Pile Hydraulic Unit attached)

Zone 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties
Zone 3 - Remaining Counties

Class A: Air Compressor on Steel Erection; Asphalt Plant Engineer (Cleveland District only); Boiler Operator; Compressor or Generator when mounted on Rig; Cableway; Combination Concrete Mixer and Tower; Concrete Plants (over 4 yards capacity); Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper Clam or Suction); Elevation Grader or Euclid Loader; Floating Equipment; Helicopter Crew (Hoist or Winch); Hoes; Hoisting Engines (including Shaft and Tunnel Work); Industrial type Tractor; Jet Engineer Dryer (D8 or D9); Diesel Tractor; Locomotives (standard guage); Maintenance Operator, Class A; Mixer (paving single or double drum); Mucking Machine; Multiple Scraper; Piledriving Machine; Power Shovel; Quad 9 (double Pusher); Refrigerating Machine (freezer operation); Rotary Drill on Caisson work; Slip Form Paver; Tower Derricks; Tree Shredder; Trench Machine (over 24" wide); Truck mounted Concrete Pump; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator

Class B: Asphalt Paver; Automatic Subgrader Machine, self-propelled, CMI type; Boring Machine Operator (more than 48"); Bulldozers; End-loader; Kolman Loader (production type, dirt); Lead Grease Man; Maintenance Operator, Class B (in Zone 2 - Portage and Summit Counties only); Power Grader; Power Scraper; Push Cat; Trench Machine (24" wide and under)

Class C: Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer (in Zone 2 - Portage and Summit Counties only); Locomotive (narrow guage); Concrete Mixers (more than 1 bag capacity); Mixers (1 bag capacity - Side Loader); Power Boiler, over 15 lb. pressure; Pump Operator installing and operating Well Points; Pumps (4" and over discharge); Rollers (Asphalt); Utility Operator (small equipment); Welding Machine and Generators

Class D: Back Fillers; Bar (Joint and Mesh installing Machine); Batch Plant; Boring Machine Operator (48" or less); Bull Floats; Burlap and Curing Machine; Compressor (portable, sewer - Heavy, and Highway); Concrete Plant (4 yards and under capacity); Concrete Saw (multiple); Conveyors (Highway); Crusher, Deckhand; Drill (Highway)(with integral power); Farm type Tractors with attachments (Highway); Finishing Machine; Fireman (floating equipment); Fork Lift (Highway); Form Trenchers; Hydro Hammer; Hydro Seeder; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (power auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Rollers (Brick, Grade, Macadam); Self-propelled Power Spreader; Self-propelled Power Subgrader; Steam Fireman; Tractor (pulling Sheepfoot Roller or Grader); Vibratory Compactor with Integral Power

POWER EQUIPMENT OPERATORS (Cont'd)
ZONES 2 and 3 (Cont'd)

Class E: Drum Fireman (Asphalt Plant); Inboard-Outboard, Motor Boat, launch; Oil Heaters (Asphalt Plant); Oilers; Power driven Heaters; Pumps (under 4" discharge); Tenders; Tire Repairmen

TRUCK DRIVERS
Zone 1 - Cuyahoga, Geauga, and Lake Counties

Class 1: Straight and Dumps (including Asphalt); Straight Fuel

Class 2: Semi Fuel; and Semi Tractor Drivers

Class 3: Ready-mix (Agitator or non Agitator); Bulk Concrete Drivers; Dry Batch Trucks; Carry-all Driver; Darts; Double Hook-up Tractor Trailers including Team Track and Railroad Siding; Euclids; Extra Long Trailers and Semi Pole Trailers; Fork Lifts; Hi-lifts; Low Boys; Semi-tractor and Tri-axle Trailer; Tag along Trailer; Expandable Trailers; Tandem Tractor and Tandem Trailer and Tri-axle Trailer; Tandem Trailer and Tri-Axle Trailer; Tank Asphalt Spreaders; Tournarockers; Loads or Towing Requiring Road Permits

Zone 2 - Remainder of the State

Class 1: Asphalt Distributors; Batch Trucks; 4 Wheel Service Truck; 4 Wheel Dump Trucks; Oil Distributors

Class 2: Tandems

Class 3: Fuel Trucks; Pole Trailers; Ready Mix Trucks; Semi-tractor Trucks; Asphalt Oil Spraybar Man

Class 4: All Trucks, five axle and over

Class 5: Asphalt Oiler Spraybar Man when operated from cab

Class 6: Euclid Wagons; Euclid End Dumps; Heavy Duty Equipment over 12 cu. yd. capacity; Low Boys

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA83-3051
COUNTY: Franklin
DATE: Date of Publication
Supersedes Decision No.: PA81-3027, dated July 17, 1981 in 46 FR 37212.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories), (Excluding Sewage and Water Treatment Plant Projects.)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.51	2.04
BRICKLAYERS	14.22	1.73
CARPENTERS	14.00	30%
CEMENT MASONS	13.47	2.20
ELECTRICIANS	15.21	1.67+ 3 1/4%
IRONWORKERS	17.515	3.495
LABORER	11.65	20% 3/8 %
LINE CONSTRUCTION:		
Linemen	15.18	.60+ 3 3/8%
Winch truck operator	10.63	.60+ 3-3/8%
Groundmen	9.87	.60+ 3 3/8%
PAINTERS:		
Brush: Metal, Letterkenny, Hamilton, Green, South Hampton, Lurgan, Fanett, Chanbersburg, Shipensburg, Townships and Boroughs Washington, Antrim, Hamilton, Guilford, Montgomery, Warren, Peters, St. Thomas & Quincy Twps.	11.57	1.15
	10.00	.60
PLASTERERS	11.40	2.01
PLUMBERS	16.80	2.39
ROFFERS	11.35	1.75
SHEET METAL WORKERS	15.23	4.39
POWER EQUIPMENT OPERATORS:		
Bulldozers	$15.645	3.47
Backhoe	15.795	3.47
Cranes	15.795	3.47
Loaders	15.645	3.47
Fork Lift	15.645	3.47
Welder - Rate of Craft		

"Unlisted classifications needed for work not included with in the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses(29 CFR, 5.5 (a) (1) (ii)."

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA83-3052
COUNTIES: Lawrence & Mercer
DATE: Date of Publication
Supersedes Decision No. PA81-3047, dated July 17, 1981 in 46 FR 37225.
DESCRIPTION OF WORK: Building Erection and, Foundation Excavation Projects (does not include single family homes or apartments up to and including 4 stories), Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.44	2.83
BOILERMAKERS	16.67	.79+ 14½%
BRICKLAYERS & STONEMASONS:		
Mercer County	14.70	3.06
Lawrence County	14.70	3.06
CARPENTERS:		
Lawrence County	15.00	29%
Mercer County	16.20	3.44
CEMENT MASONS:		
Lawrence County	18.34	.01
Mercer County: Townships of Greene, Sugar Grove, Salem, Sandy Creek, Deer Creek, French, Mill Creek, New Vernon, Perry, Fairview, Lake, Sandy Lake, Worth, Jackson, Wolf Creek, Pine, Liberty and Findley. Also included are portions of the following townships determined by a line running in a north-western direction from the center of the southern border of Springfield Township north by a line running east to north west from southern border or Otter Creek Township to approximately the center of the Western boundary of West Salem township, Springfield, Coolspring, Otter Creek, Hempfield and West Salem	14.70	3.06
Remainder of Mercer Co.	15.94	3.98
ELECTRICIANS	16.72	5.33 + 3%
ELEVATOR CONSTRUCTORS	17.23	2.69 +b&c
ELEVATOR CONSTRUCTORS HELPERS	70%JR	2.69 +b&c
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR	
GLAZIERS	15.85	3.01
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	17.51	3.31
LABORERS:		
Laborers, carryable, pumps, west brick buggy or similar, vibrator operators walk behind fork lfit or similar (non self-propelled) stripper & mover or forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	13.51	20%
West brick buggy & Similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill runner's helper, (including drill mounted on truck, track or similar), blaster's helper, all operators of compacting equipment, pipe layer, burner, jackhammer man concrete buster	13.64	20%
Hod Carrier, scaffold building bell and bottom man on furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used, including starting and stopping) grout machine feeder and pump operators and concrete saw operator, wagon drill operators	13.76	20%

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	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
Gunnite nozzleman	$14.04	20%
Blaster	14.24	20%
LANDSCAPING:		
Landscape Laborer to include general landscaping work and driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	10.30	22%
Landscap Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work	10.72	22%
LEAD BURNERS	10.75	.66 +a
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operator	15.64	.65+ 3 3/8%
Winch truck operator	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
MARBLE SETTERS:		
Lawrence County	14.70	3.06
Mercer County	19.34	
MILLWRIGHTS: Lawrence Co.	14.80	39½%
Mercer County	17.11	3.44
PAINTERS:		
Commercial - shall include stroes, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings:		
Brush & Roller	15.70	2.80
Spray	16.70	2.80
Industiral - shall include sewage treatment plants, all skelton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, office and hospital, both interior and exterior:		
Brush & Roller	16.20	2.80
Spray	17.20	2.80
PILEDRIVERMEN:		
Lawrence	16.14	28%
Mercer County	17.11	3.44
PLASTERERS:		
Lawrence County	18.75	.01
Mercer County: Townships of Greene, Sugar Grove, Salem, Sandy Creek, Deer Creek, French Creek, Mill Creek, New Vernon, Perry, Fairview, Lake, Sandy Lake, Worth, Jackson, Wolf Creek, Pine Liberty and Findley. Also included are portions of the following townships determined by a line running in a north-western direction from the center of the southern border of Springfield Township north by a line running east to north west from southern border of Otter Creek Township to apporximately the center of the Western boundary of West Salem township, Springfield, Coolspring, Otter Creek, Hempfield and West Salem	14.70	3.06
Remainder of Mercer Co.	17.10	3.94

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	Basic Hourly Rates	Fringe Benefits
PLUMBERS & STEAMFITTERS:		
Lawrence County	17.45	3.93
Mercer County	16.15	2.56
ROOFERS	16.82	2.78
SHEET METAL WORKERS:		
Lawrence County	16.59	4.38
Mercer County	16.86	2.66
SOFT FLOOR LAYERS:		
Lawrence County	14.46	33½%
Mercer County	15.56	3.44
SPRINKLER FITTERS	16.92	3.23
TERRAZZO WORKERS & TILE SETTERS:		
Lawrence County	14.70	3.06
Mercer County	19.34	
Welders - Receive rate for craft		
POWER EQUIPMENT OPERATORS:		
CLASS I	16.825	3.44
CLASS I-A	17.075	3.44
CLASS I-B	17.325	3.44
CLASS I-C	17.575	3.44
CLASS II	16.625	3.44
CLASS III	14.54	3.44
CLASS III-A	15.04	3.44
CLASS IV	13.53	3.44
CLASS V	13.22	3.44
CLASS V-A	13.32	3.44
CLASS V-B	13.47	3.44
CLASS V-C	14.22	3.44
TRUCK DRIVERS:		
CLASS 1	11.86	16.8%
CLASS 2	11.91	16.8%
CLASS 3	11.93	16.8%
CLASS 4	12.01	16.8%
CLASS 5	12.20	16.8%
CLASS 6	12.03	16.8%
CLASS 7	12.18	16.8%

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PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 3 paid Holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during th 120 calendar dyas prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Paid Holiday: A through F, plus the Friday after Thanksgiving Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be aided afte award only as provided in the labor standards contract clauses [29 CFR, 5.5 (a)(1)(ii)).

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Austin-Western or similar type under 25 Ton, Austin-Western or similar type 25 ton or over; auto grader (CMI or similar); backhoe; batch plant - when conveyors are used for direct feeding or discharge, batch plant - no mix plant; cranes (excluding overhead) (truck or crawler type); cranes - tower (mobile); cranes - tower (stationary) (climbinb type); cranes - tower (climbing type); cranes - hydraulic self-contained wagon crane - over 18 ton; cranes - hydraulic self-contained wagon crane - 18 ton or less; derrick-traveler (self-propelled); derrick (all types); derrick boats; dragline; dredge;engineer-maintenance; franki or similar type pile driver; gradall (remote control or otherwise; helicopter (when used for erection purposes); helicopter hoist operators (when used for erection purposes); hi-lift 4 yds. or over; hoist-hod (2 cages up to 10 floors; hoists-single cage with Chicago boom attached; hoist (50 ft. or over) (stacks, stoves or furnaces); hoist (slipform jobs; hop-to or similar type with 180° swing; hop-to or similar type with 360° swing; local; koehring scooper; metro chip harvester or similar type; mix mobile or similar type (with self-loading attachment); mix mobile or similar type; mucking machine (tunnel); multiple bowl machines; pile driver (sonic or similar type); post driver - guard rail (truck mounted); post driver - guard rail (skid type); pumpkrete - mobile or similar type; quad mine; shovels (all types); slip form paver (CMI or similar); tractor - boom mounted (all types); tractors (all types with hydraulic backhoe attached); tug boat and whirley

CLASS I-A - Aystin-Western or similar type under 25 ton with jib; Austin-Western or similar type 25 ton or over with jib; cranes (boom or mast 100 ft. or over to & including 150 ft. (truck or crawler type); cranes - mobile (any type 15 ton or over placed any bldg. structure; hoist-hod (2 cages over 10 floors)

CLASS I-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. truck or crawler type)

CLASS I-C - Cranes (boom or most over 200 ft.)

CLASS II - Asphalt plant operator; athey loader; auger - truck tractor mounted; back filling machine; boat or personnel carrying (powered); boat - job work (inboard or outobard); bulldozer; cable layer; compactor with blade; compressor (1) and air tugger (1) (combination); compressor (1) and gunite machine (1) (combiantion); concrete belt placer; crane - overhead; crushing & screening plants; drill - Davey or similar type; drill - core (truck or skid mounted) drill - well & core (truck mounted); elevator (new buildings); euclid loader; excavating equipment (all other); forklift-lull or similar; grader; grador-elevating; greaser-equipment (heady); hi-lift - less than 4 yds; hoist - one drum (4 floors or over); hoist - hod (buildings 4 floors or more); hoist - (2 drums or more in one unit); jumbo operator; locomotive; lift slab machine (hydraulic); mixer - paving; mucking machine; pipe cleaning

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

machine; refrigeration plant (used for const. jobs, i.e., colling, concrete & holding banks); ross carrier (or simialr type); scoop single bowl) (self-powered & tractor drawn); spreader - concrete, asphalt and stone; tower mobile (boisting or lowering material); trencher; well point systems; compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW); pumps (1½" discharge or less) (4 to 5 wtibin reasonable distance); pumps (3) (over 1½ discharge) (within reasonable distance); welding machines (4 to 6 within reesonable distance) (other than electrically driven); elevator (when used for alterations & remodeling all bldgs); grout pump (10 H.P. or over); paver operator - asphalt (spreader); pumpkrete or similar type (not self-proeplled); pumpcrete machine operator (stationary); tire repairman (when assigned to job); welder (repair-man)

CLASS III - Ballast regulator; boiler; boring machine; broom, power (except push type); compressor - single (over 65 CRM; compressor (over 125 and air pump); compressor (1) and sand blasting machine (1) (com-bination); conveyor over 1 and up to 3 untis (regardless of power used); crane (carry); curb builder (self propelled); drills - well and horizon-tal truck mounted; fork lifts (monorail) (regardless of power used); hoist one drum (regardless of power used); hoist roof (regardless of power used); huck machine or similar type; mixer concrete (regarless of power used); mixer mortar - over 10 cu. ft. (regardless of power used); pavement breaker (self-propelled or ridden); pipe dream; plant, private or industrial air or steam valve! pump (over 1½" discharge regardless of power used); roller; saw (concrete); soil stabilizer (pump type); spray cure machine (power driven); steam jenny (or similar type); stone crusher; stone spreader self-propelled; syphon (steam or air); tractors (when used for snaking and hauling); truck, (winch) truck or hydraulic boom (when hoisting & placing); tube finisher (CMI or similar type); tugger; welding machine single (300 amp or over) (other than electrically driven); compressors (2); generators (2); motrar machine over 10 cu. ft. and single unit conveyor; pumps (1½ discharge or less) (2 to 3); pumps (over 1½" idscharge (2) in back); welding machines (2 to 3) other than electrically driven)

CLASS III-A - Conveyors 4 units or more

CLASS IV - Compressor 65 cubic ft. or under (regarless of power used); conveyors one (1) unit (regardless of power used); heaters - up to and including 6; jack motor hydraulic (single type) power driven; ladavator; mixer mortar (10 cubic ft. or under); mulching machine; pin puller (powered); pulverizer; pump - 1½" discharge or less; seeding machine; spreader side delivery shoulder (attachment); tie tamper (multiple heads); tractor farm (when used for landscaping); water blaster

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

CLASS V - Brakeman; deckhand; helicopter oiler; mechanic

CLASS V-A - Truck crane; oiler & fireman

CLASS V-B - Oiler on truck crane 50-ton up to but not incl. 100 ton

CLASS V-C - Oiler truck crane 100 ton and over

TRUCK DRIVER CLASSIFICATION DEFINITIONS

CLASS 1 - Warehouseman, chauffeur & ambulance driver, service, truck (pickup, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lfit in warehouse or job site storage area and single acle trucks with power tailgate); distributor truck over 33,000 lbs. gross weight (oil, tar asphalt products two man operation, bot men)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, tandem

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 6 - Distributor truck up to 33,000 lbs. fross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including mixer, drivers towing equipment

CLASS 7 - Winch truck and form truck

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorail Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Vetorans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO. PA83-3033
COUNTY: Blair
DATE: Date of Publication
Supersedes Decision No. PA81-3029, dated July 10, 1981, in 46 FR 35691.
DESCRIPTION OF WORK: Building Erection and Foundation (does not include single family homes and garden type apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.88	5.29
BRICKLAYERS	14.00	2.65
CARPENTERS	14.00	30%
CEMENT MASONS	13.83	16%
ELECTRICIANS	17.70	2.85 + 3%
ELEVATOR CONSTRUCTORS	17.375	3.00 +a&b
ELEVATOR CONSTRUCTORS HELPERS	12.16	3.00 +a&b
ELEVATOR CONSTRUCTORS HELPERS (Prob.)	8.69	
GLAZIERS	14.98	4.95
IRONWORKERS:		
Structural	14.195	3.695
Reinforcing	14.195	3.695
LABORERS	11.92	20%
PAINTERS	13.09	3.27
PLASTERERS	12.85	.01
PLUMBERS & PIPEFITTERS	16.48	3.48
ROOFERS	16.89	2.65
SOFT FLOOR LAYERS	14.00	30%
STONE MASONS	14.00	2.65
SHEET METAL WORKERS	15.23	4.39
TERRAZZO WORKERS	14.00	2.65
TILE SETTERS	14.00	2.65
POWER EQUIPMENT OPERATORS:		
Backhoe	15.795	3.47
Cranes	16.045	3.47
Welders - Rate for craft		

a. Employer contributes 8% basic hourly rate for 5 years or more of service as vacation pay credit

b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day, plus the Friday after Thanksgiving Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: SOUTH CAROLINA
DECISION NUMBER: SC83-1089
COUNTIES: ALL COUNTIES EXCEPT BERKELEY
DATE: DATE OF PUBLICATION
Supersedes Decision Number SC78-1085, dated September 29, 1978, in 43 FR 45164.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (Excluding Dam Construction Projects).

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS (TANK WORK)	$16.20	3.375
BRICKLAYERS	6.40	
CARPENTERS	6.62	
CEMENT MASONS & CONCRETE FINISHERS	6.75	
IRONWORKERS - REINFORCING	6.50	
LABORERS:		
UNSKILLED	4.14	
PIPE LAYER	4.86	
PLUMBERS & PIPEFITTERS	9.10	
POWER EQUIPMENT OPERATORS:		
BACKHOE	6.25	
BULLDOZER	5.56	
CRANE	7.25	
FRONT END LOADER	5.68	
MECHANIC	6.00	
MOTOR GRADER	7.27	
SCRAPER - PAN	6.06	
MANHOLE BUILDERS	$ 4.85	
TRUCK DRIVERS	4.52	
WELDERS: RECEIVE RATE PRESCRIBED FOR CRAFT PERFORMING OPERATION TO WHICH WELDING IS INCIDENTAL.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: ANDERSON, KNOX, MONROE AND ROANE

DECISION NO.: TN83-1086

DATE: Date of Publication

Supersedes Decision No. TN82-2058 dated November 19, 1982 in 47 FR 52325.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.69	2.11
BOILERMAKERS	17.70	3.315
BRICKLAYERS, STONEMASONS, MARBLE MASON, TILE SETTERS & TERRAZZO WORKERS:		
Roane County	14.67	1.55
Anderson, Knox & Monroe Counties	12.71	.60
CARPENTERS & SOFT FLOOR LAYERS	12.03	1.48
CEMENT MASONS	11.84	
ELECTRICIANS:		
Anderson (Oak Ridge A.E.C. Area & Oak Ridge Townsite only) and Roane Counties:		
Wiremen	13.36	1.45 +3%%
Cable Splicers	14.16	1.45 +3%%
Anderson (Remainder of County), Knox & Monroe Counties:		
Wiremen & Technicians	13.46	1.05 +3%%
Cable Splicers	13.96	1.05 +3%%
ELEVATOR CONSTRUCTORS:		
Mechanics	12.46	2.69+a
Helpers	8.72	2.69+a
Probationary Helpers	6.23	
GLAZIERS	9.83	.25
IRONWORKERS:		
Reinforcing	12.21	2.05
Structural & Ornamental	12.35	2.05
LATHERS	11.64	.27
LINE CONSTRUCTION:		
Anderson (Oak Ridge A.E.C. Area & Oak Ridge Townsite only) & Roane Counties:		
Linemen & Equipment Operators	13.36	1.45 +3%%
Cable Splicers	14.16	1.45 +3%%
Groundmen	12.43	1.45 +3%%
Anderson (Remainder of County),Knox & Monroe Counties:		
Linemen, Heavy Equipment Oprs. & Hole Diggers	$12.26	1.05 +3%%
Truck drivers with winch Groundmen	9.60	1.05 +3%%
Truck drivers w/o winch	9.20	1.05 +3%%
MILLWRIGHTS	13.00	1.48
PAINTERS	11.60	1.47
PILEDRIVERMEN	12.28	1.48
PLASTERERS	13.50	
PLUMBERS AND PIPEFITTERS:		
Knox County	14.05	2.27
Anderson, Monroe & Roane Counties	14.35	2.27
ROOFERS	10.50	.25
SHEET METAL WORKERS:		
Knox County	13.63	3%+ 2.18
Anderson, Monroe & Roane Counties	14.13	3%+ 2.18
SPRINKLER FITTERS	14.57	3.23
LABORERS:		
GROUP I	8.28	.93
GROUP II	8.43	.93
GROUP III	8.46	.93
GROUP IV	8.58	.93
GROUP V	8.78	.93
GROUP VI	9.08	.93
TUNNEL CLASSIFICATIONS:		
GROUP I	8.28	.93
GROUP II	8.68	.93
GROUP III	8.83	.93
GROUP IV	8.98	.93
GROUP V	9.08	.93
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION NO. TN83-1086

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP A	10.86	1.00
GROUP B	10.09	1.00
GROUP C	8.41	1.00
GROUP D	7.70	1.00

CLASSIFICATIONS DEFINITIONS

LABORERS

GROUP I - Construction laborers

GROUP II Form setter and stripper, pipelayer, asphalt raker, jackhammer operator, air tool operator, vibrator, operator, chain saw operator, barco tamp operator, mortar mixer, plasterer tender, all power driven tool operators, hod carriers, power buggy, yarner, potman, snakeman, grademan

GROUP III - Acetylene Burner

GROUP IB - Wagon drill opefator

GROUP V - Powderman

GROUP VI - Caisson hole man

TUNNEL CLASSIFICATIONS

GROUP I - Laborers, outside:

GROUP II - Tunnel laborers

GROUP III _ Chuck tenders

GROUP IV - Nozzleman; concrete gun operator

GROUP V - Tunnel miner

POWER EQUIPMENT OPERATORS

GROUP A - Backhoes; cableways, toss carrier; clamshells; cranes; derricks; draglines; turnapulls, pans; scrapers; scoops; head tower machines; end loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherry pickers; tower cranes; skylift gradall.

SUPERSEDEAS DECISION

STATE: Tennessee COUNTIES: *See Below
DECISION NUMBER: TN83-1087 DATE: Date of Publication
Supersedes Decision TN82-2056 dated November 11,1982 in 47 FR 51311.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (Does not include single family homes and apartments up to and including 4 stories), and HEAVY CONSTRUCTION.
*COUNTIES: Hamilton (Building and Heavy Construction); Marion, Polk and Rhea (Building Construction ONLY)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.69	$2.11
BOILERMAKERS	17.70	3.315
BRICKLAYERS & STONE-MASONS:		
Polk County	12.75	
All other Counties	14.67	1.55
CARPENTERS, CARPET LAYERS & FLOOR LAYERS	13.43	1.63
CEMENT MASONS	12.20	
ELECTRICIANS:		
Wiremen	14.40	1.10
		+11%
Cable Splicers	14.65	1.10
		+11%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.375	3.00
		+a
Helpers	9.36	3.00
		+a
Probationary Helpers	6.69	
GLAZIERS	14.10	1.25
IRONWORKERS	13.36	2.10
LINE CONSTRUCTION:		-
Linemen & Operators of hole digging equipment tractor with winch	14.40	1.10
		+11%
Cable Splicers	14.65	1.10
		+11%
Operator of hole digging equipment w/out winch	12.37	1.10
		+11%
Groundman	10.20	1.10
		+11%
MARBLE, TERRAZZO & TILE WORKERS (All Counties except Polk)	14.67	1.55
MILLWRIGHTS	13.88	1.63
PAINTERS:		
Painters	11.50	1.20
Paperhanging, Wall covering & drywall finishing	11.75	1.20
Sandblasting	12.00	1.20
Painters - tanks, steel towers, stacks, bridges pumping Stations	11.25	1.20

	Basic Hourly Rates	Fringe Benefits
PILEDRIVERMEN	$13.555	$1.63
PLASTERERS	12.75	
PLUMBERS & PIPEFITTERS	14.85	1.93
ROOFERS:		
Composition, damp & water proofers	12.85	.10
Kettlemen	12.20	.10
Slate & Tile	13.07	.10
SHEET METAL WORKERS		
Hamilton County	13.63	3%+2.10
All other Counties	14.13	3%+2.10
SPRINKLER FITTERS	14.57	3.23
LABORERS:		
GROUP A	9.10	1.23
GROUP B	9.20	1.23
GROUP C	9.30	1.23
GROUP D	9.40	1.23
GROUP E	9.45	1.23
GROUP F	9.75	1.23
GROUP G	9.80	1.23
GROUP H	9.50	1.23
GROUP I	9.65	1.23
GROUP J	9.90	1.23
POWER EQUIPMENT OPERATORS:		
GROUP A	12.65	1.65
GROUP B	11.85	1.65
GROUP C	11.25	1.65
GROUP D	10.95	1.65
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

FOOTNOTES:
a - Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 4% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

DECISION NO. TN83-1086

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP B - Tractors; farm type Tractors (with attachments); Central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist (not handling steel or stone); Pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating grader; earth augers; fork-lifts (8' lift or under); paving machine (blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); Maintainers.

GROUP C - Asphalt plant; barber-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; Portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D - Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); Oiler; Heater (1).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

FOOTNOTES:
a - Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 4% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

DECISION NO. TN83-1087

CLASSIFICATIONS DEFINITIONS

LABORERS

GROUP A - Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling, cleaning, and pulling of nails from materials

GROUP B - Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying reinforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake man on pipe work.

GROUP C - Stationary and storm pipe layers or any other pipe outside of foundation, grade checker, yarner and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer operator, pavement breaker operator, air tool operator, regular air tamp operators, wacker tamp operator, chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator.

GROUP D - Asphalt raker, wagon drill operator, sandblasting, track drill operator, concrete saw operator, using cutting torch or burner on demolition work, flagging of rigs.

GROUP E - Barch tamper operator and specially designed tamp operator, black top or concrete curbing machine operator.

GROUP F - Powderman, motorized post hole digger operator and terrazzo machine grinder.

GROUP G - Pneumatic concrete gun operator and nozzleman.

FREE AIR SHAFTS AND TUNNELS

GROUP H - Tunnel laborers.

GROUP I - Chuch tender; top lander on shaft work.

GROUP J - Tunnel laborer, including men required to go down in pier hole drilled by machines.

DECISION NO. TN83-1087

POWER EQUIPMENT OPERATORS

GROUP A - Backhoes, cableway, ross carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end loaders; locomotives (over 20 tons); shovels; dozers; fork lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs;piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherry pickers; tower cranes; skylift; gradall.

GROUP B - Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist (not handling steel or stone); pumpcrete machine; concrete pumps; backfiller (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts (8' lift or under); paving machine (blacktop/concrete); boat operator or engineer (30 tons or over); blacktop roller; switchman; locomotive (under 26 tons); maintainers.

GROUP C - Asphalt plant; barber-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreaders box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operators or engineers (under 30 tons); finishing machines; fireman & oiler (combination); motor cranes oiler & driver; welding machine (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); or fuel truck

GROUP D - Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); oiler; heater (1).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Shelby
DECISION NUMBER: TN83-1088 DATE: Date of Publication
Supersedes Decision Number TN82-2057 dated November 19, 1982 in 47 FR 52324.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.50	2.94
BOILERMAKERS	17.70	3.315
BRICKLAYERS & STONEMASONS	16.00	1.68
CARPENTERS,PILEDRIVERMEN & SOFT FLOOR LAYERS	14.10	2.53
CEMENT MASONS	13.15	2.75
ELECTRICIANS:		
Wireman & Electronic Technicians	17.48	1.45 +3.75%
Cable Splicers	17.58	1.45 +3.75%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.21	3.00+b
Helpers	10.65	3.00+b
Probationary Helpers	7.605	
GLAZIERS	15.90	1.15
IRONWORKERS	14.65	2.28
LINE CONSTRUCTION:		
Linemen	17.48	1.45 +3.5 %
Cable Splicers	17.58	1.45 +3.5 %
Special Equipment Oprs.	13.10	1.45 +3.5 %
Groundmen	8.75	1.45 +3.5 %
MARBLE MASONS,TERRAZZO WORKERS & TILE SETTERS	12.66	1.14
MILLWRIGHTS	14.45	2.70
PAINTERS:		
Commercial	13.775	1.90
Industrial,Spray & Sandblasting	14.025	1.90
PIPEFITTERS & AIR CONDITIONING MECHANICS	17.421	1.30
PLASTERERS	13.15	2.75
PLUMBERS	17.17	2.00
ROOFERS	12.50	.50
SHEET METAL WORKERS	16.61	2.12
SPRINKLER FITTERS	14.57	3.23
TRUCK DRIVERS:		
Truck - up to but not including 5 tons	8.515	a
Truck - 5 tons & over including special equipment	8.915	a
POWER EQUIPMENT OPERATORS:		
CLASS A	$14.285	1.50
CLASS B	12.64	1.50
CLASS C	11.745	1.50
CLASS D	11.31	1.50
LABORERS:		
GROUP 1	9.25	1.05
GROUP 2	9.40	1.05
GROUP 3	9.60	1.05
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

CLASS A - Shovels, backhoes, draglines, cranes, gantry, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, strattle carriers, core drills (over 3") tower cranes, hydro cranes, austin western and similar types cranes, drilling of piling, tunnel, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scraper, fork lift, & front end loader.

CLASS B - Trenching machines (18" and smaller), tandem roller,s pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized - Buffalo-Springfield type).

CLASS C - Locomotive fire (on boilers 100 h.p. and over), air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers on gantrys, and greasers.

CLASS D - Air compressor operatOR, mechanic helper, locomotive firemen, welding machine operator, deck hand and elevator operators.

FOOTNOTES:

a. Pension Fund: Employer contribution of $11.00 per week for employees on payroll 30 days or more.
b. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day. Vacation Pay Credit: Employer contributes 2% of the basic hourly ratefor employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

LABORERS:

GROUP 1 - General laborers, concrete laborers, cement finisher tender, plumber tenders, building laborers, carpenter tenders, asphalt rakers, form strippers, nursery labor, roofing tenders, well driller tenders.
GROUP 2 - Vibrator Operators, pipelayers, tamper operators, mat weavers, all air & Pneumatic tool operators.
GROUP 3 - Deep hole man, powerman, torchman on demolition & salvage, and sand hog (free air).

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: WEST VIRGINIA
DECISION NO.: WV83-3023
COUNTY: STATEWIDE
DATE: DATE OF PUBLICATION
Supersedes Decision No. WV83-3000, dated March 11, 1983, in 48 FR 10585.
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
AREA 1	15.12	1.67
AREA 2	16.20	1.75
AREA 3	13.70	2.32
AREA 4	17.23	1.37
AREA 5	17.21	1.66
AREA 6	17.06	1.04
AREA 7	13.54	1.80
AREA 8	13.70	.50
CARPENTERS:		
Heavy Construction	13.33	2.47
Highway Construction	13.07	2.47
CEMENT MASONS:		
Heavy Construction	14.65	1.33
Highway Construction	14.37	1.33
ELECTRICIANS:		
AREA 1		
Wiremen	18.62	.79+8%
Cable splicers	20.84	.79+8%
AREA 2		
Contracts $15,000 or less:		
Wiremen	13.12	2.27+3%
Cable splicers	13.42	2.27+3%
Contracts over $15,000:		
Wiremen	16.02	2.27+3%
Cable splicers	16.32	2.27+3%
AREA 3		
Wiremen	14.88	4.07+3%
Cable splicers	16.37	4.07+3%
AREA 4		
Wiremen	15.43	4.08+3%
Cable splicers	15.68	4.08+3%
AREA 5		
Wiremen	18.00	43%
AREA 6		
Contracts under $50,000:		
Wiremen	10.50	3.81+3%
AREA 6 (CONT'D)		
Contracts $50,000 or more:		
Wiremen	14.95	4.06+3%
Cable splicers	15.10	4.06+3%
AREA 7		
Wiremen	15.55	5.06+3%
Cable splicers	15.80	5.06+3%
AREA 8		
Wiremen	17.32	3.06+3%
Cable splicers	18.19	3.06+3%
AREA 9		
Wiremen	17.32	3.06+3%
Cable splicers	18.19	3.06+3%
AREA 10		
Wiremen	17.32	3.06+3%
Cable splicers	18.19	3.06+3%
AREA 11		
Wiremen	15.00	2.40+3 3/4%
AREA 12		
Wiremen	15.00	2.40+3 3/4%
AREA 13		
Wiremen	16.00	2.40+3 3/4%
AREA 14		
Wiremen	13.60	.75+3½%
Cable splicers	14.00	.75+3½%
AREA 15		
Contracts $15,000 or less:		
Wiremen	13.42	2.27+3%
Cable splicers	13.72	2.27+3%

DECISION NO. WV83-3023	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
AREA 15 (CONT'D)		
Contracts over $15,000:		
Wiremen	16.32	2.27+3%
Cable splicers	16.62	2.27+3%
AREA 16		
Contracts $15,000 or less:		
Wiremen	13.62	2.27+3%
Cable splicers	13.92	2.27+3%
Contracts over $15,000:		
Wiremen	16.52	2.27+3%
Cable splicers	16.82	2.27+3%
AREA 17		
Contracts under $30,000:		
Wiremen	6.95	.50+3 3/4%
Contracts $30,000 or more:		
Wiremen	10.95	.50+3 3/8%
AREA 18		
Wiremen	13.30	23%
Cable splicers	13.70	23%
AREA 19		
Putnam County		
Wireman	19.37	.79+8%
Cable splicer	21.31	.79+8%
AREA 20		
Roane, Clay, Fayette, Raleigh, Boone County & Montgomery Township		
Wireman	18.62	.79+8%
Cable splicers	21.58	.79+8%
AREA 21		
Calhoun, Gilmer, Braxton, Webster & Nicholas Counties		
Wiremen	20.62	.79+3%
Cable splicer	22.68	.79+3%

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
AREA 1	15.97	3.69
AREA 2	14.79	5.17+8%
AREA 3	16.88	3.07
AREA 4		
Zone 1 - 10 miles from Union Hall	12.07	1.96
Zone 2 - 10 to 15 miles from Union Hall	12.22	1.96
Zone 3 - 15 to 20 miles from Union Hall	12.32	1.96
Zone 4 - over 20 miles from Union Hall	12.42	1.96
AREA 5	15.11	3.15
AREA 6	13.10	1.98
LABORERS:		
Heavy Construction:		
Group 1	12.87	2.15
Group 2	12.35	2.15
Group 3	11.98	2.15
Group 4	11.57	2.15
Group 5	11.27	2.15
Highway Construction:		
Group 1	12.63	2.15
Group 2	12.11	2.15
Group 3	11.71	2.15
Group 4	11.31	2.15
Group 5	10.94	2.15

All classifications who are required to work in open vertical ditches and manholes that are 6' or more in depth shall receive 15¢ per hour above their regular rate of pay.

LINE CONSTRUCTION:		
AREA 1		
Linemen	20.31	2.35+3½%
Cable splicer and linemen welder	20.31	2.35+3½%
Mechanized equipment operators	14.77	2.35+3½%
Groundmen	12.00	2.35+3½%

DECISION NO. WV83-3023

LINE CONSTRUCTION: (CONT'D)	Basic Hourly Rates	Fringe Benefits
AREA 2		
Linemen and operators (all mechanized equipment)	16.02	2.29+ 3½%
Cable splicers	16.32	2.29+ 3½%
Groundmen	12.82	2.29+ 3½%
AREA 3		
Linemen and equipment operators	15.30	4.95+ 3½%
Cable splicers	16.83	4.95+ 3½%
Groundmen	12.24	4.95+ 3½%
AREA 4		
Linemen and equipment operators	14.88	4.00+ 3½%
Cable splicers	16.53	4.00+ 3½%
Groundmen and truck drivers	11.90	4.00+ 3½%
AREA 5		
Linemen & operators (all mechanized equipment)	15.03	4.00+ 3%
Cable splicers	15.28	4.00+ 3%
Groundmen	12.02	4.00+ 3%
AREA 6		
Linemen & operators (all mechanized equipment)	18.00	42½%
Cable splicers	18.50	42½%
Groundmen	11.70	42½%
AREA 7		
Linemen & operators (all mechanized equipment)	14.95	4.25+ 3%
Cable splicers	16.45	4.25+ 3%
Groundmen & truck drivers	11.96	4.25+ 3%
AREA 8		
Linemen	15.00	2.40+ 3%
Equipment operators	14.25	2.40+ 3%
Truck drivers & groundmen	9.75	2.40+ 3%
AREA 9		
Linemen	15.00	2.40+ 3%
Equipment operators	14.25	2.40+ 3%
Truck drivers & groundmen	9.75	2.40+ 3%
AREA 10		
Linemen	16.00	2.40+ 3%
Equipment operators	15.25	2.40+ 3%
Truck drivers & groundmen	10.75	2.40+ 3%
AREA 11		
Linemen, cable splicers & equipment operators	17.66	.70+ 8%
Truck with winch, pole or steel handling	9.34	.70+ 8%
Groundmen	9.06	.70+ 8%
AREA 12		
Linemen and operators (all mechanized equipment)	16.32	2.29+ 3½%
Cable splicers	16.62	2.29+ 3½%
Groundmen	13.05	2.29+ 3½%
AREA 13		
Linemen ans operators (all mechanized equipment)	16.52	2.29+ 3½%
Cable splicers	16.82	2.29+ 3½%
Groundmen	13.21	2.29+ 3½%

DECISION NO. WV83-3023

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits
AREA 14		
Linemen	13.85	.70+ 3½%
Cable splicers	13.85	.70+ 3½%
Equipment operators	11.94	.70+ 3½%
Trucks with earth boring auger	9.61	.70+ 3½%
Truck with winch, groundmen	7.76	.70+ 3½%
AREA 15		
Linemen & equipment operators	13.30	23½%
Cable splicers	13.70	23½%
Truck drivers & groundmen	11.90	23½%
PAINTERS:		
AREA 1		
Painters		
An area within 50 miles of Huntington, W.V.	11.40	.82
An area 50 miles and beyond of Huntington, W.V.	12.95	.82
Bridge & Hazardous Work (Includes towers, smoke stacks, flag poles & tanks)		
An area within 50 miles of Huntington, W.C.	13.65	.82
An area 50 miles and beyond of Huntington, W.V.	15.19	.82
AREA 2		
Brush, roller, and spray	10.33	.52
Industrial structural steel	15.82	.52
Power cleaning tools and lining machine work - 50¢ over appropriate scale		
Material emitting toxic vapors-$1.00 over appropriate scale		
Height clause - additional $1.00 per hour 100'		
AREA 3		
Painters	14.78	.52
Structural steel after erection	15.82	.52
Bridge painting	15.82	.52
Spray painters	16.28	.52
Towers, tanks & stacks	15.82	.52
Repaint industrial & structural steel	14.62	.52
Sand blasters	16.28	.52
AREA 4		
New Construction:		
Brush	14.89	1.83
Roller	14.89	1.83
Spray & blast, Pot-Men	16.71	1.83
Repaint Work		
Brush	13.47	1.83
Roller	13.47	1.83
Spray & Pot-Men	16.71	1.83
Bridge		
Brush	15.84	1.83
Roller	15.84	1.83
Spray, Blast, glove	16.71	1.83
Open structural steel	15.78	1.83
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30 feet high	17.36	.31
AREA 5		
Brush	13.03	.65
Air Compressor operator	13.03	.65
Roller, spray, dipping & mitten work	13.55	.65
Water blasters, steam jenny nozzle men, swinging scaffold & boatswain chair, window jack work	14.22	.65
Brush painters on bridges needle beam, cable work, power tool work, brush & flame cleaning	14.75	.65
Sand blaster	15.20	.65
All stacks, vent pipes, flag poles in excess of 30' high, all towers, elevated		

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	Basic Hourly Rates	Fringe Benefits
PAINTERS: (CONT'D)		
AREA 5 (CONT'D)		
tanks, electrical switch yards, transformer banks, television towers	16.54	.65
Spray painter or sandblaster on bridges needle beam cable work	15.20	.65
AREA 6:		
Brush & roller	14.10	1.87
Glove	14.35	1.87
Spray, sandblast & steamcleaning	15.10	1.87
Height over 40' - Brush	14.85	1.87
Locks and dams - brush	15.43	1.87
Towers - brush	15.62	1.87
Elevated tanks over 35' - brush and roller	15.10	1.87
Brush and roller, powerline towers-brush, flagpoles over 40'-brush, and substations brush	15.10	1.87
Railroad and highway bridges:		
Spray and sandblast	16.42	1.87
Brush	15.42	1.87
Glove and roller	15.67	1.87
AREA 7		
Brush & roller	14.10	1.87
Spray	15.10	1.87
AREA 8		
Light Work		
Brush, rollers, sign painting	12.60	.50
Brush & roller (toxic materials)	13.10	.50
Spray, sandblasting & use of flame burning & power tools	13.60	.50
Spray (toxic materials)	14.10	.50
Heavy & Hazardous Work:		
Brush & sign painting	13.60	.50
Brush (toxic materials)	13.60	.50
AREA 8 (CONT'D)		
Spray, rollers, sandblasting, & use of flame burning & power tools	13.10	.50
Spray & roller (toxic materials	13.60	.50
AREA 9		
Brush	13.30	2.29
Steel & Spray	14.05	2.29
PILEDRIVERMEN - HIGHWAY CONSTRUCTION:		
AREA 1	15.12	27%
AREA 2	13.74	2.47
PLUMBERS AND PIPEFITTERS:		
AREA 1		
Harrison, Marion, and Monongolia Counties	14.84	10%+3.39
AREA 2		
Barbour, Doddridge, Lewis, Preston, Taylor, And Upshure Counties	15.09	10%+3.39
AREA 3		
Braxton, Gilmer, Randolph, and Tucker Counties	15.34	10%+3.39
AREA 4		
Grant, Hampshire, Hardy, Mineral, and Pendleton Counties	15.59	10%+3.39
AREA 5		
Brooke (east of Buffalo Creek), Marshall, Ohio, and Wetzel Counties	15.63	1.00+19%
AREA 6		
Brooke (remainder of county) and Hancock Counties	17.57	5.36
AREA 7		
Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt, and Wood Counties	16.94	2.55

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	Basic Hourly Rates	Fringe Benefits
PLUMBERS AND PIPEFITTERS: (CONT'D)		
AREA 8		
Cabell, Lincoln, Logan, Mason, Mingo, and Wayne Counties:		
Zone 1 - Within 8 mile radius of Cabell County Courthouse	16.01	3.92
Zone 2 - 8 to 15 miles from the Courthouse	16.21	3.92
Zone 3 - 15 to 25 miles from the Courthouse	16.41	3.92
Zone 4 - Over 25 miles from the Courthouse	16.66	3.92
AREA 9		
McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties:		
Contracts $75,000 or less	8.20	2.445
Contracts over $75,000	14.005	2.445
AREA 10		
Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocohontas, Putnam, Roane and Webster Counties	16.82	2.45
AREA 11		
Berkeley, Jefferson, and Morgan Counties	15.86	1.40+a
POWER EQUIPMENT OPERATORS:		
Heavy Construction:		
Group 1	14.84	2.45
Group 2	13.84	2.45
Group 3	12.91	2.45
Group 4	12.61	2.45
Group 5	11.80	2.45
Group 6	13.31	2.45

All classifications performing tunneling and underground work shall receive an additional 25¢ per hour

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Highway Construction:		
Group 1	14.63	2.45
Group 2	13.59	1.82
Group 3	12.66	1.82
Group 4	12.36	1.82
Group 5	11.55	1.82
Group 6	11.08	1.82

All classifications performing tunneling and underground work shall receive an additional 25¢ per hour

TRUCK DRIVERS:		
Highway Construction:		
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton		
Group 1	11.70	b+c
Group 2	11.90	b+c
Group 3	12.20	b+c
Group 4	12.65	b+c
Group 5	12.72	b+c
Group 6	12.95	b+c
Group 7	13.14	b+c
Group 8	13.24	b+c
Area 2: Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Cos.:		
Group 1	11.70	2.54
Group 2	11.90	2.54
Group 3	12.20	2.54
Group 4	12.65	2.54
Group 5	12.72	2.54
Group 6	12.95	2.54
Group 7	13.14	2.54
Group 8	13.24	2.54

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Heavy Construction		
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan and Pendleton		
Group 1	11.95	b+c
Group 2	12.16	b+c
Group 3	12.46	b+c
Group 4	12.89	b+c
Group 5	12.99	b+c
Group 6	13.21	b+c
Group 7	13.46	b+c
Group 8	13.51	b+c

	Basic Hourly Rates	Fringe Benefits
Area 2: Grant, Hardy, Hampshire, Mineral, Morgan, and Pendleton Counties:		
Group 1	11.95	2.54
Group 2	12.16	2.54
Group 3	12.46	2.54
Group 4	12.89	2.54
Group 5	12.99	2.54
Group 6	13.21	2.54
Group 7	13.46	2.54
Group 8	13.51	2.54

All truck driver classifications performing tunneling and underground work shall receive an additional 25¢ per hour

AREAS COVERED BY BRICKLAYERS & STONEMASONS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh & Summers Counties.
AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties.
AREA 3 - Marshall, Ohio, Tyler & Wetzel Counties.
AREA 4 - Brooke & Hancock Counties.
AREA 5 - Cabell, Lincoln, Mason, Mingo & Wayne Counties.
AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt & Wood Counties.
AREA 7 - Berkeley, Hampshire, Jefferson, Mineral & Morgan Counties.
AREA 8 - McDowell, Mercer, Monroe & Wyoming Counties.

AREAS COVERED BY ELECTRICIANS

AREA 1 - Kanawha County (not including Montgomery Township)
AREA 2 - Raleigh (remainder of county) County
AREA 3 - Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties.
AREA 4 - Brooke (Buffalo Twp Only), Marshall, Ohio & Wetzel
AREA 5 - Brooke (except Buffalo Twp) & Hancock (except Grant Twp.)
AREA 6 - Marion, Monongalia, Preston, Taylor & Tucker Counties
AREA 7 - Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties
AREA 8 - Cabell & Wayne Counties
AREA 9 - Logan, Mason & Mingo Counties
AREA 10 - Lincoln County
AREA 11 - Mineral County
AREA 12 - Berkeley, Hampshire & Morgan Counties
AREA 13 - Grant County
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties
AREA 15 - Fayette (remainder of county) County
AREA 16 - Summers & Wyoming Counties
AREA 17 - Hardy, Jefferson & Pendleton Counties
AREA 18 - Hancock County - Grant Twp. only
AREA 19 - Putnam County
AREA 20 - Roane, Clay, Fayette, Raleigh & Boone County and Montgomery Township
AREA 21 - Calhoun, Gilmer, Braxton, Webster & Nicholas Counties

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AREAS COVERED BY IRONWORKERS

AREA 1 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Nicholas, Putnam, Raleigh, Webster & Wyoming Counties
AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.
AREA 3 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties
AREA 4 - Cabell, Mingo & Wayne Counties
AREA 5 - Berkeley, Grant, Hampshire, Hardy, Mineral, Morgan, Pendleton, Preston, Randolph & Tucker, Jefferson Counties
AREA 6 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Blacksmith, Tunnel Driller, Tunnel Miner and Powderman
GROUP 2 - Mucker-Chucker
GROUP 3 - Caisson Bottom man, Pipe Layer (including Laser Beam Setup), Form setter (road), Drill Operator and Inside Laborer
GROUP 4 - Airtool Operator, Vibrator Man, Whacker, Chainsaw Operator, Mortarman, Mason Tender, Blacksmith Helper, Cement Finisher Helper, Drill Helper, Powderman Helper, Waterproofer, Shooter and Shorer, Pipelayers Helper, Bullfloat Man, Pavement Reinforcing Placer, Handyman, Signal Man, Asphalt Raker, Greencutter, Georgia Power Buggie, Burner, Grade Checker, Concrete Blower Man
GROUP 5 - Laborer, Deckhand, Mulcher and Seeder (hand or machine), Tree Trimmer

AREAS COVERED BY LINE CONSTRUCTION

AREA 1 - Boone, Braxton, Cabell, Calhoun, Clay, Fayette (Falls and Kanawha Twps.), Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Raleigh (Clear Fork and Marsh Fork Twps.), Roane, Wayne & Webster Counties
AREA 2 - Raleigh County (excluding Clear Fork and Marsh Fork Twps.)
AREA 3 - Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties
AREA 4 - Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties
AREA 5 - Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties
AREA 6 - Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties
AREA 7 - Marion, Monongalia, Preston, Taylor & Tucker Counties
AREA 8 - Mineral County
AREA 9 - Berkeley, Hampshire & Morgan Counties
AREA 10 - Grant County
AREA 11 - Hardy, Jefferson & Pendleton Counties
AREA 12 - Fayette County (excluding Falls and Kanawha Twps)
AREA 13 - Summers & Wyoming Counties
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties
AREA 15 - Hancock County - Grant Twp. only

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AREAS COVERED BY PAINTERS

AREA 1 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties
AREA 2 - Monongalia & Preston Counties
AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.
AREA 4 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties
AREA 5 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties
AREA 6 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties
AREA 7 - Brooke (remainder of county), & Hancock Counties
AREA 8 - Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties
AREA 9 - Berkeley & Jefferson Counties

AREAS COVERED BY PILEDRIVERMEN
HEAVY CONSTRUCTION

AREA 1 - Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties
AREA 2 - All remaining Counties

AREAS COVERED BY PILEDRIVERMEN
HIGHWAY CONSTRUCTION

AREA 1 - Brooke, Hancock, Marshall, Monongalia, Ohio & Wetzel Counties
AREA 2 - All remaining counties

CLASSIFICATION DEFINITION FOR POWER EQUIPMENT OPERATORS ON
HEAVY AND HIGHWAY CONSTRUCTION

GROUP 1 - Cranes, derricks, tower cranes, all shovels, drag lines, clamshells, backhoes, cableways, derricks (2 drums or more), dredge, sideboom tractors and similar equipment having a reach from the top of the boom to the ground of 120 feet, or a capacity of 3 cubic yards and/or a lift capacity of 50 tons. End-loaders and concrete mixing plants of 4 cubic yards capacity or over. Hoist with 18,000 pound line pull or over, tug, tow or work boat above 25 horsepower engine. Transloader. (Capacities to be based on manufacturer's specifications). Master Mechanic.
GROUP 2 - Crane, derrick boat, drag-line, grade-all, hoist (two drums or more), mechanic (heavy), mixer plant (two or more mixers including batch control), paver (dual drums), pile driver, shovel, coredrill operator, trencher, (20" or over), truck crane, backhoe, hi-lift (1-1/2 cubic yards or over), dozer with ripper (when dozer is D-8 class or larger), double hitched equipment, bull-dozer with roller, standard guage locomotive, concrete pump, controlled fine grade machine, slip form paver operator, dozer with sloper, log loader, bull-dozer operator, motor grader, rubbertired scraper, tractor pan, and bulldozers 100 flywheel horsepower and over

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CLASSIFICATION DEFINITION AOF POWER EQUIPMENT OPERATORS ON
HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

GROUP 3 - Bulldozers under 100 flywheel horsepower, fork lift, self-propelled concrete spreader, concrete finishing machine, derrick (single drum), hi-lift (under 1-1/2 cubic yards), hoist (single drum), single drum paver, trencher (under 20"), air tugger, Ross Carrier, "A" Frame, multiple concrete saw, asphalt paver, hydraulic post driver, base paver, rotary drill, lead greaser on grease truck or service island, snake or push tractor, horizontal road boring machine, conductor of locomotive, tie distributor, track lining machine, ballast tamper, anchor application machine, ribbon rail puller, ballast regulator, auto sled, turn table.
GROUP 4 - Concrete mixer (single drum) one cubic yard or over, fireman, asphalt batch plant, concrete batch plant, crushing plant, screening and washing plant, form subgrader, power form handling equipment, burlap and curing machine, form grader, bull float, portable concrete saw, roller and compactor, bar and joint installing machine, and power broom.
GROUP 5 - Air compressor, concrete mixer (under one cubic yard), conveyor-belt or bucket, light plant, narrow gauge locomotive, welding machine, fireman, mechanic's helper, oiler, deckhand, screed man, spreader box man, farm tractor, joint sealer and pump, steam jenny and brakeman of locomotive.
GROUP 6 - Class V operators may operate up to five (5) pieces of utility equipment, but when operating one (1) or more 600 CFM compressors or one(1) or more pumps 4" or larger, or more than one (1) air compressor, conveyor-belt or bucket, light plan, welding machine, and pumps, the Class V operator shall receive class six (6) rate

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS ON
HIGHWAY & HEAVY CONSTRUCTION

GROUP 1 - Warehouse, yardmen, truck helper, pick-ups, station wagons, panel trucks, team 2-up
GROUP 2 - Single axle trucks used as dump, supply, fiel, water, van, flatbody, monorail, distributor, (Other than bituminous distributors) and including towed single units - material checkers, material receivers, team 4-up, greasers, tiremen and mechanic helpers (trucks).
GROUP 3 - Tandem axle trucks used as dump, supply, fuel, water, van, flatbody, monorail and including towed single units, truck tractors used in combination with dump, van, tank, flatbed, low platform, or pole trailers, bituminous distributors, agitator or mixer trucks (up to and including 5 c.y.).
GROUP 4 - Agitator or mixer trucks over 5 c.y. and less than 12 c.y., rubber-tired tractors (towing or pushing), drag drivers, and tag alongs.
GROUP 5 - Tri-axle trucks used as dump, supply, fuel, water, van, flatbed, monorail and including towed single units, agitator or mixer trucks (over 12 c.y. to 20 c.y.)
GROUP 6 - Mobile metered mixer, agitator or mixer trucks (over 20 c.y.), off highway rear dump trucks to 75 tons.

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CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS ON HIGHWAY & HEAVY CONSTRUCTION CONT'D

GROUP 7 - "A" frame operator
GROUP 8 - Off highway rear dump - over 75 tons.

FOOTNOTES:

a. Holiday: Christmas Day

b. Employer contributes $158.17 per month per employee

c. Employer contributes $121.33 per month per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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federal register

Friday
November 25, 1983

Part IV

Department of Labor

Occupational Safety and Health Administration

Hazard Communication; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Hazard Communication

AGENCY: Occupational Safety and Health Administation (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA is hereby promulgatiing a final occupational safety and health standard entitled "Hazard Communication" (29 CFR 1910.1200). The standard requires chemical manufacturers and importers to assess the hazards of chemicals which they produce or import, and all employers having workplaces in the manufacturing division, Standard Industrial Classification (SIC) codes 20 through 39, to provide information to their employees concerning hazardous chemicals by means of hazard communication programs including labels, material safety data sheets, training, and access to written records. In addition, distributors of hazardous chemicals are required to ensure that containers they distribute are properly labeled, and that a material safety data sheet is provided to their customers in the manufacturing division SIC Codes.

Implementation of this final standard will reduce the incidence of chemically-related occupational illnesses and injuries in employees of the manufacturing division. Increased availability of hazard information will assist employers in these industries to devise appropriate protective measures, and will give employees the information they need to take steps to protect themselves.

The twenty-four states with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of this publication date. These states are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Until such time as a state standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these states.

EFFECTIVE DATES: Chemical manufacturers and importers are required to label containers they ship and provide required material safety data sheets by November 25, 1985. Distributors are required to be in compliance by November 25, 1985. All employers covered by the standard are to be in compliance by May 25, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 523-8151. Copies of this document may be obtained from the Office of Public Affairs at this address and telephone number, or by contacting any OSHA regional or area Office.

SUPPLEMENTARY INFORMATION: The recordkeeping requirements in the standard have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501, *et seq.* The OMB approval number is 1218-0072.

I. Introduction.

A. The Format of This Document (the Preamble)

The preamble accompanying this final standard is divided into five parts, numbered I through V. The following is a table of contents:

I. Introduction.
  A. Format of the document.
  B. History of the proceedings.
II. Overview of the Final Standard and Summary of Major Issues.
  A. Overview and purpose of the final standard.
  B. Need and support for the standard.
  C. Issues raised by provisions of the proposed standard.
  D. Legal authority and related issues.
III. Regulatory Analysis.
  A. Regulatory impact analysis; economic factors.
  B. Regulatory flexibility analysis.
  C. Environmental impact analysis.
IV. Summary and Explanation of the Final Standard.
V. Authority, Signature and the Standard.

Part II provides a detailed analysis of public input on the proposed standard and related issues. Part IV is a provision-by-provision discussion of the final standard, including a brief summary of each requirement and the rationale supporting it. References to the rulemaking record are in the text of the preamble, and the following abbreviations have been used:

1. Ex.: Exhibit number in Docket H-022.
2. Tr.: Transcript page number.

B. History of the Proceedings

1. *The development of the proposal.* OSHA's involvement in the issue of identification and communication of hazards in the workplace began nine years ago. In 1974, the Standards Advisory Committee on Hazardous Materials Labeling was established under Section 7(b) of the OSH Act to develop guidelines for the implementation of Section 6(b)(7) of the Act with respect to hazardous materials (Ex. 16-1). On June 6, 1975, the Committee submitted its final report which identified issues and recommended guidelines for categorizing and ranking chemical hazards (Ex. 16-2). Labels, material safety data sheets, and training programs were also recommended.

The National Institute for Occupational Safety and Health (NIOSH) published a criteria document in 1974 which recommended a standard to OSHA (Ex. 16-3). The document, entitled "A Recommended Standard * * * An Identification System for Occupationally Hazardous Materials," included provisions for labels and material safety data sheets.

On January 28, 1977, OSHA published an advance notice of proposed rulemaking on chemical labeling in the **Federal Register** (42 FR 5372). The notice requested comments from the public regarding the need for a standard that would require employers to label hazardous materials. Information was also requested regarding the provisions to be included in such a standard to assure that employees are apprised of the hazards to which they are exposed. A total of eighty-one comments were received from a variety of federal, state, and local government agencies, trade associations, businesses, and labor organizations (Ex. 2B). In general, there was support for the concept of a hazard communication standard.

On January 16, 1981, OSHA published a notice of proposed rulemaking (NPRM) entitled "Hazards Identification" (46 FR 4412). The NPRM would have required employers to assess the hazards in their workplaces using specified determination procedures. Labels including extensive information about these hazards would have been required on all containers within the workplace (including pipes), as well as on containers leaving the workplace.

OSHA withdrew the NPRM on February 12, 1981 for further consideration of regulatory alternatives (46 FR 12214).

2. *The proposal.* On March 19, 1982, OSHA published the NPRM that was the subject of this rulemaking proceeding (47 FR 12092). The notice established a sixty day period, which ended on May 18, 1982 for submission of written comments and filing of notices of intent to appear at the public hearings. The

deadline for submission of written statements and other documentary evidence to be presented during the hearings was set as June 1, 1982.

The proposed standard required chemical manufacturers to assess the hazards of all chemicals which they produce, and all employers in SIC Codes 20 through 39 to establish hazard communication programs for their employees. This communication was to be accomplished by labeling in-plant and downstream containers, through the availability of material safety data sheets, and by employee training.

The proposed standard represented OSHA's determination that rulemaking was necessary because many employers and employees in the manufacturing division are not aware of the presence of hazardous chemicals in their workplaces. This lack of knowledge increases the risk of occupationally-related chemical source illnesses and injuries, since appropriate protective measures can only be designed and implemented when the presence of a hazard is known.

3. *Response to the proposal.* OSHA received 221 written comments on the NPRM prior to the public hearing, as well as a number of late comments after the hearing began. All written evidence concerning the NPRM was entered into Docket H-022, which was established for this rulemaking proceeding.

Public hearings were conducted under OSHA's procedural regulations for rulemaking (29 CFR Part 1911). They were presided over by Administrative Law Judge Stuart A. Levin, and all participants were given the opportunity to present oral testimony and to question other witnesses. The hearings were held from June 15–24, 1982, in Washington, D.C.; July 13–14, 1982, in Houston, Texas; July 20–23, 1982, in Los Angeles, California; and July 27–31, 1982, in Detroit, Michigan. A total of 4,253 pages of transcript was generated during these nineteen days of oral testimony.

The hearing participants were permitted to submit additional information to the record until September 1, 1982. The period for submission of post-hearing comments and briefs was originally scheduled to end on October 15, 1982, but Judge Levin extended the date to November 1, 1982, in response to a request from participants (Ex. 173). Sixty-two (62) exhibits were received after the close of the hearing.

4. *The record.* The public record for the proposed rule was certified by Judge Levin on November 10, 1982. The record consists of all material submitted to the OSHA Docket Office, Docket No H-022, by either OSHA or the public, including:

(a) Comments submitted in response to the ANPR (42 FR 5372);

(b) Comments submitted in response to the NPRM (47 FR 12092);

(c) Background materials collected by OSHA;

(d) The draft regulatory impact and regulatory flexibility analysis (Ex. 17);

(e) Notices of intent to appear at the public hearings;

(f) Pre-hearing submissions of testimony and evidence;

(g) Verbatim transcripts of the public hearings;

(h) Hearing exhibits; and

(i) Post-hearing submissions.

The views of a wide range of employees, businesses, labor unions, trade associations, public interest groups, as well as state and local governments and other interested parties, are represented in the public record.

Copies of the official list of entries in the record, as well as the exhibits themselves, are available from the OSHA Docket Office, Docket No. H-022, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C., 20210; telephone (202) 523-7894.

II. Overview of the Final Standard and Summary of Major Issues.

A. Overview and Purpose of the Final Standard

Although the need for apprising workers of the hazards of the chemicals they work with has long been recognized by national safety and health professionals, as well as other representatives of industry, labor, academia, and the government, the difficulties encountered in attempting to define hazards and determine the appropriate means of communication have long delayed implementation of a systematic approach. In the interim, voluntary systems of various types have been designed and instituted in some segments of industry. Some of these systems are quite comprehensive and effective, while others incorporate a cursory approach to the problem.

The purpose of this standard is to establish uniform requirements for hazard communication in one segment of industry, the manufacturing division. Under the provisions of this final standard, each employee in the manufacturing industries who is exposed to hazardous chemicals will receive information about them through a comprehensive hazard communication program. Chemical manufacturers and importers will be required to evaluate the hazards of the chemicals they produce or import, and to transmit this information to downstream employers by means of labels on containers and material safety data sheets. In addition, all covered employers will be required to provide the information to their employees by means of labels on containers, material safety data sheets, and training.

The standard is designed to ensure that all employers receive the information they need to inform their employees properly, and to design and implement employee protection programs. In addition, it will provide necessary hazard information to employees, so that they can meaningfully participate in, and support, the protective measures instituted in their workplaces. The result of this hazard communication program will be to reduce the incidence of chemical source illnesses and injuries in the manufacturing division. In addition, once the information about these chemicals has been generated by the producers, this standard establishes the framework for future regulation, if necessary, to similarly cover other user industries where workers are also exposed to hazardous chemicals.

In the following discussions, we have summarized the major isues raised by participants during this rulemaking proceeding in response to provisions in the proposed standard. The positions of the various participants have been presented as well. In addition, we have indicated which arguments and evidence we have found to be persuasive, and what changes we have thus made to the proposed provisions in preparing the final standard.

The record for this rulemaking is extensive, and OSHA appreciates the time and effort expended by interested parties to ensure that as much information as possible was available to the Agency for purposes of making decisions on the final standard. In analyzing the record and preparing this final document, OSHA has carefully weighed all of the alternatives presented, and attempted to balance the concerns of all parties in the final provisions. Many of the decisions to be made were of a policy, rather than technical, nature. Unlike other rulemakings where scientific studies form the bases for much of the decisionmaking, this rulemaking is primarily based on the actual experience and policy recommendations presented by participants in the proceedings. OSHA's primary intent in promulgating this final standard is to ensure that employees will receive as much information as needed concerning the hazards in their workplaces, and

that this information will be presented to them in a usable, readily accessible form. The Agency's secondary intent is to write the standard in such a way that those companies who have voluntarily instituted effective programs of hazard communication for their employees may continue to use them without substantial modification. The latter goal is accomplished by presenting the provisions of the final standard in performance language wherever possible.

B. Need and Support for the Standard

Although the lack of adequate hazard information in the manufacturing industries has long been recognized, objective data quantifying the extent of the problem are not generally available.

In the NPRM, OSHA presented the findings of the National Occupational Hazards Survey (NOHS) conducted by the National Institute for Occupational Safety and Health (NIOSH) as being indicative of the broad scope of the problems addressed by the proposed standard (47 FR 12093–4). The Agency noted at the time that it was aware that criticisms have been levied by various parties concerning the conclusions and extrapolations of the NOHS. In particular, the fact that the data were collected ten years ago and may be outdated now concerns some parties. However, the NOHS remains the only comprehensive study which indicates the extent of chemical exposures in industry.

According to the NOHS data, approximately 25 million American workers, or one in four, are potentially exposed to one or more of the nearly 8,000 hazards identified by NIOSH (Exs. 16–4, 16–5, 16–6, and 16–7). As many as 40 to 50 million Americans (23 percent of the entire U.S. population) may have been exposed at some point during their lifetimes to one or more of the hazardous chemicals presently regulated by OSHA. Thus it can be concluded that chemical exposures in the occupational setting, and particularly in manufacturing, are frequent, and the need for adequate information to be given to exposed employees is critical.

Several participants in the rulemaking stated that the NOHS data should not be used to substantiate the need for the standard, due to the limitations described above (Exs. 19–44, 19–76, 19–91, and 19–147). For example, the Chemical Specialties Manufacturers Association (Ex. 19–76) stated:

> The National Occupational Hazards Survey (NOHS) data upon which OSHA relies to document the need for and calculate the benefits of this standard are not currently relevant if they ever were. It is erroneous to assume that conditions in the workplace ten years ago are still present, given the changes in chemicals used, developments in engineering controls, and advances in hazard communication practices. For example, material safety data sheets (MSDS's) did not come into use until 1970, and NOHS's failure to find them in widespread use in a survey published in 1972 is not surprising.

OSHA used the NOHS data to indicate the broad scope of chemical exposures in general, including the number of chemical products and the associated numbers of exposures involved. NOHS testified regarding the validity of using the NOHS data for this purpose (Tr. 185):

> NIOSH feels that despite the dating on the survey that it is really the only national source of information on this particular type and that it has held up well and does provide useful information if one realizes the—how the data was gathered and what the size of the data base and so forth.
>
> We feel there's no other source of data that is available that would really contradict that nor could replace that in any way.

NIOSH is in the process of doing a second study regarding the extent of hazardous exposures. Their experiences in conducting health hazard evaluations and research projects in the years since the original NOHS was undertaken have provided confirming evidence that the data collected in the survey were valid and useful (Tr. 184–6). Since no alternative sources of comparable data to indicate the magnitude of chemical exposures in the occupational setting exist, OSHA's use of NOHS is necessary and appropriate, and substantiates the need for a standard to ensure information is presented to employees in the manufacturing sector who are exposed to such chemicals.

In the NPRM, OSHA also cited statistics compiled by the Bureau of Labor Statistics concerning the occurrence of occupational illnesses resulting from workplace exposures to hazardous chemicals as an indication of the need for hazard communication (47 FR 12094). OSHA's analysis of the illness statistics for 1977 and 1978, indicated that a total of more than 174,000 illnesses were reported in those two years which were most likely caused by chemical exposures. OSHA concluded that implementation of appropriate hazard communication in these workplaces would serve to decrease the number of such incidents by providing employees with the information they need to help protect themselves, and ensure that their employers are providing them with the proper protection.

In addition to these types of objective data, OSHA also cited testimony presented by workers and health professionals during rulemaking hearings and in testimony before Congress as evidence of the need for a standard. The Agency also described a number of existing documents, including OSHA regulations, a NIOSH criteria document, voluntary consensus standards, and several Congressional reports as further indication of general recognition of this need (Exs. 16–10, 16–11, 16–12, and 16–13).

The record developed during this rulemaking overwhelmingly substantiated OSHA's conclusion that there is a critical need for a standard to ensure disclosure of hazard information to employees in the manufacturing sector. This substantiation was received from all segments of those interested in, or potentially affected by, this rulemaking. For example, the following statement was submitted by the American Petroleum Institute (Ex. 181):

> The goal of effective hazard communication can only be approached where responsible employers and responsive employees work together in developing and implementing an integrated hazard communication program. This proposed rule would require the identification and evaluation of intrinsic chemical hazards and the preparation and availability of MSDS's for hazardous substances in the workplace and, perhaps most importantly, employee training regarding chemical hazards. These and other elements of individual workplace hazard communication programs should ensure significantly improved occupational safety from chemical hazards.

This support of the need for a standard to establish comprehensive hazard communication programs in the manufacturing industries was also expressed by other industry representatives, both individual companies and trade associations. For example:

> If implemented, this standard should do more to educate the worker about potential workplace hazards than any other standard since OSHA's inception. Educated employees make safer employees.
>
> (Kaiser Aluminum and Chemical Corporation, Ex. 19–198)

> The communication of hazards which surround employees is a basic and elementary component of any successful workplace. As such, the hazard communication process is not only necessary for the prevention of many avoidable injuries and illnesses, but moreover, a cornerstone to such effort.
>
> (National Association of Manufacturers, Ex. 179)

> As a concerned and responsible employer and producer of chemicals, we desire that our own employees and those of our customers be provided with accurate information on the hazards of the chemicals they handle and are

instructed in proper work practices to minimize the risk from those hazards. We thus support OSHA's intention to develop a sound standard to support those aims.

(Celanese Corporation, Ex. 19–185)

Workers in this country are exposed to hazardous chemicals every day. The effective communication of potential hazards can help reduce the national incidence of occupational injuries and illnesses.

(Gulf Oil Chemicals Company, Ex. 19–96)

Ignorance of workplace hazards can subject employees to unacceptable risks.

(Shell Oil Company, Ex. 19–124)

The comments and the hearings have confirmed the need for an effective federal standard requiring employers to identify workplace hazards, communicate hazard information to employees, and train employees in recognizing and avoiding those hazards. The testimony of employers, employees, unions and public health officials has uniformly supported the appropriateness of a rule directed toward these ends. There has been no serious dispute of the proposition that well-structured programs for informing employees of the hazards of the workplace are beneficial and cost-effective.

(Chemical Manufacturers Association, Ex. 182)

Representatives from academia and other professionals were also supportive of the need for a federal hazard communication standard:

The proposed Hazard Communication standard is a considerable advance over present practice, and should be of great assistance in protection of workers from hazardous chemicals.

(Howard E. Ayer, University of Cincinnati Medical Center, Ex. 19–5)

The American Chemical Society recognizes the need for hazard communication and supports the concept of uniform federal guidance on hazard communication. OSHA's proposed rule (47 FR March 19, 1982) generally reflects a more realistic approach than the previous version proposed in January 1981. While the current proposal can and should be further modified, the document represents a positive contribution for which we commend OSHA.

(American Chemical Society, Ex. 19–206)

Most of the patients whom I see have not been informed of the identity or toxic nature of the materials with which they work. Some know a trade name or chemical generic name, but their knowledge ends there. They rarely have sufficient information about the material with which they work to understand the actual or potential toxicity of the chemical and to take steps to protect themselves from the effects of the material * * * (Tr. 96–7).

At the present moment, most activity on hazard communication is voluntary and subject to no standard and little regulation. Some forward-looking manufacturers and employers aware of their own use of toxic materials have developed programs which are similar to those which will be required by the proposed standard.

The proposed standard will encourage these manufacturers and employers to forge ahead with their programs. Some less forward-looking companies have been pushed into developing hazard communication programs by decisions in worker's compensation hearings, tort courts, or OSH hearings.

On the other hand, most manufacturers have done little or no work in this area. For them the standard will provide an appropriate impetus to implement toxic materials health and safety hazard communication programs * * *

(Dr. Daniel Teitelbaum, Tr. 109)

Representatives of various government entities were also vocal in their support of the need for a standard in the area of hazard communication:

My concern today is for the future and for the necessity to assure that workers have the right to know what substances they are exposed to in the workplace. If we fail to promulgate an effective hazards communication programs standard, we will assure ourselves that in the future we will continue to be puzzled and unable to determine why workers are becoming ill or dying from exposures to unkown chemicals in the workplace * * *

(Michigan Department of Labor, Ex. 114)

The Department of Defense strongly supports the intent of the proposed standard published in the **Federal Register** on March 19, 1982, to help ensure that personnel are aware of potential workplace chemical hazards and adequately protected therefrom * * *

(Department of Defense, Ex. 19–148)

Most importantly, workers and their representatives reaffirmed their need for a standard to obtain information about the hazards they are exposed to:

What we have been seeing time after time through all the work we do, is that workers simply do not know what kinds of materials they are exposed to on the job * * *

Without more comprehensive, enforceable legislation, workers can't help themselves or use our technical resources if they are in a position where they can walk into a COSH library and not even tell us what to look up or look up for themselves because they don't know what they are exposed to.

(Joan Parker, New York State Council on Occupational Safety and Health, Tr. 3454)

We feel now, testifying for a strong national right-to-know standard as we did for our state's right-to-know law, that the key to identifying and correcting health and safety hazards in the workplace lies with the workers' participation. Workers have an intimate knowledge of the conditions of work, how work is done, and what changes have been made over the years, and how conditions in the workplace affect them.

Armed with the knowledge obtained from the right-to-know legislation, workers will be made aware of acute and chronic symptoms of exposure to the toxic substances they work with, and therefore can be alerted, and enough in advance, before any serious harm can be done. Workers have a day-to-day contact with the process of production that allows for an in-depth analysis of where the problems lie. And, most importantly, with this right-to-know and increased awareness, the workers can effectively assist management and, if needed, pressure management to make necessary changes that effect their well-being.

(James Valenti, Local 12457, United Steelworkers of America, Tr. 3792–3)

I strongly feel that there is a necessity to initiate a program whereby the company will eliminate the practice of purchasing chemicals and putting them into use prior to obtaining the knowledge that can be found in the material safety data sheets.

To summarize, I'd like to add one final note. I strongly feel that the company should institute a program of chemical awareness, whereby they will personally inform the employees of: (1) The exact chemicals in use; (2) the health hazards involved in them; (3) the precautions that you take when handling them.

(James Centner, Local 2693, United Steelworkers of America, Tr. 3805)

Additional examples of statements supporting the need for a federal standard on hazard communication may be found in the record in the following exhibits: 19 (1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 23, 27, 40, 43, 44, 46, 48, 50, 51, 54, 55, 57, 59, 61, 62, 64, 65, 66, 67, 69, 74, 77, 79, 82, 83, 85, 86, 88, 89, 90, 91, 92, 94, 96, 109, 111, 115, 116, 119, 122, 124, 125, 126, 131, 135, 140, 145, 146, 147, 148, 154, 156, 158, 164, 169, 170, 174, 180, 185, 193, 194, 196, 201, 204, 206, 207, 209, 210, 211, 214, 215, 217, A–6, A–9); 28; 31; 34; 35; 36; 42; 47; 48; 53; 59; 63; 64; 65; 66; 83; 161; 167; 174; 179; 180; 181; 182.

Based on this evidence, OSHA has concluded that a hazard communication standard is necessary to reduce significantly the risk of chemically-related disease which results from the current state of hazard communication practices.

Another reason many participants in the rulemaking support the need for a Federal standard is the recent proliferation of state and local right-to-know laws. Most companies in the manufacturing sector have business dealings which involve interstate commerce, and are thus subject to numerous different and potentially conflicting regulations.

For example, the National Paint and Coatings Association addressed the issue of state and local standards in their written comments as follows (Ex. 19–62):

It is NPCA's belief that a Federal OSHA Standard, rather than a variety of differing State and local requirements, best serves the interests of the private sector, labor interests, the general public and the Agency itself. While we recognize statutory limitations in

this area, we believe every effort should be made to see that such a Federal standard preempts State and local efforts.

Without a strong Federal role, individual States will enact a variety of diverse labeling rules that would hamper interstate business operations and impede worker protection. Indeed, manufacturers in interstate commerce are faced with the threat of 50 different chemical hazard warning systems mandating conflicting, overlapping, and duplicative requirements for hazard warnings * * *

Similar concerns were expressed by many of the other participants in the rulemaking (see, for example, Exs. 19–46, 19–51, 19–57, 19–91, 19–150, 136, 174, 181, and 182).

Approximately twelve states and six local governments have some type of regulation related to the identification of hazardous substances. About thirteen other states and three other local governments have introduced proposed legislation either in this legislative session or in previous sessions. They cover different lists of substances, have different reporting requirements, serve different purposes, have different labeling and material safety data sheet requirements, and have different educational and training requirements.

In discussing the enforcement of such standards in a State with relatively comprehensive regulations, Joan Parker, representing the New York State Council on Occupational Safety and Health, stated regarding the New York State Law that "* * * although the intent is admirable the problem is that there is no enforcement" (Tr. 3473). She further stated that her experience with the State Right-to-Know law indicated the need to complement this law with a strong Federal standard.

The potential for conflicting or cumulatively burdensome State and local laws has been acknowledged by industry representatives to be immense. As stated above, this subject was cited in many comments submitted prior to the hearing, in presentations made during the hearings, and in post-hearing comments.

By promulgating a Federal standard, OSHA is in a position to reduce the regulatory burden posed by multiple State laws. In the final standard, OSHA preempts State laws which deal with hazard communication requirements for employees in the manufacturing sector, except in those States with a State plan which have a standard that regulates in this area. In order to regulate with respect to hazard communication for employees in the manufacturing sector, a State will have to submit their intended requirements to OSHA for approval under section 18(b) of the Act which deals with State plans, show that they are at least as effective as the Federal standard, and that there is a compelling need for a separate standard. The Legal Authority Section of the preamble addresses the preemption issue in more detail.

OSHA realizes that the rationale favoring a single Federal standard in place of various State standards for chemicals in interstate commerce applies as well to the concept of agreed international standards for substances in international commerce. Accordingly, these regulations will be reviewed on a regular basis with regard to similar requirements which may be evolving in the United States and in foreign countries.

Although the vast majority of the participants in the proceeding explicitly supported the need for a Federal hazard communication standard, there were a few parties who did not agree that OSHA should issue such a rule (Exs. 19–87, 19–162, 19–181, 19–195, 19–200, 19A–19, and 105). For example, Master Chemical Corporation testified as follows during the Detroit session of the public hearing (Tr. 3916–17):

* * * Master Chemical rejects the need for any such rule that is being proposed. Granted, there is an artificially created need, a politically expedient need, but there is no real need in terms of protecting workers.

Master Chemical says this because we also reject the idea that the free market system has failed in providing hazard information to users of industrial chemicals.

During the past two years, there has been a steady increase in the demand for this type of information from our customers. Master Chemical has responded to this demand and our suppliers have acceded to our demands for this information, or they would have ceased to be our suppliers.

This regulation takes away from those companies that are socially responsible, which we believe to be by far the majority of business, the competitive advantage that they have worked for and earned by responding to the demands of the market.

The better the response, the better the competitive advantage.

This regulation interferes with the natural preferences of the market place, thereby interfering with the weeding out of those companies that refuse to comply with its demands.

While OSHA respects Master Chemical's philosophy regarding hazard communication, the weight of the evidence submitted by other participants in this rulemaking proceeding unfortunately does not appear to support their assertion that market responses will ensure adequate hazard information by rewarding those companies which provide the most complete information. Although their firm has undertaken toxicity testing, trains their employees, and provides detailed labels and information sheets to their customers (Ex. 105), many of the firms that will be covered by this standard do much less. For example, the Aerospace Industries of America, Inc. stated the following on their experiencs in obtaining hazard information (Ex. 19–212):

As users of large volumes of industrial chemicals and specialty chemicals, our member companies have experienced the inefficiency and burden of trying to obtain hazard information under a voluntary standard. The new standard should correct past inefficiencies by guaranteeing that chemical users will receive the information they require in a timely and routine manner.

OSHA agrees with the majority of the participants in the rulemaking that the need for a Federal standard has been amply demonstrated. Companies like Master Chemical will nonetheless benefit from their prior diligence through vastly reduced costs of complying with this standard.

C. Issues Raised by Provisions of the Proposed Standard

The following discussion will summarize the technical and policy issues raised by the proposed standard, and the evidence in the record concerning these issues:

1. *Scope and application*—a. *Industries Covered.* The proposed standard applied to the manufacturing division of the Standard Industrial Classification (SIC) Codes, 20 through 39. Although hazardous chemicals are used in other industries as well, OSHA determined that the employees in the manufacturing sector are at the greatest risk of experiencing health effects from exposure to hazardous chemicals. The Agency thus decided to exercise its authority to set priorities for standards promulgation under Section 6(g) of the Act, and limited the proposed standard's scope to the manufacturing sector.

This decision was based primarily on an Agency analysis of occupational injury and illness statistics compiled annually by the Bureau of Labor Statistics (BLS) (47 FR 12094; Exs. 16–8, 16–36, 16–37, and 17). Since the purpose of the proposed standard was ultimately to decrease the number of occupational injuries and illnesses caused by exposure to chemicals, OSHA decided to ascertain where these types of effects are occurring. Recognizing that the BLS figures, although substantial, probably only reflect a small percentage of the incidents actually occurring in exposed employees, the statistics nonetheless reveal patterns of occurrences in the various industries for which they are compiled. (The regulatory analysis for

the proposal (Ex. 17) provided a detailed discussion of the underreporting of occupational illnesses.) Table 1 indicates the industry distribution of chemical source injuries and illnesses found in the Supplementary Data System for 1976 and 1977, Subfile of Chemical Injuries and Illnesses (Ex. 16–27). As can be seen from this table, nearly half of all reported chemical source injuries and illnesses occurred in the manufacturing sector. It should be noted that it is not appropriate to compare combined injury and illness incidence rates, regardless of the cause, to assess industry effects, since this standard only deals with chemical exposures. Such aggregate rates include, for example, construction accidents and back injuries which are unrelated to chemicals and thus would not be affected by chemical hazard communication.

TABLE 1.—DISTRIBUTION OF CHEMICAL SOURCE INJURIES AND ILLNESSES BY INDUSTRY

Industry	Total number (1976)	Percent [1] of total (1976)	Total number (1977)	Percent [1] of total (1977)
Agriculture, Forestry Fisheries	535	2.8	682	3.1
Mining	325	1.7	455	2.1
Construction	1,545	8.1	1,802	8.3
Manufacturing	9,217	48.4	10,234	47.1
Transportation and Public Utilities	997	5.2	1,158	5.3
Wholesale Trade	524	2.8	610	2.8
Retail Trade	2,176	11.4	2,464	11.3
Services	2,548	13.4	3,184	14.6
Government	1,021	5.4	961	4.4
Other	171	0.9	216	1.0

[1] The percent figures may not add due to rounding.
Source: Supplementary Data System 1976 and 1977, Subfile of Chemical Injuries and Illnesses.

An examination of the industry distribution of chemical source illnesses for 1978 (Ex. 16–8) is even more telling in regards to the contribution of the manufacturing sector to the overall occurrence of chemical source occupational illnesses. Since illnesses are more likely to be due to chemical exposures than injuries are, it is in this area that the effects of hazard communication should be most apparent.

Occupational illnesses are reported to the BLS in seven categories:

1. Skin disease or disorders.
2. Dust diseases of the lungs.
3. Respiratory conditions due to toxic agents.
4. Poisoning.
5. Disorders due to physical agents.
6. Disorders associated with repeated trauma.
7. All other occupational illnesses.

In analyzing this BLS data, OSHA assumed that Categories (1) through (4) are primarily due to chemical exposures. Category (1) includes skin ailments due to handling plants, so in the agriculture sector the numbers are greater than they would be if only chemically-related skin diseases or disorders were reported. Categories (5) and (6) are obviously not related to chemical exposures. Category (7) primarily deals with biological agent diseases, but also includes benign and malignant tumors. Since the potential effect of the proposed standard in preventing occupationally-induced cancer was dealt with separately in the regulatory analysis (Ex. 17) Category (7) was not included in this analysis either.

As OSHA reported in the preamble to the proposed standard, the manufacturing sector is responsible for a disproportionately high number of these chemically-related occupational illnesses. In Table 2, the number of such cases reported in 1978 are indicated for each industry, as well as the percentage of the total number reported that these cases represent. These were the latest figures available when the preamble for the proposal was prepared. In addition, Table 2 includes the same statistics for 1981, the latest year for which statistics are now available, to show that the trend in industry occurrence is similar to 1978. The 1981 statistics became available after the public record for this rulemaking was closed, and were not used to make the decisions regarding the scope of the standard, but are merely presented as a point of comparison. A copy of the 1981 report is available in the public docket for this rulemaking.

It can be seen from Table 2 that the manufacturing sector accounts for more than half the reported cases in both years. Since the average total employment in 1978 in manufacturing was 20.5 million, or 32% of the total, this clearly indicates that manufacturing sector employees are at the greatest risk of experiencing health effects due to chemical exposures.

TABLE 2.—CHEMICAL SOURCE ILLNESSES BY INDUSTRY

Industry	Number [1] of cases 1978	Percent of total	Number [1] of cases 1981	Percent of total
Private Sector (Total)	86.7	100	69.5	100
Agriculture	2.7	3.1	3.0	4.3
Mining	1.0	1.1	1.0	1.4
Construction	5.1	5.9	4.7	6.8
Manufacturing	53.6	62.1	37.9	54.5
Transportation/ Utilities	4.8	5.5	4.3	6.2
Wholesale/Retail Trade	7.6	8.8	5.9	8.5
Finance/Insurance/ Real Estate	1.0	1.1	0.7	1.0
Services	10.9	12.6	11.8	17.0

[1] In thousands.
Source: Prepared by OSHA from: *Occupational Injuries and Illnesses in the United States by Industry*, 1978 and 1981, Bureau of Labor Statistics.

Examination of incidence rates for chemical source occupational illnesses also reveals that manufacturing employment represents a higher risk of harmful chemical exposures. The last year that the BLS reported occupational illness incidence rates by industry division and category of illness was 1977. Using the same Categories (1) through (4) as described above, the chemical source illness incidence rates per 1000 full-time workers in the private sector in 1977 were:

Industry	Incidence rate
Agriculture	5.5
Mining	0.9
Construction	1.7
Manufacturing	3.1
Transportation/Utilities	1.4
Trade	0.5
Finance, Insurance, Real Estate	0.2
Services	1.1

The only industry division which has a greater incidence rate than manufacturing is Agriculture. As noted above, since Category (1) includes effects resulting from handling plants, which is not a chemical exposure situation, occurrence of chemically-related skin illness in Agriculture is overstated. The incidence rate for this category was 4.4, or more than 80% of the total incidence reported for Agriculture. In addition, OSHA cannot regulate chemical exposures related to the field use of pesticides, which would be expected to be the most common source of chemical exposures in the Agriculture industry. (Tr. 2260–61), because EPA has exercised its jurisdiction in this area under the Federal Insecticide, Fungicide, and Rodenticide Act. Pesticide exposures would also be expected to cause a large number of the skin ailments reported for the Agriculture industry in Category 1 as well as the poisonings in Category 4 (incidence of 0.7). Therefore, it appears that manufacturing has the highest incidence rate when considering just chemical exposures, and only those which the Agency has the authority to regulate. The category which has the second highest number of reported illnesses (Table 2), Services has an incidence rate that is one third that of manufacturing. Recognizing the limitations of these data due to the effects of underreporting, it still appears that the incidence rate also support OSHA's determination that manufacturing employees have the greatest risk of experiencing health effects due to chemical exposures, since the incidence rate for manufacturing is

from about two to ten times greater than the other industries.

No evidence was submitted to the record which contradicted OSHA's finding that manufacturing employees experience the greatest number of chemical source injuries and illnesses. One participant did point out that overall injury and illness incidence rates are comparable in a number of industries (LACOSH, Tr. 3128):

> * * * One way to determine if an industry is hazardous compared to other industries is to look at injury and illness rates. And, we did that. And, the Bureau of Labor Statistics in 1980 reported that in construction, agriculture, and transportation industries the following rates of injury and illnesses were sustained for one hundred full-time workers: 15.7 in construction; 11.9 in agriculture; 9.4 in transportation. And, these rates are comparable and in one case higher than the 12.2 suffered by workers in the manufacturing sector.

However, as noted previously, these rates are not specific to chemical exposures and can therefore not be appropriately used to determine the scope of this standard.

It should be emphasized that the Agency does not believe that employees in other industries are not exposed to hazardous chemicals, or that they should not be informed of those hazards. OSHA has merely exercised its discretion to establish rulemaking priorities, and chosen to first regulate those industries with the greatest demonstrated need. The promulgation of this final standard for the manufacturing SIC Codes ensures that hazard information will be routinely generated and available. Downstream employers will be receiving labeled containers that will indicate the presence of hazardous chemicals. Although not required for those employers outside SIC codes 20–39, the increased availability of material safety data sheets will also benefit them. Thus this standard will increase the general availability of hazard information in all of industry, and will establish the informational framework upon which standards dealing with other industries can be based, if necessary.

A number of participants supported the scope of the standard as proposed (Exs. 19–48, 19–62, 19–67, 19–85, 19–96, 19–106, 19–111, 19–124, 19–177, 19–199, 19–211, 19–214, 59; 83; 167; 181). For example, the American Iron and Steel Institute stated (Ex. 167):

> All workers with known significant potential exposure to hazardous chemicals should be afforded the protection of a hazard communication standard. However because of special conditions peculiar to other industries it may be necessary to develop separate vertical standards to assure that the regulation is cost-effective and germane to their particular workplaces.

However, many of the participants, particularly workers and worker representatives, believe that the scope should be expanded to cover all industries where employees are exposed to hazardous chemicals (See, for example, Exs. 19–5, 19–74, 19–109, 19–169, 19–180, 19–206, 34, 36, 62, 64, 122, 131, 153, and 180A). These participants presented examples of exposures to hazardous chemicals in industries outside SIC codes 20–39 to support their contention that all industries should be covered in one standard (e.g. Ex. 31; Tr. 2197; 3089; 3922).

As stated previously, OSHA acknowledges that exposures to hazardous chemicals are occurring in other industries as well. A limited coverage of them is included in the final standard since all containers leaving the workplace of chemical manufacturers, importers, or distributors will be labeled, regardless of their intended destination. This will alert downstream users to the presence of hazardous chemicals, and the availability of material safety data sheets. The Agency contends that the focus of this standard should remain on the manufacturing sector since that is where the greatest number of chemical source injuries and illnesses are occurring. This focus will also serve to ensure that hazard information is being generated for chemicals produced or imported into this country, and this increased availability will benefit all industry sectors.

A few comments were received from employers in the manufacturing SIC codes, particularly the flavor and fragrance industries and the distilled spirits industry, suggesting that their facilities be exempted from the standards (e.g. Exs. 19–63, 19–68, 19–77, 19–97, and 19–197). The primary reasons offered for this recommendation were that employee exposures to hazardous chemicals are limited in their plants, the industries are regulated by other Federal agencies, and the industries have voluntarily undertaken programs to protect their own employees.

Although employees in these industries may be exposed to fewer hazardous chemicals than employees in some other segments of manufacturing, the testimony and written submissions of their representatives verify that such exposures nevertheless do take place. For example, representatives of the flavor and fragrance industries indicated that ethylene oxide and hydrochloride acid may be used in their facilities (Tr. 3425). These chemicals are both currently regulated by OSHA, and thus are considered to be hazardous under the provisions of the final standard. Likewise, employees in distilled spirits plants are exposed to ethyl alcohol (Ex. 19–68), which is also regulated by OSHA and thus considered to be hazardous under the final standard. To the extent that the numbers of hazardous chemicals are limited, the burden of complying with the standard will be reduced in comparison to the burden of compliance in other segments of the manufacturing industries where greater numbers of such chemicals are used. However, the presence of such chemicals indicates that hazard communication programs are needed.

The other Federal agencies which regulate these industries (i.e. the Food and Drug Administration and the Bureau of Alcohol, Tobacco and Firearms) do so to ensure the quality of the product for consumers, not to protect employees. OSHA has examined the potential for conflict and overlap of this final standard and regulations of these agencies. It appears that the primary area of potential concern is in the labeling requirements, and OSHA has explicitly addressed this concern in the final standard to avoid any duplication of effort or conflict. This issue will be addressed further in following sections of this preamble.

Implementation of voluntary activities in these industries is not unique since many manufacturers have indicated they have undertaken such programs (see, e.g., Exs. 19–85, 19–91, 19–124, and 19–160). In fact, OSHA assumed prior compliance for many manufacturers in its Regulatory Impact Analysis for the proposed standard (Ex. 17), and stated that companies with existing effective programs should be able to comply with the new performance standard without substantial modification of such programs (47 FR 12101). To the extent that the flavor and fragrance industries and distilled spirits plants are already providing hazard information to their employees, the burdens of complying with this standard should be minimized.

Therefore, OSHA has determined that no conclusive evidence has been provided to exclude any industries within the manufacturing SIC codes from coverage by the standard.

One significant modification to the basic scope of the standard has been made in the final document, however, based on extensive comments in the public record. Under the proposed standard, OSHA did not explicitly cover importers or distributors, and raised the issue in the preamble of whether they

should be covered by the final standard. At the time of the proposal, OSHA stated that explicit coverage may not be necessary because marketplace pressure exerted by manufacturers needing hazard information would, in fact, ensure that the importers and distributors made it available to their customers.

In response, the vast majority of the participants in the rulemaking believed that marketplace pressure would not be sufficient to ensure the availability of hazard information from importers or distributors (see, for example, Exs. 19–23, 19–51, 19–75, 19–89, 19–119, 19–143, 19–185, 36, 46, 47, 123, 125, 168, 180, 181, and L–16). Many based this conclusion on their past experiences in trying to obtain such information. For example, the Duriron Company, Inc. stated (Ex. 19–186):

> The Duriron Company, Inc. has maintained Material Safety Data Sheet (MSDS) files at all manufacturing locations for several years. Establishing these files has been very difficult. In some instances, several letters and telephone calls were required to obtain *any* information. Most of these problems have been with a middleman, especially repackagers.

The Boeing Company also addressed coverage of suppliers in their written comments (Ex. 19–109):

> * * * Marketplace pressure, as suggested in the preamble, is not an acceptable means by which to ensure that suppliers will pass on hazard warning information (specifically, Material Safety Data Sheets (MSDS's)) to users. This suggestion will only reinforce the current voluntary system which already relies on pressure from "the market", or users pressuring the suppliers and manufacturers for information. It is a cumbersome and ineffective system which we hope will not be sanctioned by OSHA under the guise of new terminology. "Suppliers" must be included in this regulation to ensure that information does flow from the manufacturer to the user * * *

The National Association of Chemical Distributors provided written comments to the record concerning their members' position regarding the responsibilities of distributors to pass on hazard information. Although they did not favor explicit coverage of distributors in the final standard, they did acknowledge responsibility for making such information available and expressed a willingness to do so (Ex. 19–213):

> NACD is submitting the following comments to help clarify the position of its members with respect to manufacturing and primary distribution versus secondary distribution particularly with regard to furnishing Material Safety Data Sheets. Where the material is repacked and sold in smaller quantities with no commingling of product, the distributor would pass on the manufacturer's safety data sheet to the end user. Where the distributor engages in blending or compounding, NACD would consider that a manufacturing process and agrees that the distributor should have the responsibility for providing the proper MSDS for the resulting product.

OSHA has determined that explicit coverage of distributors is necessary to ensure the proper transmittal of hazard information, and has included such provisions in the final standard.

The National Association of Photographic Manufacturers, Inc. expressed the views of many rulemaking participants in their comments on the coverage of importers (Ex. 19–75):

> Quite clearly, the chemical manufacturer is the best source of information as to the hazard posed by a particular chemical. This applies whether the manufacturer is domestic or foreign. There appears to us to be no significant reason why an importer cannot obtain an MSDS from a foreign chemical manufacturer and be required to provide it to his customers in the United States in the same manner as would be required of a domestic chemical manufacturer.
>
> Under the proposed standard, employers in S.I.C. codes 20 through 39 would be required to comply with the proposed rule. Those domestic employers who use imported chemicals would be seriously disadvantaged if they were not able to obtain an MSDS from an importer or directly from a foreign chemical manufacturer. In this regard, we believe requiring an MSDS could easily be made a condition for importation much as the labeling requirements of the European Economic Community as outlined on page 12100 of the **Federal Register** notice.
>
> In addition to preventing a potential breach in the Hazard Communication Program to the detriment of U.S. employees, the above action would tend to equalize the economic disadvantages that would otherwise be present if U.S. manufacturers were required to bear the cost of OSHA compliance while foreign manufacturers were exempt from that cost. U.S. manufacturers are already bearing the cost of compliance with foreign regulations, i.e. those of the EEC. Foreign manufacturers would also enjoy a competitive advantage in developing third country markets since they would not be concerned with the OSHA Hazard Communication Program.

The European Communities submitted a written comment to the record which indicated that the proposal as published could create an unnecessary obstacle to trade if applied to importers (Ex. 19–216). In particular, they noted that "the list of requirements is somewhat exhaustive and would be followed by all manufacturers in the EC. Some manufacturers in the EC supply information to their employees under the provisions of national legislation which is flexible in allowing various methods for information to be transmitted to the employee. This achieves the same objective while allowing flexibility in application and avoids the danger of creating unnecessary obstacles to trade within the terms of Art. 2.1 of the GATT Agreement on Technical Barriers." The OSHA standard is also flexible in prescribing the manner and methods of hazard communication. European Economic Community (EEC) labels will be accepted if they include the label components as required by the OSHA standard. Moreover, the importers would not be required to do anything more than is required of domestic manufacturers. Based on comments such as those submitted by the National Association of Photographic Manufacturers, this explicit requirement is necessary to ensure the safety and health of American workers. Therefore, under the final standard, importers will be required to supply the same hazard information that chemical manufacturers are required to provide to their manufacturing customers. As Dr. Myra Kartstadt reported, coverage of importers is especially appropriate since a number of chemicals in use in the United States are totally imported from abroad (Ex. 52). Some commenters suggested that this coverage will be feasible and in fact reflects current practice:

> The experience at Schering with importers has demonstrated an ability and a willingness to obtain material safety data sheets (MSDS's) from overseas manufacturers.
>
> (Schering-Plough Corporation, Ex. 19–199)

Accordingly, the OSHA standard does not constitute a barrier of trade to foreign manufacturers. However, OSHA acknowledges the long-term benefit of maximum recognition of hazard warnings, especially in the case of containers leaving the workplace which go into interstate and international commerce. The development of internationally agreed standards would make possible the broadest recognition of the indentified hazards while avoiding the creation of technical barriers to trade and reducing the costs of dissemination of hazard information by elimination of duplicative requirements which could otherwise apply to a chemical in commerce. As noted previously, these regulations will be reviewed on a regular basis with regard to similar requirements which may be evolving in the United States and in foreign countries.

b. *Laboratories.* Another issue raised by the scope of the proposal which generated significant comment was the coverage of laboratories in manufacturing facilities. In the proposed

standard, laboratories in the manufacturing SIC Codes would have been subject to the provisions with one exception. The proposal exempted "chemicals being developed and used only in research laboratories." This exemption was primarily intended to apply to new chemicals being developed in research activities, since they would not have been tested to determine their hazards, and would generally be present in the laboratory for short periods of time, in small quantities. Although some people interpreted the proposal as exempting all research laboratories, this was not, in fact what the provision stated.

A number of participants commented on the coverage of laboratories, and many favored exempting all chemicals in all laboratories (see, for example, Exs. 19–4, 19–43, 19–61, 19–111, 19–146, 19–167, 19–199, 67, 148, 181; Tr. 212, 530). These participants generally cited as reasons for exempting them from the scope of this standard the facts that laboratory environments are different from the rest of the manufacturing facility in which they are located; that laboratories are generally supervised by highly trained, technically qualified individuals; and that OSHA has previously requested comments and information on the appropriateness of promulgating a standard to cover laboratories exclusively.

Although it may be true that laboratory facilities have different types of operations than the rest of a manufacturing plant, that does not appear to be a sufficient rationale for exempting them from coverage. The fact remains that employees in these laboratories are exposed to hazardous chemicals, and are at risk of experiencing adverse health effects from such exposures. As stated by the Celanese Corporation (Ex. 19–185):

> * * * The workers in the laboratory use hazardous chemicals and need to be informed of what the hazards are and appropriate work practices to minimize the risks from these hazards * * *

The BLS statistics for the manufacturing sector's incidence of occupational illnesses cannot be broken down to separate the incidence in laboratories versus other operations. Although specific evidence concerning the incidence of injuries and illnesses in laboratories was not submitted to the public record, there is testimony that indicates that laboratories may be just as hazardous environments as manufacturing in general. For example, Mr. Frank Baird testified concerning his experience working in a research laboratory. During his employment, he was unknowingly exposed to high levels of mercury vapors and contracted mercury poisoning. As he stated (Tr. 1845):

> The mercury I worked with came in unmarked glass bottles. There were no warning labels, no markings saying poison. It didn't even have a label saying mercury. The Greeks knew that mercury was poisonous, the Romans knew that mercury was poisonous, even my employers knew that the mercury was poisonous, but they may not have known just how poisonous its vapors were or how badly my exposure exceeded the toxic limits set by the U.S. recommended standard in 1942.

Undoubtedly, the laboratory Mr. Baird worked in, which was at an academic institution, was under the supervision of highly trained, technically qualified individuals. However, the fact that such laboratory supervisors are trained in conducting chemical research or other laboratory operations does not mean that they are adequately trained in, or concerned with, the hazards of the substances they are working with. As Dr. Daniel Teitelbaum testified (Tr. 159):

> In my own experience as a university professor, having worked in research laboratories and run research projects, I can say to you that many research scientists are less than informed about the toxicity of the materials with which they work in spite of their doctoral degrees.

Furthermore, although supervisory personnel may be technically trained, there are frequently workers in laboratories who are engaged in cleaning glass containers or other tasks where they are exposed to a myriad of hazardous chemicals without appropriate training. For example, Melena Barkman of the United Steelworkers of America stated (Ex. 103):

> We strongly disagree that all laboratory workers are highly skilled and trained. Many lab workers clean the area and wash equipment with little or no instruction. Many laboratory technicians have only two years training. Even medical technologists and research chemists are not trained in safety; i.e. proper storage and ventilation.
>
> OSHA must provide protection for all laboratory workers. Even where chemicals are properly labeled, material safety data sheets must be made available at the site. In view of the recognized hazards in laboratories, anything less than inclusion would be negligence.

The third argument made for exempting laboratories from coverage is the possibility of a vertical OSHA standard for laboratories. At this time, that rulemaking is in the pre-proposal stage and the Agency has no way of definitely determining when such a standard will be completed, or what it will contain. By including laboratories in this rule, OSHA can assure more immediate protection for laboratory workers in SIC codes 20 through 39. When the laboratory standard is promulgated in final form, the Agency will assure that all laboratory facilities have the same duties in regards to hazard communication programs for employees. In the meantime, the record for this rulemaking indicates a need for hazard communication in laboratories, and the final standard includes provisions to protect these employees.

OSHA recognizes that due to the large number of small containers in laboratories, and the types of operations performed, all of the provisions of the final hazard communication standard may not be appropriately applied to those facilities. This view is supported by a videotape submitted by the Pharmaceutical Manufacturers Association (Ex. 67) and examples of laboratory containers submitted to OSHA (Ex. 68). Therefore, we have incorporated a limited coverage of laboratories in the final standard.

It appears that most containers of chemicals in laboratories are either labeled, or are under the control of someone who removes a chemical from a labeled container to put it in other vessels, and thus is aware of the identity of the substance involved (Tr. 966). Therefore, with respect to labeling, OSHA has simply required that in laboratories the employer ensure that labels on incoming containers are not removed or defaced.

A similarly limited approach has been incorporated for material safety data sheets as well. Any labeled container entering the laboratory workplace would be accompanied by an MSDS. Accordingly, the standard requires that any MSDSs received by the employer are to be maintained in the work area, and employees are to have access to them.

The employer will be required to fully implement the training provisions of the hazard communication standard for laboratory employees. Since, according to the record, much of this training is already being provided, this should not be burdensome for these employers (Tr. 220; 2300–03). The final standard permits employers to train employees with regard to general classes of hazards, as long as the substance-specific information is available to employees in written form. This type of training should be easily accomplished and yet will provide protection for laboratory workers and increase their awareness of hazards in their work areas. Training of this type is particularly important in laboratories, where employees are

typically exposed to large numbers of chemicals in small quantities.

One additional argument related to the coverage of laboratories concerned manufacturers of research chemicals. The Scientific Apparatus Manufacturers Association, for example, testified that such manufacturers should be exempted from the provisions of the standard (Tr. 215), for essentially the same reasons as they supported exemption of laboratories. Where these facilities are actually laboratories, they would be covered by the standard in the modified approach used for laboratories as already described. It should be noted that manufacturers of chemicals for use in laboratories outside the manufacturing SIC Codes—for example, in university research laboratories—would not be required to send material safety data sheets to these facilities. In addition, since the final standard allows employers to keep the required information in the work area in some other form than as an MSDS, these employers would be able to more readily meet the information requirements for their own employees. Therefore, no specific exemption has been included in the final standard for these facilities.

c. *Coverage by Other Federal Agencies.* Another issue of concern to a number of participants in the rulemaking is potentially duplicative coverage by OSHA and other Federal agencies with labeling regulations. Although OSHA stated in the preamble to the proposed standard that it did not intend to require any additional labeling for products covered by other Agencies, the proposal itself did not contain a specific exemption for such products.

Many commenters in the record did not agree with this approach, and preferred that OSHA provide specific exemptions for products labeled under other Federal laws and for manufactured articles (see, for example, Exs. 19–46, 19–63, 19–67, 19–68, 19–77, 19–81, 19–110, 19–124, 19–157, 19–158, 19–196, 163, 170, and 171).

In response to these concerns, the final standard explicitly states that its labeling requirements do not apply to certain substances. In particular, the labeling requirements of this standard do not apply to:

(1) Pesticides which are labeled in accordance with the requirements of the Environmental Protection Agency;

(2) Foods, food additives, color additives, drugs and cosmetics, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), which are labeled in accordance with the requirements of the Food and Drug Administration.

(3) Distilled spirits (beverage alcohols), wines, and malt beverages intended for nonindustrial use when subject to the labeling requirements of the Bureau of Alcohol, Tobacco, and Firearms; and,

(4) Consumer products and hazardous substances which are subject to consumer product safety standards or labeling requirements of the Consumer Product Safety Commission.

The applicable definitions are those provided by the governing statutes and regulations.

In providing exemptions from the labeling requirements of this standard for these substances, OSHA is mindful of the fact that they are already being labeled pursuant to the authorities of other Federal agencies. In the case of pesticides, the purpose of such labeling is mainly the protection of workers exposed to the pesticide. In the case of the other substances, the purpose of the labels is more general consumer protection. Nevertheless, the required labels generally provide for the listing of chemical identities and, in some cases, hazard warnings as well. Because of the nature of the substances, they are regulated by the other Federal agencies to assure that they are safe for consumer use, and to the extent that workers are exposed to the substances in a manner comparable to that of ordinary consumers, there is no need for additional OSHA labeling requirements.

OSHA recognizes, however, that there may be situations where worker exposure is significantly greater than that of consumers, and that under these circumstances, substances which are safe for contemplated consumer use may pose unique hazards in the workplace. For this reason, the standard's exclusion is limited to labeling. It does not exempt employers from the material safety data sheet and training requirements of the standard with respect to any of these substances, provided of course that the substance otherwise meets the standard's definition of hazardous chemical. Moreover, it should be stressed that these labeling exclusions are for the enumerated substances only. To the extent that an employer uses other chemicals, such as in the manufacture or processing of these substances, they are fully subject to the requirements of this standard.

The standard does, however, provide complete exclusion for four categories of substances: (1) Hazardous waste, as defined and regulated by the Environmental Protection Agency; (2) tobacco and tobacco products; (3) wood and wood products; and (4) articles. The Environmental Protection Agency regulates the disposal of hazardous waste, and their rules include requirements for labeling and training. Thus OSHA has decided that when a chemical is considered to be a hazardous waste by the EPA, it will be exempt from the provisions of this standard. Tobacco and tobacco products are intended for use by consumers and are not commonly thought of as chemicals for the purposes of this kind of regulation. See, e.g., their exclusion from the Toxic Substances Control Act, 15 U.S.C. 2602(B)(iii). Wood and wood products are likewise excluded for comparable reasons. While both kinds of materials are no doubt flammable and may pose other hazards as well under some circumstances, their identity within the workplace is unmistakable and their characteristic hazards should be well known to the workers involved. Accordingly, their exclusion from this standard is appropriate. In the case of preserved wood, i.e. wood that has been impregnated by pesticides, OSHA has previously determined that while the preserved wood is not itself a pesticide, EPA is nevertheless primarily responsible for its regulation (see Ex. 19–157, Att. I, American Wood Preservers Institute). In other respects, it is not different from ordinary wood. Therefore, the wood itself will be covered by the wood exclusion, while the pesticide used to preserve it will be covered by the labeling exclusion provided for FIFRA-regulated pesticides. It should be noted again that, as with the other exclusions, non-excluded chemicals which are used in conjunction with tobacco or wood products, or are known to be present as impurities in those materials, are covered by this standard.

The final exclusion is for "articles" which are defined essentially as manufactured items which are formed into a specific shape or design for a particular end-use function and which will not release or otherwise result in exposure to a hazardous chemical under normal conditions of use. The specific definition is similar to that used by EPA for purposes of excluding articles from certain TSCA reporting requirements. See, e.g. 40 CFR 704.95(c)(1). An example of an article would be a piece of equipment or furniture. These obviously do not meet the common conception of a chemical and are not appropriate subjects for a hazard communication standard directed at chemical hazards. Of course, chemicals used in the manufacture or use of an article are

covered by this standard unless otherwise excluded.

No explicit exclusion is provided for substances regulated by the Department of Transportation under the Hazardous Materials Transportation Act. This standard is directed towards hazard communication within the workplaces of employers in SIC Codes 20–39 (i.e. manufacturers), whereas the Department of Transportation regulations are directed toward the packaging and labeling of hazardous materials while they are being transported in commerce. Therefore, although both sets of requirements necessarily apply to many, if not all, of the same substances, there should be no unnecessary duplication of regulatory effort. It is true that this standard requires chemical manufacturers and importers to provide material safety data sheets and labeled containers to downstream employers who purchase their products, and requires chemical distributors who act as middlemen in the chain of distribution to provide the same information to their industrial customers in SIC 20–39. This is necessary to assure that the required hazard information is disseminated throughout the distribution chain so that all covered workplaces may have adequate hazard communication programs. Conflict with the DOT regulations is avoided by requiring, in the labeling section of this standard, that the labeling of containers leaving the workplace shall be done in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act and regulations issued under that Act. This standard is thereby harmonized with the DOT regulations, specifically including 49 CFR 172.401(6), which states that "no person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by this part" (i.e. the DOT labeling requirement).

It should be noted that the Environmental Protection Agency (EPA) has statutory authority to require labeling of chemicals under the Toxic Substances Control Act (TSCA). This authority has not been exercised to date except in very limited circumstances. As long as any such labels specified in the future include the information OSHA requires, the TSCA labels would also suffice to comply with this standard's labeling provisions.

Mixtures. The final major issue involving the scope and application of the proposed standard is the coverage of mixtures. The determination of mixtures to be covered by the standard is particularly critical since most chemicals produced and used in the manufacturing sector are mixtures, not "pure" substances. In order to ensure necessary protection for employees, these mixtures must be covered by the standard. For organizational purposes, the coverage of mixtures has been moved from the "scope and application" paragraph of the standard to the newly created "hazard determination" paragraph.

Under the proposed standard, a mixture would have been covered in one of two ways. First of all, if the mixture itself had been objectively evaluated for its hazard potential, e.g. toxicity tests had been performed or the flashpoint had been determined, the results of such testing were to be used to indicate the hazard of the mixture. This requirement did not imply that manufacturers had to test the mixtures themselves. As with individual substances, the manufacturer could rely on available scientifically valid evidence published in other sources reporting the hazards of the mixture. The manufacturer was required to list on the material safety data sheet the ingredients known to contribute to the hazards that the mixture posed according to the available scientific evidence, but did not have to list ingredients which may be hazardous themselves, but do not exhibit their known hazards in the particular mixture. For example, a mixture containing small concentrations of acetone, a highly flammable liquid under most circumstances, may be tested and found to be not flammable. In this situation, the chemical manufacturer would not have been required to designate the mixture as a flammable hazard nor to list acetone because of its flammability.

Where no such objective information on the hazard of the mixture as a whole entity was available, the manufacturer was to identify which components comprising greater than one percent of the composition were hazardous in their own right, and list each of these on the material safety data sheet. In other words, where no objective scientific information existed on the mixture's hazard, it would be assumed to have the same hazards as its component parts. The proposal also included a provision indicating that the Assistant Secretary reserved the right to require ingredients to be listed when present in concentrations less than one percent when they were deemed to be particularly hazardous.

The rationale of the proposal was that when the hazard of a mixture is unknown, all hazardous ingredients should be indicated on the material safety data sheet. The user would then have the most complete information available to predict the potential hazards of the mixture. The one percent exclusion was included to absolve the employer from having to evaluate and list chemicals present in mixtures in small quantities, which are not likely to result in substantial exposures.

Considerable comments were submitted to the record on this approach. OSHA stated in the preamble to the proposed standard that the one percent cut-off was justified on the basis that it appeared to be protective and was considered to be reasonable by a number of affected parties. Some participants, such as Armco, Inc., agreed with this finding (Ex. 19–146):

> Like the OSHA proposal, Armco has used the one percent (1%) criteria for our specific chemical products whenever they have been involved in MSDS requests. We feel this is a reasonable cutoff value.

Similarly, West Point Pepperell stated that (Ex. 19–150):

> The 1% cut-off for disclosure of hazardous chemicals and hazard labeling for chemical products seems to be a reasonable and effective safeguard for a great number and variety of circumstances.

However, a number of participants felt that one percent was too high for certain chronic hazards, and that some provision should be made in the final standard for identifying such hazards in smaller quantities automatically, rather than waiting for completion so substance-specific rulemakings. For example, West Point Pepperell continued their comments on the one percent rule as follows:

> The proposed standard also provides for the imposition of lower cut-off levels by rulemaking procedures. However, there is a group of substances, most of which have already been named in rulemaking by OSHA as potential human carcinogens, which may already need lower cut-off levels. We suggest that the proposed standard require the disclosure, through the use of an MSDS, of any part of a chemical product which may contain or release some amount, no matter how small, of any substance for which OSHA has successfully completed rulemaking, naming the substance as a potential human carcinogen, toxic substance or harmful chemical agent which may cause a disease of grave and extreme consequence * * *

Other participants were concerned about the extent of protection provided by the one percent exclusion for other types of substances as well. The

Department of Defense addressed the issue as follows (Ex. 19–148):

We recognize the practical need for limiting the applicability of the standard with regard to hazardous ingredients of a mixture. We believe, however, that there is significant health risk involved when carcinogens, strong sensitizers, or other compounds with extremely low permissible exposure limits are present in mixtures in concentrations below 1%. For example, the free isocyanates present in certain paints are usually present in a concentration less than one percent, yet failure to list the isocyanates on the Material Safety Data Sheets could result in a significant hazard going unnoticed. We suggest that the standard require the disclosure of all hazardous chemicals comprising less than 1% of a mixture (by weight or volume) if those chemicals, under typical use conditions, may result in exposures above the permissible exposure limit, or if those chemicals are known to be carcinogens, mutagens, teratogens or sensitizers when in low concentrations.

Several interested parties further suggested that hazardous chemicals, or any ingredient whether hazardous or not, be listed regardless of their concentration in the mixture. For example:

Other areas of concern include Section A3 of the standard which does not require chemicals found in quantities of less than one percent to be identified as a constituent of a product. We believe that all hazardous constituents product (sic) should be identified since some materials in quantities less than one percent can pose a health hazard. A case in point would be the use of hydrazine in some sealing materials as an oxygen scavenger. Depending upon the method of application, quantities of hydrazine less than one percent of the total volume of the material can have a significant impact in determining the safe method for using that particular product.

(Caterpillar Tractor Company, Ex. 19–201)

I would like to draw an analogy if I could to death certificates. Death certificates, in the old sense, used to list merely the immediate cause of death and that was felt to be sufficient.

Now, of course, somebody could walk across the street, be hit by a car and have lung tumors. Then there was some feeling that approximate cause of death should be included. And now I think the burden of medical thinking is that all co-existing conditions should be listed so that one gets a complete picture of what is happening with an individual. We would suggest the same thing for the constituents of a formulation or a mixture and that is that particularly in the absence of knowledge about synergistic interactions between trace amounts of compounds and larger amounts, as well as an inability perhaps by all parties to appreciate the significance of chronic disease as opposed to acute conditions. That those are not judgments that should be left up to discretion.

(Dr. E. Silbergeld, Environmental Defense Fund, Tr. 2247–8)

OSHA limits the scope of its rule even further by excluding from labeling any substance that makes up less than 1% of a mixture. This exclusion based on percentage makes no sense at all. If a chemical is highly toxic, or if it causes cancer after long-term exposure to small amounts, then it may be extremely hazardous even when present in amounts far below 1%. Likewise, if workers are exposed to large amounts of a mixture, they may be exposed to considerable amounts of a toxic constituent that makes up less than 1% of the mixture. Requiring a complete rulemaking proceeding to inform workers for each case when the 1% rule provides inadequate protection is a great burden on OSHA—one that will lead to more numerous and complex regulations, rather then to clear and effective regulation. The solution must be to require inclusion of *all* known contents on the label.

(Dr. E. Bergmann, Public Citizen Health Research Group, Ex. 19–172)

Additional examples of rulemaking participants who believed the one percent exclusion was appropriate in some, if not all instances, or that the cut-off should be lowered or eliminated to permit greater disclosure, can be found in Exs. 19–51, 19–60, 19–67, 19–83, 19–89, 19–90, 19–109, 19–146, 19–148, 19–150, 19–192, 19–193, 19–214, and 167.

In contrast to these cited comments which indicated that the one percent rule incorporated by OSHA in the proposed standard was reasonable or not protective enough, several commenters stated that the one percent cut-off was too low (Exs. 19–64, 19–176). More commonly, the suggestion was made that the "cut-off" approach should be replaced by an evaluation of which chemicals "substantially contribute" to the hazard of the mixture without specifying a cut-off. The following comment from BASF Wyandotte Corporation is representative of many of those received from chemical manufacturers (Ex. 19–167):

The proposal provides that mixtures containing at least one percent of a hazardous chemical would be considered hazardous unless the "mixture has been evaluated as a whole and found not to be hazardous". While we agree with this approach, we are concerned with the language in the preamble which indicates that testing must be performed on a mixture before its hazard can be evaluated. We believe it is often possible to evaluate the acute hazards of a mixture without testing. Such evaluation would be based on information in the scientific literature, knowledge of the chemical interactions, and testing results of similar products. We recommend reasonable scientific judgment be permitted to evaluate the hazards of mixtures. Where a mixture is found to be hazardous, only those components that contribute substantially to the hazard(s) should be required to be identified.

For examples of similar comments, see Exs. 19 (8, 27, 44, 48, 54, 63, 79, 91, 140, 145, 162, 170, 185, 204, 206, 210, 215), 181, 182.

Some of the comments relating to testing appear to have been based on a misinterpretation of the hazard evaluation provision in the proposal, especially as it pertains to mixtures. As described above, the manufacturer would not have been required to perform tests on the mixture. Objective scientific data related to the mixture as a whole could be used to determine its hazards. Given that objective scientific data are generally unavailable, OSHA anticipated that most mixtures would be considered to have the same hazards as their constituents and allowed for this in the March, 1982, proposal.

In reviewing the comments related to the assessment of mixtures, OSHA has concluded that some delineation can appropriately be made between assessments for physical hazard potential, and those performed to determine health hazard potential. For example, in presenting its views on the issue, Merck & Co., Inc. stated that: "* * * a 1% mixture of a flammable, combustible, or reactive chemical in an inert diluent may hardly be "hazardous" given the properties of the components" (Ex. 19–52). The Nalco Chemical Company addressed the need to differentiate between health and physical hazards (Ex. 19–55):

We can understand the need for some type of cut off such as a "1% cut-off" for certain types of hazards. We do not agree that it should apply to all "hazardous" ingredients in a formulation. Specifically, we do not believe the "1% cut-off" should apply to hazardous ingredients such as when the ingredient is combustible, flammable, corrosive, explosive, an oxidizer or unstable. The "1% cut-off" should apply *only to health hazards* such as carcinogenicity, etc.

Similarly, the Pharmaceutical Manufacturers Association (Ex. 19–110) also addressed the difference between health and safety and safety hazards:

While the one percent standard may be appropriate for some types of materials such as a very highly toxic or carcinogenic material, it is not appropriate in most cases. An otherwise flammable substance, for instance, would become inert if diluted with water to a one percent mixture. While a manufacturer may know that a mixture is not hazardous, the regulation would require that it be labeled as hazardous unless tests were conducted to show otherwise.

OSHA has therefore concluded that a percentage cut-off for physical hazards is not necessary. The physical hazard potential of a chemical may be diminished or neutralized by the other

constituents of the mixture and this may be known to the employer as a result of experience in using the mixture or actual testing. For that reason, the final standard gives the chemical manufacturer, importer, or employer greater latitude to determine that a mixture does not pose the physical hazards of its ingredients.

Participants objecting to the one percent cut-off were not able to provide similar convincing evidence regarding the appropriateness of the approach for health hazards. In fact, some of the examples they did cite demonstrated a misunderstanding of the provision and chemicals covered. For example, Master Chemical Corporation stated that (Ex. 19–87):

> Chemical identity information is particularly useless when required for mixtures. Very often there is no correlation between the toxicity of the individual components in pure form and the overall blend of a mixture. Consider the simple example of hydrochloric acid and sodium hydroxide. Both of these chemicals are extremely corrosive, and if mishandled, are capable of doing serious, even fatal, injury to living organisms. However, when combined in appropriate concentrations the resulting mixture is sodium chloride (table salt) and water, both relatively innocuous substances that certainly have nowhere near the hazard potential of either ingredient individually.

In order for a hazardous chemical to be considered a mixture, the components have to retain their chemical identity after being combined. The example cited by Master Chemical involves a chemical reaction, where the final product is completely different chemically than the component parts. Therefore, it would not be regulated under the hazard communication standard as a mixture with unknown hazards requiring the listing of hazardous ingredients.

Other participants cited examples of chemicals in the workplace where the one percent cut-off may result in fairly innocuous mixtures being considered hazardous. The National Association of Manufacturers (Ex. 19–209) objected to the one percent cut-off and cited the following:

> Thus the NAM asserts that the one percent cutoff point, as contained in the Proposed Rule, is an ineffective trigger point. To support this assertion, we offer the following:
>
> The one percent cutoff, in itself, means little
>
> —Somewhere in the workplace, vinegar can likely be found. Vinegar contains 5% acetic acid.
>
> —At the plant first aid station, one can find hydrogen peroxide at 3%.
>
> —The list is long, far too long to be covered in detail but includes such mixtures as window cleaners, bleach, most fertilizers, household ammonia and even concentrated sodium chloride.

Note:—Although we recognize that OSHA has exempted food and drugs, we offer these examples as illustrative of this situation.

As the NAM noted, OSHA was cognizant of mixtures that are food, drugs, or cosmetics brough into the workplace for the consumption of employees, and proposed to exempt them from coverage by the standard. Furthermore, the final standard includes additional exemptions for other types of consumer products which are labeled under the regulations of other Federal agencies. Therefore, we do not find that these examples support the contention that using the one percent cut-off for predicting the health hazards of chemicals in the workplace is not appropriate.

Conversely, the examples cited by participants that indicated that one percent may not be protective enough with respect to health hazards in some situations are persuasive. As quoted above, there are situations where components present in concentrations less than one percent may present hazards to exposed employees. Admittedly, the situation may also be reversed, where the health hazard of a component is diminished by the mixture. However, in the absence of objective data supporting this, the prudent approach to protecting employees from health hazards remains in identifying the hazards present in the mixture.

OSHA therefore rejects the suggestions of a number of participants that the chemical manufacturer or importer be permitted to list only those ingredients which "contribute substantially" to the health hazard of the mixture. Although this is appropriate, and is permitted, when the hazards of the mixture as a whole are known, it is not appropriate when the hazards of the mixture are not known. Limiting disclosure in the latter case to those chemicals which have been subjectively determined to "contribute substantially" to the essentially unknown hazards of the mixture does not provide adequate protection for employees. This approach would introduce an additional layer of judgment which will serve to decrease the amount of information which is included on the material safety data sheet. Given the state of uncertain scientific knowledge with regard to synergistic effects in particular, it better serves the purpose of hazard communication to simply disclose those constituents which are hazardous in and of themselves.

The positions of the various parties in the rulemaking, as discussed above, range from disclosure of all ingredients, whether hazardous or not, to disclosure of those which contribute substantially to the hazard of the mixture, based on the assessment of the employer as to the hazards of that mixture. The latter approach does not appear to meet the objective of ensuring that employers and employees will receive the most complete information possible under this standard. The approach suggested by others, disclosure of ingredients whether or not they are hazardous, is broader than necessary to provide protection to employees.

OSHA has made several changes to the proposed provisions in this final standard in an attempt to accommodate the various concerns of the rulemaking participants, while ensuring the protection of employees exposed to mixtures. First of all, a distinction has been made in the determination procedures required for physical hazards versus health hazards. For physical hazard, the chemical manufacturer may use whatever scientically valid data is available to judge whether or not the mixture will have the same hazards as its ingredients which potentially pose physical hazards. This should alleviate the concerns of some parties, particularly regarding the flammability or combustibility of mixtures where the flammable or combustible component is diluted to render its effect inert.

For health hazards, the one percent cut-off for mixtures where the health hazard potential of the whole mixture is not known will apply. Although this may result in what some might consider to be overprotection, OSHA concludes that it is necessary to ensure adequate protection in all cases. Chemicals identified as carcinogens under the hazard determination provisions of this standard will have to be listed when present in quantities greater then 0.1%. In addition, if the employer has reason to believe that an existing permissible exposure limit for a component present in quantities of less than one percent may be exceeded under normal conditions of use, or that such a component could present a serious health hazard in such quantities, that component will also be required to be listed. Because the cut-off for carcinogens has been lowered, and listing is required when a chemical manufacturer, importer, or employer knows that an ingredient poses a serious health hazard in concentrations of less than 1% the provision relating to lowering the cut-off in individual cases by rulemaking has been eliminated. The Assistant Secretary has the authority to issue separate rules for specific substances in any event.

The provisions regarding mixtures in the final standard can be found in a new paragraph (d) entitled "Hazard determination." Listing requirements for ingredients are in paragraph (g) on "Material safety data sheets."

2. *Definitions.* The proposed standard included a number of definitions for terms used in the provisions, and OSHA received many comments suggesting revisions to them, or requesting that additional definitions be provided.

Several commenters suggested that OSHA exempt "articles" from the scope of the standard (Exs. 19–47, 19–73, 19–76, 19-166, 19–209, and 19–220). The purpose of this exemption is to ensure that items which may contain hazardous chemicals, but in such a manner that employees won't be exposed to them, not be included in the hazard communication programs. Examples of such items would be nuts and bolts or tools. The exemption has been added to the final standard and a definition was added as well. It was further suggested that OSHA adopt the definition for "article" used by the Environmental Protection Agency (EPA) under the Toxic Substances Control Act (TSCA) (Ex. 19–73). OSHA fund that the definition used by EPA was appropriate for this standard in part, but that it was necessary to modify it for purposes of ensuring protection for employees. The EPA definition is essentially as follows: "article" means a manufactured item: (i) Which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article.

OSHA has adopted parts (i) and (ii) of EPA's definition, but has changed (iii) to read: "Which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use." This is more appropriate for OSHA's hazard communication standard because some items considered to be exempted articles under TSCA may result in employee exposures to hazardous chemicals during their use, and the hazards of those chemicals should be communicated to the employees. For example, the ACTWU (Ex. 111) described a situation involving fabrics in common use which are treated with permanent press resins which release formaldehyde when handled. Workers engaged in making clothing from such fabrics should be informed about the nature and identity of their formaldehyde exposures. The fabric would probably be an exempted article under EPA's definition, but normal use of it exposes employees to a hazardous chemical. Therefore, the definition has been modified to ensure that in this type of situation, hazard information is transmitted to employees and downstream employers.

Several commenters suggested that the definition for "chemical manufacturer" be modified to refer to an "employer" in SIC Codes 20 through 39 producing chemicals for use or distribution, rather than an "establishment" as proposed (Exs. 19–76, 19–160, 19–162, and 19–220). These commenters felt this should be done because the Occupational Safety and Health Act refers to employers, and this standard should be consistent. This change has been made, and a definition of "produce" has also been added to clarify the scope. "Produce" means to manufacture, process, formulate, or repackage.

OSHA proposed to require the rules of nomenclature of the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) to designate the "chemical name" of a substance. A number of commenters suggested that in some cases, a simpler name is generally used and will allow access to the scientific literature, which is the primary purpose of requiring the chemical name (Exs. 19–62, 19–85, 19–135, 19–145, 19–162, 19–185, and 19–194). For example, the National Paint and Coatings Association stated (Ex. 19–62):

> There are many other cases where a commonly recognized name is far more meaningful to employees, toxicologists, and industrial hygienists. Even a highly trained investigator would be dismayed by an MSDS showing 1,3,4,-metheno-2H-cyclo-buta(c,d) pentalen-2-one-a,3,3a,4,5,5,5a,6-decachlor-octahydro- but he would recognize readily its common name of Kepone.

The NPCA continued to explain that their suggested modification was to allow exceptions which would permit easier access to toxicity information, and not to allow indiscriminate use of common names in lieu of chemical names in all situations.

OSHA has modified the definition of "chemical name" in the final standard to allow for this limited exception in certain prescribed, circumstances, i.e. "a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation."

In the proposed standard, OSHA included a definition for "combustible" which was consistent with the Agency's definitions in related safety standards. The definition included a breakdown of combustible liquids into classes designated by flashpoint ranges.

Some commenters suggested that OSHA's definition of "combustible" should be consistent with those of various other groups, such as NIOSH, the Department of Transportation, and the National Fire Protection Association (e.g. Exs. 19–23, 19–46, 19–69, and 19–73), or that OSHA should allow any commonly used definitions. Although it would be desirable for all organizations to have uniform definitions, since there is no universally agreed upon definition, at this point it appears to be most important to be internally consistent, i.e. that OSHA define "combustible" the same way wherever the term appears in the Agency's standards. Therefore, the flashpoint range used in the proposal remains the same in the final standard. However, in response to suggestions from other commenters that the class breakdown is unnecessary for purposes of this standard, we have simplified the definition by removing the classes and simply noting the lower and upper limits on the flashpoints considered to designate a liquid as being "combustible (e.g. Exs. 19–43, 19–49, 19–62, and 19–71).

There were also several suggestions that a "compressed gas" is a property hazard, rather than a safety and health hazard, and should thus be deleted from the final standard (Exs. 19–43, 19–141, 19–152, and 19–188). In addition, commenters stated that it should be deleted because the gas should be evaluated for its own hazardous properties, not because it is compressed (e.g. Ex. 19–220). OSHA does not agree with these suggestions for deletion, and has included "compressed gas" as a hazard to be covered by the standard. The gas should certainly be evaluated for its own hazards, but by compressing the gas into a cylinder, other hazards become possible due to leaks or ruptures of the containers. Employees should be informed of these types of hazards as well.

The majority of the comments received on the definition for "container" related to stationary process equipment. The proposed definition excluded pipes and piping systems from the labeling requirements, but would have required employers to label reaction vessels and other process equipment. This was objected to by many participants (e.g. Exs. 19 (54, 59, 60, 72, 84, 96, 115, 142, 156, 164, 188, 214, and A–6). For example, Celanese Corporation stated (Ex. 19–185):

> The proposed standard defines "container" to include reaction vessels. A labeling/posting requirement for reaction vessels,

particularly batch-type reactors, will result in a significant labor burden on employers without any real additional protection of the workers. Since the chemical and physical properties are constantly changing, any single label would be inaccurate in relaying any hazard information to the worker.

In the preamble to the proposed standard, OSHA recognized the potential difficulties of labeling such containers (47 FR 12104), and invited comments on appropriate alternatives, such as a process sheet providing the required information and available to employees in their work area. OSHA did receive information in response to this request (e.g. Exs. 136, 149, 164), and the labeling provisions of the final standard have been modified to allow such alternatives. This issue is discussed at greater length in the section of the preamble dealing with labels and other forms of warning. This modification should provide employees with the visual hazard reminder which is a necessary part of a comprehensive hazard communication program, but allows for feasibility problems which may be encountered by employers attempting to comply with the labeling requirements. The definition for "container" remains as proposed since the problems addressed by the commenters are not really definitional in character and have been substantially satisfied by allowing, but not requiring, alternatives to labeling. Those employers who choose not to use such alternatives will still be required to label stationary process equipment. Comments dealing with the labeling of pipes are also discussed in the portion of the preamble dealing with labeling issues.

Several commenters believe that the proposed definition of "designated representative" was too broad (Exs. 19–54, 19–126, 19–155, 19–160, and 19–196). For example, O M Scott & Sons stated (Ex. 19–126):

> We suggest that stricter qualifications be placed upon the designated representative. For example, the representative should have demonstrated expertise in industrial hygiene, toxicology, law, or other professionally related field, and must have a legitimate reason for representing the employee.

OSHA does not agree and has concluded that employees have the right to determine who will represent them and exercise their rights under this standard. The definition has not been modified in accordance with these recommendations to limit representation to professionally trained individuals.

A number of commenters, particularly employee organizations, believe that unions should automatically be considered designated representatives of employees, without the requirement for individual written authorizations (e.g. Exs. 58, 63, 80, 101, and 111). For example, a representative of the International Union of Electrical, Radio and Machine Workers testified (Ex. 58):

> * * *(T)he union needs *automatic* access to MSDS in order to develop a prevention oriented health and safety program. Decades of public health practice demonstrate that problems can be prevented, only when they can be anticipated before people get sick. Union access to MSDS can facilitate this goal. Also, few occupational health problems are limited to one person. If there's a problem generally a number of workers are affected. Full union access to all information allows for a more comprehensive analysis of hazardous situations and will result in greater health promotion and a higher degree of worker protection.

OSHA agrees that recognized or certified collective bargaining agents should be given access to the materials developed under this standard for employees without obtaining individual written authorizations, and the definition of "designated representative" has been modified accordingly. Union safety and health representatives will be able to use the material safety data sheets and other materials generated under this standard to train workers and otherwise contribute to reducing the occurrence of chemical source injuries and illnesses. This is consistent with OSHA's current policy regarding "designated representative" under the records access regulation (29 CFR 1910.20).

As discussed under the scope section of this preamble, OSHA has added requirements for a "distributor" to ensure that hazard information is made available to their customers purchasing hazardous chemicals. A definition of distributor has been added to the standard as well.

In the proposal, "employee" was defined as workers in covered workplaces where they may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies. This was further clarified by stating certain job categories which would be expected to be covered, and those which would not generally meet the test of exposure under normal operating conditions or foreseeable emergencies. However, this clarification did not actually exclude any workers since the triggering factor was whether or not their job performance routinely involves potential exposure to hazardous chemicals. Thus a security guard routinely posted at the gate to the plant may not be potentially exposed during the course of his normal work, but a similar guard posted inside the plant may be. The latter employee would then come under the provisions of the standard. The purpose of indicating job categories was to clarify that, generally speaking, office workers or others in manufacturing who are not exposed are not covered by the standard. The definition of "employee" is essentially the same as the one used in the proposal.

A few comments were received which addressed the issue of exposure (Exs. 19–76, 19–118, and 19–147), being primarily concerned that employees who are not routinely exposed need not be included. OSHA has concluded that the issue of exposure as related to coverage is already adequately addressed in the proposed definition. To further clarify the matter, however, a definition has been added for "exposure" (described below).

Several comments were also received suggesting that the definition of "employee" be modified to indicate that only employees employed by the employer owning the facility should be included (Exs. 19–81, 19–52, 19–214, 19A–37, and 109). Since employers can only be directly responsible for the safety and health of their own employees, the definition has been clarified in the final standard to indicate that an employer need only inform his/her own employees. However, in response to further comments requesting coverage of contractor employees (Exs. 19–124; 31), a provision has been added to the hazard communication program requirements to ensure that manufacturing employers inform contractor employers of the nature and identities of any hazards their workers may encounter in the facility, and to suggest appropriate protective measures. OSHA cannot require employers to inform their contractor's employees of the hazards in their workplace. However, in order for the contractor to apprise his/her employees, information will have to be obtained from the employer. Therefore, this addition will ensure the contractor receives the necessary information.

A number of commenters suggested that OSHA add a definition for "exposure" or "exposed." A definition similar to that used in OSHA's *Access to Employee Exposure and Medical Records* regulation (29 CFR 1910.20) has been incorporated into the final standard in response to these requests. The definition is not exactly the same because this standard already includes exemptions and limitations on coverage that the "access" regulation seeks to limit solely through the exposure definition. Furthermore, the "access" regulation definition refers to "past"

exposure due to the records retention aspect of the standard. This standard only deals with current and future exposures, so the reference to the past has been omitted. In addition, the "access" regulation refers to toxic substances and harmful physical agent, whereas this hazard communication standard is directed to "hazardous chemicals."

Many of the comments on the definitions for "flammable" were the same as those already discussed for "combustible," i.e. that the definitions should be consistent with those of other organizations (e.g. Department of Transportation; National Fire Protection Association), and that the definition for "flammable liquid" need not be broken down into classes (e.g. Exs. 19–43, 19–47, 19–69, 19–76, 19–111, 19–135, and 19–185). As discussed previously regarding the definition for "combustible", OSHA has concluded that the definitions for "flammable" should remain consistent with those in other OSHA standards dealing with flammable substances. The classes have been eliminated from the flammable liquid definition, however, maintaining the lower and upper flashpoint values as proposed.

In the proposal, OSHA defined ammonia as a flammable gas, although it doesn't meet the definitional criteria provided. This decision was based on Agency experience, which indicated that ammonia is involved in fires and is flammable under some conditions. In response to requests during the hearing, OSHA submitted to the record documentation establishing that ammonia is a flammable gas (Ex. 151).

The definition of ammonia as a flammable gas was the one most frequently commented on during the rulemaking proceeding. The commenters generally objected to the classification of ammonia as flammable, and cited years of experience, primarily with refrigeration systems, without fires occurring (e.g. Exs. 19 (9, 13, 18, 21, 29, 34, 38, 66, 83, 95, 103, 128, 141, 179, and 215)). Although OSHA has concluded that ammonia may be flammable in some situations, the specific designation of it as such has been eliminated from the final standard since it does not meet the general definition for a flammable gas.

A number of comments were received which suggested that the definition for "hazardous chemical" was too broad, and should include some limitation on coverage according to the risk involved (Exs. 19–43, 19–62, 19–76, 19–92, 19–96, 19–166, 19–220, 19A–10 and 19A–18). The definition of "hazardous chemical" was intentionally broad in the proposal, to ensure that all potential hazards are considered when a chemical is being evaluated. The concept of risk based on the degree of exposure may be introduced by the employer when training employees, but should not be a factor used to limit the amount of information presented on a material safety data sheet. This is particularly important when the MSDS is being transmitted to downstream employers where exposure situations are different and unknown to the chemical manufacturer or importer preparing the MSDS. (A number of manufacturers commented on their inability to know downstream situations in objecting to providing certain categories of information on the material safety data sheets, e.g. Exs. 19–63, 19–91, 19–96, 19–98, 19–111, 19–124, 19–158, and 19–194).

Similar comments were received concerning the definition of "health hazard" (e.g. Exs. 19 (43, 49, 59, 63, 69, 77, 84, 110, 116, 176, 188, 205, and 220). For Example, the Synthetic Organic Chemical Manufacturers Association, Inc. suggested (Ex. 19–44):

> * * * OSHA should amend the definition of "health hazard" by adding criteria which better define the concept of a hazard, such as a requirement of likely exposure at levels sufficient to create a significant risk of material health impairment.

As stated above, OSHA does not agree that it is appropriate to include concepts of degree of exposure or risk into the definition for health hazard. The standard already limits hazard communication duties to those chemicals to which employees are exposed under normal conditions of use or in foreseeable emergencies. Furthermore, employers must train their employees regarding the risks involved in the particular exposure situation in their work areas. For purposes of defining what chemicals are a potential "health hazard," a broad approach must be followed to ensure employee protection. And since manufacturers or importers cannot know whether there will be a "significant risk" in downstream uses, thorough information on potential health hazards must be provided.

The definition for "health hazard" has been modified somewhat by including in it the target organ classification of hazards that was proposed in Appendix A. This should clarify the required scope of hazards to be evaluated. In addition, it has been clarified that health hazards to be included are those for which there is scientific (i.e. statistically significant) evidence based on at least one positive study conducted in accordance with established scientific principles.

A number of participants suggested that definitions for acute health hazards, which are generally well-defined, be adopted from the American National Standards Institute (ANSI) standard for precautionary labeling (e.g., Exs. 19–48, 19–57, 19–59, 19–84, 19–91, 19–126, 19–140, 19–147, 19–167, 19–205, 19–214, and 182). OSHA has concluded that adoption of these acute health hazard definitions will clarify the coverage of the final standard, and has incorporated the definitions used in the latest ANSI labeling standard (Ex. 182A). These definitions may be found in Appendix A, and cover "toxic," "highly toxic," "corrosive," "irritant," and "sensitizer."

In addition, OSHA has determined that a definition criteria for what constitutes a carcinogen for purposes of this standard is necessary since there may be differences of opinion concerning certain substances (Tr. 1057–1067; 3928). OSHA has concluded that a chemical is to be identified as one which poses a carcinogenic hazard when either the National Toxicology Program, the International Agency for Research on Cancer, or OSHA itself, publishes a finding that the available information indicates the chemical is a potential or confirmed carcinogen. Employers can determine whether a chemical meets these by consulting the publications of these organizations, or by looking it up in the NIOSH *Registry of Toxic Effects of Chemical Substances* (RTECS). RTECS entries indicate the findings of NTP, IARC, and OSHA.

A definition for "immediate use" has been added to the final standard at the request of several commenters (Exs. 19–196, 19–199, and 19–211). The definition clarifies that to qualify a container for the "immediate use" exemption from labeling, it must be under the control of the person who transferred materials into it, and used during the same work shift as it was transferred.

As importers have been added to the coverage of the standard, a definition for "importer" has been included as well. In addition, OSHA has responded to commenters requesting that "label," "manufacturing purchaser," "material safety data sheet," and "mixture" be defined (e.g., Exs. 19–46, 19–64, 19–91, and 19–177) by adding definitions for those terms.

OSHA uses the term "physical hazard" in the final standard, as contrasted with "health hazard" which is already defined, and has added a definition for that term as well.

In order to clarify the information permitted to be withheld as a trade secret under the final standard, OSHA has used and defined the term "specific

chemical identity." The term refers to the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information which reveals the precise chemical designation of the substance.

In the preamble to the proposal, OHSA stated that it considered the definition for "trade secret" to be that taken from the Restatement of Torts (47 FR 12105). In response to several requests, OSHA has specifically included a slightly modified version of that definition in the final standard (Exs. 19–76, 19–91, and 19–185).

Several commenters also suggested that use of the term "transport" in the definition of "use" may be in conflict with the regulations of the Department of Transportation. The intent of the term was to refer to transport within a facility, and the definition of "use" has been changed to read "transfer."

3. *Hazard determination and communication program—Hazard determination.* Once the chemical manufacturer or importer has assessed the hazards of the chemicals they produce, the specific communication provisions of the standard apply only to those chemicals found to be "hazardous." Thus the hazard evaluation and determination process is critical to the successful implementation of an effective hazard communication program.

The determination of what constitutes a hazardous chemical for purposes of this standard was the most difficult issue discussed in the rulemaking record. It is clear from OSHA's analysis of the record that there is a considerable range of opinion concerning the appropriate approach. It is also clear that the uncertainty and disagreement among the participants relates to the determination of health hazards, not physical hazards. The evaluative procedures for determination of the physical hazard potential of chemicals are fairly objective and straightforward, and these procedures did not generate much comment from rulemaking participants. Therefore, this discussion will relate solely to the question of what constitutes a health hazard under the provisions of the final hazard communication standard.

The term "health hazard" was defined very broadly in the proposal as a "chemical which, upon exposure, may result in the occurrence of acute or chronic health effects in employees." This definition was further expanded upon in Appendix A, which included a discussion of the difficulty of defining health hazards, and a categorization of health effects according to target organ. Included in the categorization were examples of both the signs and symptoms of overexposure and some specific substance which may affect those target organs. Under paragraph (c) of the proposed standard, "Hazard determination and communication program," the chemical manufacturer was to be held responsible for adequately ascertaining the scientifically well-established health effects of the chemical involved. Appendix B provided guidelines for this evaluation, in the form of available information sources. No set procedures were prescribed, and thus the evaluation was performance-oriented, with the performance criterion being the appropriate identification of the scientifically well-established data. A proper evaluation would result in generating the appropriate hazard information to complete the labels and material safety data sheets, and to transmit to employees in training sessions.

Prior to the publication of the proposal, OSHA had examined various methods of determining the hazard of a chemical. This included review of existing regulations of other Government agencies, examination of commonly used textbooks, discussions with health professionals, and study of various lists of hazardous chemicals. The Agency's conclusion was that the hazard evaluation procedure involves a large degree of professional judgment in every situation, and that, as one hearing participant stated, there is no "cookbook" approach to determining the hazardous properties of a substance (Tr. 2062). Reliance solely on the few commonly used criteria (such as those used in the ANSI standard on labeling) would tend to eliminate coverage of a significant number of acute effects, as well as the majority of chronic effects. On the other hand, a reliance on lists of substances could exclude too many hazardous chemicals from coverage. In addition, lists of chemicals do not provide hazard information, so an evaluation of hazardous effects still has to be performed once a list has been established as the scope of chemicals covered.

A number of comments were received which indicated that hazard communication should not be required unless there is a "significant risk" or "unreasonable risk" of the employee's experiencing an adverse health effect under normal conditions of use (see, e.g. Exs. 19 (43, 49, 62, 69, 77, 91, 111,119, 185), 182, L–15). Upon questioning during the public hearing, some advocates of this approach further elaborated on this position by stating that exposure above the permissible exposure limit would be an appropriate delineation to determine "significant risk" (Tr. 1255; 2481).

OSHA does not agree that such an approach should be included in the final standard. The purpose of hazard communication is to ensure the disclosure of information about the possible hazards of chemicals in the workplace before the worker is exposed to them, and thus is at risk of experiencing adverse health effects. The hazard potential does not change even though the risk of experiencing health effects does vary with the degree of exposure. Therefore, although, for example, the material safety date sheet for sulfuric acid should always indicate its potential to be corrosive, the employer can indicate in the training program what the degree of exposure actually is in a given work operation. The chemical manufacturer or importer, in making hazard determinations, should evaluate and communicate information concerning all the potential hazards associated with a chemical, whereas the employer may supplement this information by instructing employees on the specific nature and degree of hazard they are likely to encounter in their particular exposure situations.

The Agency determined that the most comprehensive approach would be to require evaluation of all chemicals, not some pre-selected list of substances, and to require reporting of all types of health effects, not the limited few which are precisely defined.

Some participants in the rulemaking endorsed the proposal's performance-oriented approach to hazard evaluation, and judged the state of scientific knowledge to be such that no more specific procedures would be warranted or appropriate (see Exs. 19 (48, 88, 111, 116, 143, 169, 214); 28; 165; 167). For example, Bausch and Lomb stated in their written submission (Ex. 19–143):

> The hazard determination process should remain performance oriented. Attempting to create a precise step-by-step hazard determination procedure is difficult and most likely would not be flexible enough to address the variety of situations as effectively and as inexpensively as the existing proposal. Creating a list of chemicals is equally undesirable because the list would require frequent updating and would always be subject to controversy as to why materials are included or not included on the list.

Similarly, in response to a question from OSHA regarding the procedures to follow in performing a hazard evaluation, Mr. Gary Hancock, a toxicologist with the Bethlehem Steel Corporation, gave the following response (Tr. 2062–3):

Well, with respect to specific guidelines or criteria for doing a hazard determination, as a toxicologist I don't feel that you can have—use a cookbook approach in performing that type of an exercise. I think that hazard determination is really not an exact scientific process. That there is really a lot of art there and because of that it really requires that professional judgment play an important role. Again, I don't believe that you can set up specific criteria or guidelines. Perhaps general guidance in the way of, of course, anybody would do a literature review, but how to use that data that you get from literature review and the data that you gather in your interactions with other health professionals, industrial hygienists, occupational physicians about the conditions of use, all of that plays a role in hazard determination process. It is not always the same. It depends upon the situation and the chemical, and, of course, a number of other factors that might play a role. So I don't think you can specify that type of thing.

Other participants criticized the performance orientation. They suggested that hazard evaluations would be inconsistent under the proposed approach, and thus employees would not have equivalent protection in all workplaces. As an alternative, they suggested that specific procedures be included in the final standard, or that lists of substances to be covered should be developed or adopted (see e.g. Exs. 19 (65, 74, 89, 109, 148, 166, 175, A–2, A–3, A–5, A–11); 31; 33; 36; 48; 58; 62; 63; 64; 122; 123; 125; 131; 168; 180). For example, the AFL–CIO stated in their written testimony (Ex. 36):

Perhaps even more deficient than the proposed standard's hazard definitions are its determination procedures. While the definitions are inadequate, specific requirements or even guidance outlining an adequate hazard determination are absent entirely. The absence of specific requirements or guidance will, in our view, result in a compliance and enforcement nightmare with neither manufacturers nor compliance officers having any idea of what procedures constitute compliance.

The final standard must contain guidance or requirements for what constitutes an adequate hazard determination drawing from current industry practice as reflected in the record of this rulemaking.

Some industry representatives suggested that either OSHA or an independent scientific panel should review toxicological data, particularly in the area of chronic health hazards, and establish a list of substances which should be labeled. For example, the Adhesive and Sealants Council wrote (Ex. 19–54):

Secondly, the determination of health hazards of specific chemical substances is a complicated task that could have a significant impact on smaller companies that lack sophisticated testing or references resources. In addition, ASC does not concur with the suggested use of reference sources cited in Appendix B as a tool for hazard determination. The user of such reference sources could easily misinterpret data unless specifically trained in toxicological matters, and some of the reference sources cite results of toxicity studies that may lack scientific validity. ASC would recommend instead that OSHA develop its own list of specific chemicals that require labeling for chronic hazards under the proposed Standard.

During the course of the public hearings, OSHA questioned many of the participants as to the methods they use to evaluate hazardous chemicals in the course of their positions as health professionals working for employers, employee organizations, government agencies, or public interest groups (see, e.g. Tr. 193, 309, 523, 546, 589, 909–11, 1279, 1324, 1369, 1458, 1652, 2062, 2090, 2209, 2245, 2416, 3662–3, 3717). The Agency intended to review these submissions concerning procedures currently employed by these groups to determine if some generally agreed upon procedures could be established. This attempt to solicit such information produced some general criteria which could be incorporated into the standard, but no specific procedures for evaluating hazard data were provided by any of the participants. For example, Dr. Myra Karstadt, who is Executive Director of the Environmental Cancer Information Center, was one of the critics of the performance approach to hazard evaluation under the proposed standard. In response to a request that she submit the criteria she uses to determine the hazards of substances, she responded (Ex. L–2):

The ECIC is *not* an organization subject to the Hazard Communication proposed rule. Therefore, the strictly enunciated procedures which should be applied to chemical manufacturers and processors and others similarly situated are not applicable to the ECIC. The procedures I use to answer questions are, therefore, of no direct consequence to the hearings and should not be taken in any way to justify application of the so-called "performance" criteria for toxicity determination set out in the Hazard Communication proposed rule * * *

* * * the criterion which is always uppermost in ECIC toxicity review is identification and use of the best data available to provide an objective and scientifically accurate response to the inquiry received by the ECIC. Procedures used may involve accessing computerized data bases (as, Medline), direct reference to review volumes or articles, conversations with scientists expert in the area in question, etc. ECIC maintains flexibility in the procedures used to assess toxicity, but very complete records are kept wherever that would seem appropriate, especially for controversial topics or for any matter where reference materials are not obvious and easily obtained by anyone with reasonable expertise in the field.

Mr. Michael Wright of the United Steelworkers of America contended that there is an invariable procedure to follow when evaluating hazards, but admitted that the procedures he follows himself vary with the chemical (Tr. 879–80):

I think there is an invariable procedure and the difference between the 15 minute cases and the six hour cases are how much we've looked at that chemical before. I don't have to go back to a literature search on methyl ethyl ketone either, because I've already done that enumerable times, and I can depend on my past work. It's a brand new chemical. Then, it does take longer and I do need to go through all the sources * * *

* * * I think it might be worth—kind of a cascade system. For example, if you're evaluating carcinogenicity and if the first thing I can consult is the NTP list, and it's on the list, that's enough for me to say it's a potential carcinogen. I don't at that point necessarily have to consult all of the other lists. But if I can find it on the NTP list, then I would go to the IARC list. I would go to a variety of other sources and ultimately I would go to MEDLARS and TOX lines, which I think are really the best sources for all of us, cause they're comprehensive.

Under the New York state right-to-know law, the state is involved in reviewing toxicity information to prepare material safety data sheets for distribution. OSHA asked Assemblyman Joseph Pillittere, who testified during the public hearing in Houston, to submit for the record the procedures used by the state to prepare these sheets. The information he submitted revealed that the staff reviews the professional literature (standard sources such as NIOSH documents, the Merck Index, etc.), and prepares the sheets, which are then subjected to several levels of expert review (Ex. 129). No specific procedures for evaluating the data are apparently used.

ICI Americas, Inc. responded to the question regarding specific procedures by describing what they have termed "active 'intelligence gathering' activities" (Ex. 150):

These 'intelligence gathering' activities include:

—Initiation of toxicity tests on new chemicals;

—Close collaboration with ICI Americas' UK parent company to secure relevant information known to the parent. (Our parent company maintains one of the largest industrial toxicology laboratories in the world.);

—Scrutiny of the trade and scientific literature, including relevant government publications e.g. those published by NIOSH, NTP, Section 8e notices submitted to EPA, etc.;

—Review of Material Safety Data Sheets obtained from chemical suppliers;

—Participation in consortia of chemical manufacturers funding testing programs on commodity chemicals of significance to ICI Americas;

—Funding of research in toxicology through membership of the Chemical Industry Institute of Toxicology.

When information is received from such activities on a chemical used by ICI Americas, a detailed review of the data is conducted to assess its validity and evaluate its significance. This review is conducted by professional toxicologists on ICI Americas' staff, in conjunction with medical, industrial hygiene and product safety personnel.

It can be concluded from each of these responses—which represent a scientific organization, a union, a state government, and a manufacturer—that hazard determinations inevitably require professional judgment to be used in evaluating what information is to be looked at and what conclusions to draw from it. At the same time, although the record does not provide examples of specific evaluation procedures used by participants, there are a number of sources of information which are routinely referred to by them to obtain hazard information, or to help them make an initial determination that a substance is hazardous.

Some of those sources were mentioned in the quotes above—i.e. computerized data bases, NIOSH documents, and standard text books. There are also repeated indications that reviewers customarily check to see if a chemical is an OSHA regulated substance or appears on the ACGIH TLV List (Tr. 877, 1105). For determination of carcinogenicity, the IARC Monographs and the NTP list were mentioned (Exs. 122, 180A, L–5; Tr. 877).

In regards to mandating computerized literature searches, OSHA has determined that this is not appropriate. When a search is performed, a list of article abstracts is generated. The person searching the literature still has to evaluate the data to determine what the hazards are—the search does not result in a list of hazards to be reported. As Dr. Parkinson of the United Steelworkers of America stated (Tr: 910–11):

> You have to look at the content and that's really the difficult area. We've mentioned Medlars and Toxline but, of course, they just give you the title of the paper and usually an abstract of what the paper says and in my experience, unfortunately, one really has to go back to the original paper to evaluate how the work was done.
>
> This is being (sic) one of the major problems with a lot of the bibliographies, for instance, that NIOSH has produced in the past that they haven't been weighted in any way be a professional evaluation of the original work. So that when I'm faced with that problem, I inevitably do pull out the original papers and have a look at them if I can get hold of them.

The professional judgment that is required to evaluate the hazards is also a necessary part of determining the extent of search required to adequately ascertain those hazards. As Mr. Wright described above (Tr. 879–80), a "cascade" system is employed. Chemicals with well-known hazards need not be as vigorously investigated as those which are more obscure, or which are being actively studied to determine their health effects. The evaluator is responsible for ensuring that the determination is accurate, but the means to achieve that are best left to professional judgment. The appropriateness of mandating the use of NIOSH documents is also questionable for similar reasons. The term "NIOSH documents" includes a wide variety of publications from criteria documents to health hazard evaluations. Though they may be useful in a hazard evaluation, determination of whether they should be used must be left to professional judgment.

In any event, the incorporation of lists of substances as a floor is quite different than mandatory sources to be searched. Lists such as the OSHA PEL list and the ACGIH list contain a number of well-recognized hazardous chemicals. "Computerized data bases" and "NIOSH documents" are bona fide information sources that must be consulted in many evaluative procedures, but mandating their use in all cases is not appropriate.

The most substantive recommended alternative to the hazard evaluation procedures included in the proposed standard were provided in a post-hearing submission from the AFL–CIO, United Steelworkers of America, International Chemical Workers Union, and the United Auto Workers (Ex. 180A). According to this union submission, adequate chemical identity and hazard information will only be provided if three conditions are met: (1) The requirement to disclose chemical identity must be independent of the manufacturer's hazard determination procedures; (2) the standard must include specific definitions for what constitutes a health hazard; and (3) the standard must require a thorough hazard determination by the manufacturer.

The terms of the first condition are met in large part through the "Access to Employee Exposure and Medical Records" regulation (29 CFR 1910.20), which requires employers to make records of chemical identity available to employees and designated representatives of employees. This disclosure obligation is independent of whether or not the employer believes the chemical to be hazardous, provided the chemical falls within the rule's definition of "toxic substance" which includes any chemical listed in NIOSH's *Registry to Toxic Effects of Chemical Substances* (RTECS), which includes over 40,000 chemicals. The purpose of this standard, however, is to provide information about chemicals which are in fact hazardous. The goal, therefore, is to assure that the standard will result in complete and accurate hazard determinations with respect to identifiable hazards, not just potential ones. The narrower scope of this standard is therefore appropriate.

For the second condition, the unions have suggested that definitions be added to Appendix A for determination of what constitutes a health hazard. They believe that these definitions should include the full range of health effects, and considerations of animal or other laboratory evidence. In addition, since determination of carcinogenicity appears to be one of the biggest areas of disagreement between interested parties, they suggested that findings of confirmed or suspected carcinogenicity by IARC be sufficient to warrant communication of these hazards under this standard. As explained above, OSHA has responded favorably to these comments by adding certain definitions for acute hazards and for carcinogens.

Under the third condition, the unions concede that "there may not be one 'cook-book' procedure for determining all hazards posed by a chemical." However, they maintain that there are certain standard references which many health professionals routinely consider and consult in order to evaluate the hazards of chemicals. They state: "According to industry witnesses and other witnesses, OSHA standards, ACGIH Threshold Limit Values, NIOSH publications, monographs of the International Agency for Research on Cancer, and computerized bibliographic data bases of the National Library of Medicine are routinely reviewed in the evaluation of chemical hazards (Tr. 177, 851, 1054, 1105, 3157, 3306, 3427)."

With respect to this third condition, OSHA agrees that although there may not be established hazard evaluation procedures that are appropriate for determining the hazards of every chemical, some minimal criteria should be established so that certain chemicals will be regarded uniformly as hazards by all evaluators. NIOSH also addressed

the need for some minimal criteria in their written testimony (Ex. 31):

> * * * This may require the mandatory use of certain documents such as the NTP Annual Report on Carcinogens, ACGIH TLV's, NIOSH documents, OSHA regulations, and their respective updates in making such a determination. NIOSH believes that this type of approach is essential to producing an effective rule and that this consistent approach is preferable in the long term to the proposed rule.

NIOSH reiterated this recommendation in their post-hearing submission (Ex. L-5). They stated that "certain documents by themselves represent a scientific consensus as to a particular chemical's carcinogenicity, mutagenicity or teratogenicity."

In the final standard, OSHA has atempted to resolve the differences of opinion regarding the performance approach to hazard evaluation, and to define some criteria that will establish a minimum number of substances to be covered.

First, we have added paragraph (d) to the final standard, entitled "Hazard determination." In this paragraph we have clarified the responsibility of the manufacturer or importer to thoroughly evaluate the hazards. The performance approach was never intended to permit them to perform an inadequate hazard evaluation, but this new paragraph affirmatively states the duty.

In addition, we have established a "floor"—a minimum number of chemicals required to be covered. In any situation, the manufacturer or importer is required to treat chemicals regulated by OSHA or listed by the ACGIH on their TLV list as being hazardous for purposes of this standard. In addition, any chemical which is listed by the NTP or IARC as a suspected or confirmed carcinogen is also to be treated as a potential carcinogen under this standard.

Third, as previously stated, we have also added specific definitions on acute health hazards to Appendix A, which responds to the second union condition noted above. These definitions are taken from the latest draft of the revised ANSI standard for precautionary labeling (Ex. 182A).

In Appendix B, we have clarified the principal criteria to be applied in complying with the hazard determination requirement. First of all, the employer is to evaluate animal data as well as human data. Secondly, if a positive study conducted according to established scientific principles, and resulting in statistically significant findings of an adverse health effect is available, manufacturers or importers must report that effect whether they agree with it or not. They need not state the finding as a conclusion they agree with, but must report it nevertheless. They are also free to report any negative data which they believe is relevant to determining the hazard of the chemical. OSHA believes that this approach will ensure that employees and downstream employers are provided sufficient information to assess the potential hazards of working with the chemical.

These additional provisions provide minimum standards for health hazard evaluations, and will therefore better ensure their validity. Yet professional judgment is allowed and encouraged as the primary tool for evaluation.

Hazard Communication Program. Under the proposed standard, each employer would have been required to develop and implement a hazard communication program. The program was to include the procedures the employer would use to determine which chemicals are hazardous; a list of those chemicals identified as hazardous; and the methods the employer would use to comply with the requirement of the proposal with regards to labels, material safety data sheets, information and training, and preparing employees to safely perform non-routine tasks (e.g. emergency pipe repairs).

OSHA designed the hazard communication program to be a comprehensive approach to apprising employees of the hazards they are exposed to, as well as providing them with information concerning the protective measures to be used to reduce these hazards. In a conference report on chemical hazard warnings published by the Conservation Foundation, the purpose of a hazard communication program was explained as follows (Ex. 18-2):

> A workplace hazard communication program should inform employees about the nature of all the hazards to which they may be exposed, and also persuade employees to take the actions necessary to protect themselves against risk. While workers need to be responsibly informed about the hazards to which they may be exposed, they should neither be overwarned or underwarned. For any hazards identified, they should be offered remedies for protective action. The nature of hazards and information on the appropriate hazard control procedures should be conveyed through labels and other components of workplace labeling systems.

In general, participants in the rulemaking endorsed the elements of the hazard communication program. For example, PPG Industries, Inc. stated (Ex. 19-85):

> PPG is in general agreement with the elements of a hazard communication program as outlined in this section. We believe this section effectively places the responsibility for definition of individual work place hazard information requirements with the employer.

Similarly, the Boeing Company also endorsed the performance goals listed for the hazard communication program (Ex 19-109):

> We applaud OSHA's proposal to use a performance approach with respect to the hazards communication program. There is such widespread diversity among manufacturing industries that the only feasible way to accommodate training, labeling, and information availability is to leave the details to those who can best address these differences: The chemical users themselves. OSHA's performance goals (c)(2)-(4) provide sufficient and appropriate control over this aspect of hazard communications.

Although the proposed standard did not require that the hazard communication program be written, OSHA did raise that alternative in the preamble as an issue for comment. As the Agency stated at that time, a written plan would provide a structure upon which to evaluate programs. Employers would be able to establish in the plans the criteria they used in developing their programs, as well as the means used to meet those criteria. The written program would also serve as a useful reference for employees. Having the program in writing would make it easier to determine if the intent of the standard was being fulfilled.

It was anticipated by OSHA that even in the absence of specific requirements for written plans, prudent employers would prepare them. The plan would not have to be detailed or lengthy, but preparation of it would ensure that all of the elements were adequately addressed.

A number of participants stated that written plans should not be explicitly required (Exs. 19-63, 19-71, 19-72, 19-88, 19-91, 19-110, 19-158, 19-185, 19-188, 19-209, 19-214, Tr. 1313). For example, a representative from the Graphic Arts Technical Foundation testified (Tr. 1313):

> Having a written program provides no real function, in our opinion, except to demonstrate its availability. The key to a hazard communication program is its implementation and continued use in developing employee awareness through training. To the extent that the training is structured well and periodically evaluated for effectiveness, a written program does not add additional benefits.

Conversely, many employer and employee representatives felt that a written plan should be an integral part of a performance-based hazard communication program (Exs. 19-46, 19-51, 19-79, 19-89, 19-96, 19-98, 19-111, 19-

116, 19–124, 19–143, 19–170, 19–196, 19–204, 19–220L, 63, 106, 107, 122, 123, 125, 157, 164, 167, and 180).

For example, the American Petroleum Institute stated in their written submission (Ex. 19–111):

> Further, API has consistently supported the concept that each employer should have a written program to detail how workplace hazards are indentified, evaluated, and communicated to employees. In addition to using a written program to enable a company to internally evaluate the effectiveness of its hazard communication program, the requirement for a written program will help assure better compliance with the regulation.

Similarly, Kaiser Aluminum and Chemical Corporation endorsed a written program approach as well (Ex. 19–196):

> A written hazard communication program is essential:
>
> (1) To establish and document accountability,
>
> (2) To serve as a useful reference for employees, and
>
> (3) To delineate a benchmark for internal auditing.

A joint union post-hearing submission also addressed the need for documenting the hazard communication program in writing (Ex. 180A):

> Under the proposed standard, the employer's hazard communication program must include the procedures the employer will use to determine hazards of chemicals which he produces. But there is no requirement that the employer's hazard determination procedures be reduced to writing as part of the hazard communication program. Thus, in reality, it is a meaningless requirement.
>
> The hazard determination procedures utilized by the employer are central to the OSHA proposal. In the absence of a determination that a chemical is hazardous, no information need be provided.
>
> Since the proposal does not envision uniform hazard determination requirements, employers are free to devise their own procedures which are sure to differ in form and outcome (Tr. 12, 579, 682, 1063, 1066, 1260, 3027). The only means to evaluate the validity of these procedures is to require they be reduced to writing and made available to employees, designated representatives and OSHA (Exs. 36, 101).

Given the considerable support for requiring that the hazard communication program be written, and the fact that having such a written program will be beneficial to the successful implementation of the final standard for the reasons given in the above statements, OSHA has determined that written programs will be required. This should not measurably increase the compliance burden of employers since written materials would have been prepared voluntarily by most of them anyway.

One provision of the hazard communication program under the proposed standard required a list of hazardous chemicals in the workplace. The list was in essence an index or inventory of hazardous chemicals in the workplace for which material safety data sheets should be available, and containers of which should be labeled. The list was to serve as a check point for the employer and the employee to ensure that all of the hazardous chemicals in the workplace had the appropriate information available. The list could be compiled by the identity used on the container labels—ingredients did not have to be specifically listed, as long as the associated material safety data sheet provided the specific chemical identities. As stated in the preamble to the proposal, OSHA's intention was that the list be maintained in a current fashion, to indicate chemicals currently present in the workplace, but that outdated lists need not be kept.

A number of comments were received concerning the need to generate a list, as well as addressing the maintenance of and access to such lists.

Several participants suggested that lists should be permitted to be assembled for work areas, rather than for the entire work place (Exs. 19–43, 19–44, 19–111, 19–124, 19–145, 60, 125). The combined work area lists would thus comprise the master list of workplace chemicals. Given that some workplaces are very large, and employees in a particular work area would be better served by having a list specific to that area, the final standard has been modified to permit this approach.

Many participants objected to generating and maintaining a list of hazardous chemicals, indicating that the material safety data sheets themselves will suffice as an indication of which substances in the workplace are hazardous (Exs. 19 (44, 48, 54, 57, 59, 62, 69, 71, 76, and others)). For example, Monsanto Company stated (Ex. 19–147):

> Monsanto feels that lists of chemical substances in the workplace are unnecessary since the product identification and hazard information are all included on the Material Safety Data Sheet and available to the employee. Lists are difficult to maintain up-to-date and give casual observers the wrong impression that listing of substances is equated to exposure, which of course, it is not. Lists can be made by anyone who wishes to make them from the MSDSs available.

It is difficult to understand how employers could assure themselves that each hazardous chemical in a workplace had been identified, and appropriate hazard information prepared, without generating and maintaining a list. Furthermore, for the employees' benefit, there should be a list available so if a material is present in their work area, and is not accompanied by a material safety data sheet, they can check the list to assure themselves that the chemical is not considered hazardous and thus the absence of an MSDS is appropriate. As indicated in the proposal, the list should be useful to the employer in other aspects of establishing occupational health programs as well. For example, plant industrial hygienists could use it to develop priority schemes for sampling strategies or physicians could use it to highlight which chemicals merit closer examination. Therefore, in the final standard OSHA has maintained the requirement that a list be included in the hazard communication program.

A number of participants suggested that it should be maintained for some time period, or specifically in accordance with § 1910.20 (e.g. Exs. 19–89, 19–109, 19–199, 19–211, 31, 36, 63, 101, 122, 125). However, under the provisions of the records access rule, a chemical inventory is treated as an exposure record only in the absence of material safety data sheets. Under § 1910.20, neither MSDSs nor chemical inventories have to be kept for a specified period, provided *some* record of identity and where and when used is kept for 30 years. Thus, the employer has the option of keeping either the MSDS, or the inventory, or some other record of chemical identity for the 30 year period specified in the records access rule. For purposes of this standards, however, outdated lists and MSDSs need not be maintained. In any event, the list will be a useful tool and remains a requirement in the final standard.

4. *Labels and other forms of warning.* In the proposed standard, the employer would have been required to label every container in the workplace with the "identity" of the hazardous chemicals contained therein and "hazard warnings." The term "container" did not include pipes or piping systems. Containers leaving the workplace would also have to have been labeled under the proposed scheme with the identity and hazard warnings, as well as the name, address and telephone number of the manufacturer.

Two exemptions were provided in the proposal to the in-plant container labeling requirement. Where stationary containers in a work are had similar contents and hazards, the employer could choose to post signs or placards with the appropriate information, rather than individually labeling each container. Furthermore, the proposal

exempted a container holding ten gallons or less if an employee using it did so immediately, and transferred the material from a labeled container to the container being used, and thus was aware of the identity of the contents.

Under the proposal, the label served as an immediate warning of hazards in the workplace, a visual reminder of information presented to employees in training programs and on material safety data sheets, the other two required components of a comprehensive hazard communication program. This approach to the use of labels was discussed in a conference report issued by the Conservation Foundation (Ex. 18–2):

> The purpose of labels on hazardous chemicals, or on products containing them, is to warn about potential danger of significant risk. Labels for hazardous materials should be printed on or attached to a container so that they will remain legible and affixed to the container at least as long as the product remains within. They must convey critically important information in a limited space, and frequently in a limited amount of time and degree of concentration from the reader.

Under the proposed provisions, the labels were not intended to be either the sole, or the most complete source of information regarding the nature or identity of hazardous chemicals in the workplace. The identity on the label could be any term the employer wished to use, as long as it also appeared on the material safety data sheet for the substance along with the precise chemical name(s). Under this plan, the employer could thus use common terms, familiar to employees, while still providing them with more extensive information, including specific chemical identities, on the material safety data sheet.

Furthermore, the provisions were written in broad, performance-oriented language so that many of the existing labeling systems could continue to be used. This did not mean that labels of any type could continue to be used in all cases—the performance-orientation meant that those labels which met the minimal information requirements established, regardless of the format it was presented in, could continue to be used. Thus, for example, labels prepared in accordance with the National Paint and Coatings Association's Hazardous Materials Information System would generally be in compliance, as would those labels prepared in accordance with the giudelines in the American National Standards Institute voluntary consensus standard on labeling. Use of these systems would not mean that employers would not be held accountable for providing the information required. It simply meant that they would not have to alter the format of their information presentation.

Some participants in the rulemaking believe that a standardized labeling format should be promulgated by OSHA (e.g., Exs. 19 (6, 89, 148, 150); 31, 46, 66, 118, 123, 125, 134). For example, the National Institute for Occupational Safety and Health stated (Ex. 19–89:):

> NIOSH reaffirms its position on labeling as contained in the NIOSA Criteria Document "An Identification System for Occupationally Hazardous Materials." NIOSA is concerned with the potential lack of uniformity in design of and information contained on labels generated by various industries. Information transfer is inhibited if a worker is presented with multiple formats containing a wide variety of information on chemical hazards. It would be of considerable benefit to all who must work under this Rule if OSHA would specify a fixed format for all container labels.

However, other participants supported the performance-oriented approach since some labeling programs may be more effective in one industrial setting than another. The Western Electric Company expressed this view as follows (Ex. 19–90):

> We support the performance oriented requirements for labeling as outlined in the March 19 proposal. It is our opinion that the information on a label should be kept as simple as possible, using a readily identifiable system such as the NFPA diamond with numerical ratings in association with an aggressive training program. Such a system provides hazard identification to which an employee can easily relate. While this system has proven to be highly effective in our workplace, it should not be implied that it is satisfactory for all. Employers need the flexibility of implementing labeling programs best suited for their particular situations.

Since there is no information in the record to indicate that one type of labeling system is inherently more effective than another, and since the labeling provisions of the standard are supplemented by a training program where the employer will have to explain to employees the labeling aspects of the hazard communication program in their workplace, OSHA does not find that the record warrants disruption of current labeling practices to implement a standardized system. A number of participants in the rulemaking generally endorsed the proposed requirements as being appropriate (e.g. Exs. 19 (51, 71, 83, 90, 91, 109, 205, 220), 102, 106, and 114).

A number of suggestions were received concerning the information to be presented on the label. These specific recommendations ranged from requiring the number of the chemical as listed in the NIOSH Registry of Toxic Effects of Chemical Substances (RTECS) (Ex. 19–148), to indicating the location of the material safety data sheet (Ex. 19–204). Several other participants, however, commented that including too much information on a label can render it an ineffective means of transmitting hazard data. The American Petroleum Institute's panel during the public hearings included a behavioral scientist, Dr. Daniel Felker, who addressed this issue of information overload. (Tr. 1759–60):

> There is a considerable body of literature from the psychological, psychoanalytical research that says that comprehension is affected by the amount of information that is contained in any message.
>
> If you are interested in carrots, knowing about apples does not help you retain information about carrots. I mean, that's simplistic, but there is a thing of what we call cognitive overload.
>
> A human being, a human learner can attend so much stimuli at any given time. That varies by human being. By overloading the amount of stimuli or the number of messages will detract from the comprehension of any particular piece.
>
> So, if you're worried about making sure you don't pick up some substance, and that's your message, you are detracting from that by giving him, oh, many, many other kinds of information that are only peripheral to that.

The Conservation Foundation also addressed the problem of presenting too much information on a label (Ex. 18–2):

> Labels cannot practically attempt to warn in detail against all conceivable problems, even though case liability law may seem to suggest otherwise. The reasonably foreseeable major or frequent risks of use or abuse should be emphasized, with priority given to the more severe risks. The need for limiting the scope of label messages is most evident when labels must be small in size (e.g., on small containers). Even on larger containers, however, too many messages can detract from the more significant hazards or altogether discourage attention from the warning statement.

Given OSHA's stated purpose for the labels within the comprehensive hazard communication program, i.e. serving as an immediate warning and as a reminder of the more detailed information provided in other forums, the information required under the proposal is sufficient, and remains the same under the final standard. The identity on the label is keyed to the material safety data sheet for the chemical, which will contain more extensive information. The training program will explain to employees both the labeling system and the information on a material safety data sheet, so the employee will be provided with extensive information on each chemical through the integrated elements of the comprehensive hazard communication program.

In some cases, the suggestions for information to be included on the label related to the question of whether the label or the material safety data sheet should be the focus for detailed information in the hazard communication program. Dr. Daniel Teitelbaum, a consultant with experience in preparing hazard communication vehicles for various companies, addressed this issue of using the label as a detailed source of information. (Tr. 166):

> I think that in general if one looks at the pesticide labels, one finds that there is a vast amount of information which absolutely nobody understands and I'm not sure that putting the content on a pesticide label has been very helpful and I would have some reservations as to whether you needed to list the ingredients on the label.
>
> I would think that listing the ingredients on the Material Safety Data Sheet Keyed to the label is probably equally efficient and perhaps as effective.

Other participants also addressed the lack of a demonstrated need for identities to appear on the label, rather than on the material safety data sheet (American Iron and Steel Institute, Tr. 2041–42):

> One of the problems we have with putting chemical names on labels is that in most cases the chemical name, to me, a layman, has no bearing upon what the dangers, the inherent hazards of the chemical are. I really couldn't tell by looking at that chemical name what I'm working with. Whether it is as non-toxic as water, or whether it is as toxic as some very, very rare chemicals * * *
>
> I think that has been proven time and time again by these studies. The chemical name, if it is a very common name, such as benzene, is approached and reviewed by the person's eye. He goes back to that name.
>
> If it is, on the other hand, a very complicated long chemical name, he never resorts to it.

Several participants similarly indicated that no identification should be required on the label, but that it should simply contain hazard warnings (Ex. 19–57, 19–61, and 19–94). The rationale for this suggestion was that many labels in use in plants currently do not include identities and that what workers really need to protect themselves are warnings, not identities. These views contrast sharply with those of some participants, especially employee representatives, who criticized the lack of a requirement to list the chemical identities of all ingredients on the container label. Despite the fact that this information was required to be provided on the MSDS, unless the specific chemical identity was a trade secret, these participants argued that it needed to be provided on the label as well (e.g. Exs. 36, 58, 60, 62, 63, 64, 74, 77, 80, 103, 107).

The primary rationale for the argument was that material safety data sheets are often not available to the employer currently, and when they are available, workers do not always have access to them. As stated by the AFL–CIO, et. al. in their post-hearing submission (Ex. 180A):

> Even if material safety data sheets are provided by the manufacturer, the standard's theoretical right of worker access to safety data sheets and specific chemical identity contained therein, is in practice non-existent. Unfortunately, fear of employer retaliation will prevent many workers from requesting safety data sheets (Tr. 3082, 3109, 3323, 3836). This problem is further compounded by the proposed standard's requirement that workers identify themselves to the employer to gain access through their union representatives. Thus, in reality, the information printed on the container label is the only information available to many workers. Therefore, identification of hazardous ingredients by chemical name must be required on the label.

It should be noted that Section 11(c) of the Act specifically prohibits employers from discriminating against or discharging employees for exercising their rights.

OSHA agrees that employees should be provided with thorough information on each hazardous chemical in their work area, including specific chemical names but, as will be described in more detail in the following section of this preamble, OSHA has chosen the material safety data sheet as the most appropriate means of transmitting these specific details on the identities and hazards of the hazardous chemicals in the workplace. Labels are physically attached to containers, and in order for employees to obtain a copy, they would have to remove it from the container, or copy down the information. The material safety data sheets, on the other hand, will be located in an accessible place in the work area, where the employee can read them when necessary, or copy them for their own use. Furthermore, employee representatives will also have automatic access to this information under the final standard.

OSHA does not believe that it is fair to predict employer compliance with the material safety data sheet requirements based on what may have been the practice in the absence of regulation. The fact that sheets are often not available today is merely a reiteration of the need for a standard to require development and distribution of material safety data sheets for all hazardous chemicals, as OSHA is doing in this final standard for hazard communication.

Since this standard will require employers to ensure that material safety data sheets are readily accessible to employees, and the Access to Employee Exposure and Medical Records regulation (29 CFR Part 1910.20), guarantees them the right to examine and copy them as well, it is unreasonable to assume that in practice access to chemical identity information will be non-existent. In fact, some employers already provide access to material safety data sheets voluntarily (e.g. Tr. 745–46; 2501; 3001). Further under this final standard, employers will have to apprise employees of the existence and contents of MSDSs. In addition, the final standard allows automatic access by collective bargaining agents, so in any event, union representatives will be able to obtain material safety data sheets without any individual granting them written designation. Therefore, OSHA does not find the argument concerning chemical identity on labels to be supported by the evidence in the record, and has not changed the provision which allows common name designations to be used. Employees are granted access to the information on the material safety data sheet, and no participants in the proceeding have supplied convincing evidence that providing the information in some source other than on the label is less effective in communicating hazards.

The identity of a substance alone does not cause workers to modify their behavior, and thus achieve the goal of hazard communication. Additional data in the form of hazard warnings are what must be transmitted and received before an employee can act on the information. For example, Mr. Michael Wright of the United Steelworkers of America testified regarding a worker who died from being overexposed to methyl chloroform (Tr. 782–3), the container of which was labeled only with the trade name of the chemical, with no additional hazard information. When questioned regarding whether the worker would have been adequately protected if the label had also include hazard warnings, Mr. Wright stated (Tr. 872–3):

> I think in that case, had that warning been on the label and had there been an adequate training program, that he would have been protected.
>
> Our need for chemical identity is to check the adequacy of the warning and to insure that we have the most up-to-date information.

In their post-hearing submission, the American Iron and Steel Institute further

addressed the arguments in the public record dealing with the need to put chemical identities on container labels as follows (Ex. 178):

> * * * (T)he proposed performance-type Hazard Communication Standard does not preclude employees from obtaining chemical composition information if so desired; it simply does not require each and every chemical contained in the product to be included on the warning label or placard. Such data would still be available to workers through Material Safety Data Sheets (MSDSs) for non-proprietary products. We are aware that critics of the performance approach have pointed out that MSDSs are sometimes incorrect and/or incomplete. However, we do not accept this as a valid argument that complete chemical identification should be required, since labels have the same potential for possessing such flaws as do MSDSs. In other words, there is nothing about labels or placards which makes them an inherently better source of chemical composition data. To the contrary, even some proponents of a specification standard feel that the MSDS may be a better source of such information.

In particular, the AISI was referring to a union industrial hygienist, Mr. Michael Wright of the United Steelworkers, who testified (Tr. 907–8):

> As long as several other provisions are complied with, for example, as long as the union could have access to the MSDS without having to go through the process of getting a signed form from the worker giving us that access. If we've got someplace in the workplace we can go to get that information rapidly and quickly, I think it's less important that it be on the label.
>
> There are cases of its being on the label, I think, could create some problems if that was the only place. For example, plenty of plants I've been in, the label is very quickly obscured after the vat's open and people dip out of it a few times, whatever is in it, has come down over the label and you can't read the label anymore.
>
> That, I think happens fairly frequently. Things which are broken up into smaller and smaller containers and used in other places, the label could become very large for small containers and in those cases an MSDS is sufficient for us as long as there's maybe a code name on the container so we know which MSDS is appropriate.
>
> Now, again, two things are required for that. One is the union rep has to be able to go and get the MSDS without needing a signed consent. Second, the MSDS has to be readily available right in the workplace on every shift, can't be in a central office somewhere, in a central computer bank. It's got to be right there where you can go and get it.

Under the provisions of the final standard, Mr. Wright's conditions for accepting the MSDS as the primary source of chemical composition data have been satisfied. Unions are to have direct access without requiring written consent, and the MSDSs are to be readily accessible to employees. In addition, an identifier is required on the container to provide access to the appropriate data sheet. OSHA does not consider a label without an identity to be sufficient for purposes of this standard. The identity allows the employee to link the material in a container in the workplace to the appropriate material safety data sheet which contains additional information on the substance involved. Without that link, the material safety data sheet will not be effective in transmitting the information.

In sum, the final standard requires an integrated program which will provide employees with both identity information and hazard warnings, as well as an explanation of what protective action is warranted in the employee's exposure situation. All of these elements combined will provide employees with the complete information they need to protect themselves. Therefore, the provisions of the final standard answer the concerns expressed and are an acceptable alternative to chemical names on a label.

Several other issues concerning the proposed labeling requirements were also addressed. For instance, a number of interested parties also objected to inclusion of a telephone number on labels on containers leaving the workplace (e.g. Exs. 19–8, 19–54, 19–76, 19–91, 19–115, 19–67, 19–207). According to these commenters, labels on outgoing containers do not usually have telephone numbers on them now, such numbers may change frequently, and in any case, since the name and address appear on the label, the telephone number may be obtained from telephone information. Furthermore, since the telephone number is required on the material safety data sheet, this is considered to be sufficient. Although telephone numbers on labels could be useful information where available, the specific requirement to include them has been deleted from the final standard to accommodate these concerns.

The use of the term "identity" in the proposal was confusing to some of the commenters, who interpreted the requirements as requiring a listing of ingredients on the container because the term chemical was also indicated in the plural form, chemical(s). (See Exs. 19–14, 19–47, 19–79, 19–94, 19–115, 19–141, 19–144, 19–169 and 19–170). The term was expressed in the optional plural form because the employer may choose to list more than one name on the container. For example, if the container has a mixture of carbon tetrachloride and ethylene dibromide in it, the employer may find it appropriate to list those two names on the label. However, if this mixture is known by the common name "80/20," it may be as appropriate to use that common designation in the workplace. Employers are referred to the definition of "identity" for further explanation. Essentially, they may use whatever term they choose, including code numbers, common names, etc., as long as that designation permits access to the associated MSDS with the proper chemical designations of the ingredients.

Several commenters also suggested that the name and address on the label should be for a "responsible party" rather than the manufacturer in every case (Exs. 19–8, 19–54, 19–57, 19–84, 19–91, 19–158, and 19–162). In some situations, a distributor or repackager may be a more appropriate contact for additional information. OSHA has accordingly modified the final standard to permit the designation of a "responsible party" in lieu of the manufacturer, where appropriate.

A number of comments were also received on the ten gallon, immediate use exemption. The majority of those commenting felt that the exemption should be extended to any portable containers intended for the immediate use of the employee (Exs. 19–62, 19–88, 19–94, 19–111 19–115, 19–121, 19–131, 19–145, 19–146, 19–162, 19–185, 19–206, 61, L–16). For example, American Hoechst Corporation addressed the issue as follows (Ex. 19–88):

> The ten-gallon exception from the labelling requirement in subpart (d)(5) is also too restrictive. In continuous, as well as batch processes, fifty-five gallon drums or large mobile containers are used to transfer material within a plant. Employees are thoroughly trained in the handling of such materials and there is no need to label such containers. Any "need" for such labelling should be left to the discretion of the manufacturer.

In the final standard, OSHA has extended the ten gallon, immediate use exemption to any portable container which is intended for the immediate use of the employee, since the size of the container should not be the determining factor as to whether a label is necessary. The key factor is whether its contents are known to the employees exposed to them. It should be emphasized, however, that this labeling exemption is narrowly circumscribed. The final standard includes a definition for immediate use which indicates that it means the hazardous chemical will be under the control of and used only by the person who performed the transfer and only within the work shift in which it is obtained.

A number of participants also indicated that containers already

labeled in accordance with other Federal regulations should be exempted specifically from this standard. OSHA has addressed the overlap with other Federal regulations in the scope section of the standard and provides there for a labeling exemption for certain substances that are already subject to the labeling requirements of other Federal agencies. The only specific exemption which appears in the final standard under the labeling section states that labels applied to comply with the final OSHA standard shall not conflict with any labels applied in compliance with the regulations of the Department of Transportation. The rationales for these provisions are addressed in the discussion of the record under the scope and application portion of the preamble.

The most frequently addressed issue regarding labeling concerned the extent of in-plant labeling of process equipment. Numerous comments were received which indicated that labeling of reactor vessels and other stationary process equipment was neither necessary nor feasible. Some cited the situation involving batch processes where the chemicals in the process change frequently, and thus the employer could not reasonably be expected to update in-plant labeling with similar frequency (See e.g., Exs. 19 (43, 44, 46, 48, 52, 55, 58, 59, 60, 61, 62, 64, 67, 71, 73, 76, 111, 126, 158, 176, 196, 214): 61; 109; 136; 149; 164; 182).

In the preamble to the proposed standard, OSHA addressed this situation and solicited comments on the use of batch process sheets or similar documents as viable alternatives to labeling of equipment with in the workplace. This suggestion garnered considerable support from rulemaking participants. For example, Merck & Co., Inc. commented as follows (Ex.19–52):

> As noted in the background summary portion of the proposal, batch process operations would make labeling, tagging, or marking of process vessels impractical due to the frequent change in vessels contents. The posting of process sheets *in the process area*, which indicates the chemicals in the vessels during the process cycle and appropriate hazard warnings, appears to be a more practical allowance. Many of our chemical operations are batch processed. We have found this means of instruction and communication is very effective for our employees. A representative section from a process sheet shows a warning brief used before the operator is to handle the material:
>
> Soda caustic 25% (1–83462)
>
> Warning! Causes chemical burns. Do not get in eyes, or skin, or on clothing. Wear goggles and nitrometer mask, rubber gloves, and rubber apron when handling exposed liquid. In case of contact, flush affected area thoroughly with copious quantities of water for 15 minutes, then seek medical attention.
>
> Wear Goggles and Nitrometer Mask, Rubber Gloves and Rubber Apron. Adjust pH of batch to 7.5 to 7.7 with soda caustic 25%.
>
> Amount of soda caustic used ————.
> Final pH ——.
>
> Date ———— Time ————

Other participants in the rulemaking also submitted examples of their batch process sheets or similar forms (see, for example, Exs. 136 and 137).

Process instructions such as those quoted above from Merck & Co., Inc., provide the information necessary to ensure that the employee is informed. OSHA has determined in the final standard that such alternatives to in-plant container labeling should be permitted for all stationary containers, as long as they present the same information required to be on container labels, and are readily accessible to employees in the work area.

An additional issue raised concerning the labeling of in-plant processes involved labeling requirements for pipes and piping systems. The proposed standard specifically exempted these containers from labeling due to concerns regarding the feasibility and effectiveness of such requirements. Many of the facilities covered by this standard contain literally miles of pipes, and employees frequently do not even enter these areas except to perform maintenance or repair activities. Furthermore, in batch processes, the contents of the pipes change frequently (as was described in the discussion above dealing with other process equipment), and therefore accurate labeling of these pipes would involve frequent changing of labels as the batches change.

Industry representatives indicated that practicality determines whether labels are used on pipes and other stationary process equipment, or whether other systems will be used to communicate hazards (e.g., Ex. 19–91; Tr. 1004; 1099–1101; 1808; 2059–2060). For example, a representative of the Chemical Manufacturers Association testified (Tr. 1004):

> • • •A movable container certainly should be identified as it moves about the workplace, but a stationary piece of equipment need not always have to be so labeled.
>
> In many instances, there will be some form of identification on equipment relative to its contents, but in many other cases, there may be only a sign in the area, a symbol, a color code, or simply an operating procedure that outlines equipment contents and process flow covering chemical identifiers, hazards, protective measures, and the like.
>
> Some equipment contents vary from day-to-day, or hour-to-hour, and a reliance upon a sign or a label on something anywhere from one to a hundred feet up in the air would be risky at best, and impractical from an update, changeover point of view. Verbal communications are superior in this situation, coupled with operating procedures.

A representative of the American Iron and Steel Institute also expressed similar concerns (Tr. 2059–60):

> It becomes a practical impossibility in some cases to label something that's carrying molten metal. The label becomes ineffective in and of itself because to get close enough to the label to read it, you would be dead. You can't get that close • • • But to require us to label these things is almost nonsensical because it is so impractical. And if you require us to do it, we're going to have to go up to that label after each use and put back a new label, because the one will be destroyed.

The Chemical Manufacturers Association further elaborated on the determination of whether or not pipes should be labeled (Tr. 1101):

> It depends on the complexity of the operation, the number of pipes. It depends on whether there is a change of process ingredients, if you will, that flow through the pipe. It depends on whether they are designated systems. If we have say acrylonitrile running through a particular line, particular vessel, morning, noon and night, 365 days a year, I daresay you will see that prominently displayed.

A representative of the Teamsters Union also commented on the differences between fixed processes and those where the chemicals change frequently with respect to the appropriateness of labeling pipes (Tr. 2229–30):

> I think the timing of the change in the chemical composition of the vessel itself would probably be relevant to how feasible it would be to change the labeling to line up with the continuation of the process.
>
> If the chemical composition changed once an hour in a five-hour process in coming out with the final chemical, then, it doesn't seem unreasonable to me that since this is a fixed plant operation—it is not moving around—that you could come up with a system of changing the labeling as you went through the process. I am sure that there are other steps that have to take place to actually do the batch into the chemical that it is going the result in.
>
> Changing the label doesn't seem to be that onerous burden to reflect what is going on in the process. If the process is going to have five chemicals come through in 10 or 15 seconds in a process of coming to that end chemical, that presents a different issue and the utility of accurate labeling and changing labeling is going to be somewhat suspect.

Economics Laboratory, Inc., commented on the need to have flexible requirements to accommodate the needs of the various workplaces covered (Ex. 19–162):

As a general observation on the labeling requirements, we wish to state explicitly here the obvious fact that any employer has an abiding interest in the "sufficient" labeling of all containers, large and small, in the workplace. Worker protection and product integrity demand it. This standard would require hazard statements as well. This is most reasonable and practicable for dedicated containers and systems. Keeping such requirements simple and flexible, as we understand to be the intention of OSHA, will go far in promoting continued observation of any such standard.

It is clear that despite practical concerns with labeling, pipes may leak, rupture, or otherwise be involved in creating exposure situations, and thus employees need to be apprised of the hazards and any steps to take to protect themselves. In the proposed standard, employers would have been required to include in their hazard communication program the methods they would use to inform employees of the hazards of non-routine tasks, such as repair and maintenance of unlabeled pipes. For some employees, however, repair and maintenance of unlabeled pipes may be a routine task.

A number of participants in the rulemaking believe that labeling of pipes and piping systems should be included in the final standard (e.g., Exs. 19–112, 36, 60, 63, 64, 74, 108 and 131). For example, in their testimony in the public hearings, the AFL–CIO stated (Tr. 357):

* * *pipes and piping systems should be included in the definition of containers to assure the protection for many chemical workers at high risk from exposure to pipe ruptures, faulty valves, and maintenance activities.

In a joint-hearing submission prepared by four of the unions participating in the rulemaking, it was further stated (Ex. 180A):

Worker and union testimony indicates that many of the most serious exposures to chemical workers result from the rupture of unmarked pipes, faulty or blown valves and from maintenance operations on unmarked piping systems (Exs. 74, 160–2, Tr. 2563, 2579, 3603)* * *

It is difficult to comprehend, however, how labels could be read by employees when a pipe has ruptured, or a valve has blown. Under those conditions, it is likely that the label itself would be destroyed or obscured, and would have limited usefulness to the employee.

Although OSHA agrees that employees need to be informed of the potential hazards in dealing with pipes and piping systems, it is not necessary to require labels on all pipes and piping systems to accomplish it. Industry representatives indicated that a number of methods are used to ensure employees are apprised of the hazards in their work areas. For example, the Chemical Manufacturers Association representative cited above elaborated (Tr. 1005–6):

Personnel in each operation area, supervisor or chemical operator are familiar with the process equipment, piping and chemicals present. Most workplaces where hazardous substances are handled are off-limits to unauthorized personnel. If maintenance is required a line or a vessel must be opened. No work is done until the responsible operation person assures the maintenance personnel that the equipment is completely decontaminated and safe for access. Personal protective equipment is available and highlighted as necessary.

And the American Iron and Steel Institute representative indicated (Tr. 2059–60):

* * *We like to think of the use of other elements such as safe job procedures, placarding an area. The use of warning lights and sirens. The use of safety contacts to communicate to those workers the danger and the hazard with which they are faced.

The Dow Chemical Company indicated that all of their process equipment is labeled with a unique equipment number which may be cross-referenced to the appropriate material safety data sheet (Ex. 19–160). Vessels with a capacity greater than 5,000 gallons are also labeled with a National Fire Protection Association (NFPA) label. Dow further stated (Ex. 19–160):

Dow plant operations personnel are extensively trained to recognize the NFPA markings and to know the contents of all containers at various processing steps. We believe such training is more vital to safe operations than elaborate process equipment labels.

Economics Laboratory, Inc. commented on the fact that labels are sometimes not the most useful alternative for communicating hazards, since the equipment on which they are placed is located some distance from where employees are actually working (Ex. 19–162):

* * * There will be a desk or work station nearby where the mix sheet is kept as the formulation is assembled. We now use that sheet for hazard and equipment information, precisely because it is right where the workers need it when they need it. Even where mixers are used for several different products in a day, the mix sheet necessarily provides the correct identification.

Other testimony similarly indicates that in some cases, labeling will be done, but the requirement for communicating hazards in pipes should be adaptable to the many diverse plant situations (Mr. T. Evans, Monsanto, Tr. 1099–1100):

* * * [W]e have many plants that are, I won't say totally, but they are predominantly identified. We have some that have piping structures, such as the example I held up today, that would be an absolute nightmare and we would probably cause more trouble having people climb ladders and hang signs and identification on something like that than we feel is necessary.

In the final standard, OSHA is requiring employers to include in their written hazard communication programs the means they will use to apprise employees of the hazards of the chemicals in pipes and piping systems in the workplace, and the protective measures employees can use in the event of exposure situations. Employers will thus have the flexibility to use whatever means of communicating the hazards of the chemicals in the pipes and piping systems which they find to be most effective. Since MSDSs will be available in the work area in the event of an emergency, and employees will be trained as to the hazards and actions they are to take, this should provide the necessary protection.

Some of the participants in the rulemaking stated that OSHA does not have the authority to require manufacturers to label containers leaving the workplace (Exs. 19(47, 48, 54, 68, 72, 76, 91, 111, 116, 120, 147, 158); 109; 177). As was discussed in the preamble to the proposed standard, OSHA concludes that it does have such authority, and a discussion of the legal rationale for this finding can be found in the Legal Authority section of this preamble.

5. *Material safety data sheets.* In the proposed standard, material safety data sheets served as the primary vehicle for transmitting detailed hazard information to both downstream employers and employees. This focal role has been maintained in the provisions of the final standard.

A material safety data sheet (MSDS) is essentially a technical bulletin, generally two to four pages in length, which contains information about a hazardous chemical, such as chemical composition, chemical and physical characteristics, health and safety hazards, and precautions for safe handling and use. (e.g. Ex. 19–124). Although their use and availability is fairly widespread in the chemical industry, this is currently primarily a voluntary action since MSDSs are only required under OSHA standards in the maritime industry (29 CFR Parts 1915, 1916 and 1917). Some state right-to-know laws also require the availability of MSDSs (Ex. 16), but most of the sheets have been generated as a good business practice, rather than as a response to legal requirements.

Properly completed MSDSs serve as excellent, concise sources of information regarding the hazard of a chemical. Many participants in the rulemaking endorsed using them as a primary component of the hazard communication program, and cited their own successful use of them as support. For example, Armco, Inc. stated in their pre-hearing comments (Ex. 19–146):

> The OSHA proposal utilizes MSDS's as the primary means for transmitting comprehensive hazard information, instead of labels. Our experience has shown that MSDS's are better than labels for training employees in the safe use of chemicals. We agree with OSHA that employees can more conveniently examine and copy MSDS information for their own use.

Similarly, the National Association of Printing Ink Manufacturers stated: "Since the label is limited in the amount and detail of hazard information which it can contain, the MSDS serves as the source document and reinforcement of the information presented on the label" (Ex. 19–194). The Rohm and Haas Company elaborated on the MSDS's role as a source document by noting that: "Labels, placards, operating instructions, transportation orders, and other hazard communication documents should be based on and consistent with the MSDS" (Ex. 19–115). OSHA agrees, and anticipates that the MSDS will be the first part of a comprehensive program to be implemented, since both labels and training programs will be derived from the information generated for the MSDS.

The Shell Oil Company has designed its own MSDS form, and has utilized it as a primary part of their ongoing hazard communication program. In addition, it has prepared a "User's Guide" which explains the form and its contents in detail, including a glossary of terms (Ex. 19–124). As a result of experience with its MSDS program, Shell stated (Ex. 19–124):

> We strongly support the position taken by OSHA in this proposed rule that the employee's most thorough source of information about hazardous chemicals in the work area must be the MSDS. For several years we have been preparing MSDS's on our products and on process streams in our manufacturing facilities. We have well-developed procedures in place to prepare MSDS's which we believe represent responsible practice and fully meet the basic objectives of the proposed rule.

Some participants noted during the rulemaking that MSDSs have historically been difficult to obtain, and may be incomplete or inaccurate when finally received (Exs. 36, 46, 47; Tr. 98, 1395). Workers cited cases where they attempted to obtain an MSDS for hazardous chemicals in their workplace, but were either unable to do so or had to wait a significant period of time for the necessary information. For example, Jim Bryant of the United Steelworkers of America testified as follows (Tr. 3833–34):

> Just recently, we became aware of the fact that the company does have a record of safety data information and we have a right to ask for it. I think three months ago we asked for the safety data sheet information and they said they would check with it and get back with us.
>
> In our last month's safety and health meeting with the company, I was shown two copies of safety data sheets in which it had their brand name and their coded number and their formula, which they told me was their formula. I asked them at that time if it would be possible for us to obtain copies of this and they told me that they did not want to release that information due to their formula.
>
> I asked if there was any kind of a trade secret or what the problem was and they said they just didn't want their formula to be widespread. At that time, I told them, well, if they wanted to, they could block out the formula, the percentages wasn't that important, but we would like to know what was involved, what different chemicals were involved in the formula. And, the answer given to me was that they would think about it and they would try to work with us on it.

The Department of Defense, as well as downstream employers, also cited difficulties in obtaining MSDSs for products they purchased (Tr. 1377–78; 3680–81).

The adequacy of the information of the sheets when received was also discussed. Angela Oh, of the Los Angeles Committee on Occupational Safety and Health, reported (Tr. 3127):

> * * * we have found in our experience of requesting MSDS's that those data sheets are often inadequate in terms of information about a substance. And, we're talking about very basic physical properties of chemicals that are just left blank. People reading the sheets presume that there's no problem if nothing is written in.

Other participants submitted examples of inadequate MSDSs to the record to illustrate this point (e.g., Exs. 36, 74, and 101).

OSHA recognized the inconsistent quality and availability of MSDSs when the proposal was published (47 FR 12104). The fact that some employers do not voluntarily provide MSDSs, or that when provided the sheets may not contain thorough information, does not detract from the utility of an MSDS in a hazard communication program when it contains the necessary information and is readily available to employees and downstream employers. The provisions of this final standard are thus necessary to establish a requirement for MSDSs, and to ensure that all of industry matches the information transmittal practices set voluntarily by responsible employers. No participants in the rulemaking maintained that properly completed MSDSs are not useful sources of information.

The proposed standard placed the primary responsibility for preparing an MSDS on the manufacturer of the hazardous chemical. The rationale for this approach is that the manufacturer is most likely to have the best access to information about the product, and thus should be responsible for disseminating this information to users of the material. The downstream employers are free to undertake an independent evaluation of the chemical in question, but if they do so, would then assume responsibility for the adequacy and accuracy of the information they use.

This approach of placing the primary responsibility on the chemical manufacturer was supported by many participants. The American Iron and Steel Institute expressed the consensus of many manufacturers who use hazardous chemicals in their processes as follows (Ex. 19–207):

> The current proposal's provisions that chemical manufacturers be responsible for providing MSDS's to purchasers of hazardous chemicals is a greatly needed and indispensable addition. It makes much more sense in terms of total cost, time, and manpower to have the manufacturer prepare and supply MSDS's on its product for its customers rather than to have each purchaser develop its own. Manufacturers having the background chemical data at hand, are in a much better position than downstream employers to provide knowledge about the hazards and other pertinent information on their products. Conversely, users are in a better position for relaying and communicating this information to their affected employees through training and education.

The contention that the chemical manufacturers have the best access to information, and should bear the primary responsibility for preparing MSDSs, was not substantively challenged in the record. In fact, the Chemical Manufacturers Association stated: "* * * we recognize the desirability of having manufacturers provide MSDS's to their customers; indeed most chemical manufacturers currently do so" (Ex. 19–91). Similarly, the American Petroleum Institute noted that: "It is the responsibility of the chemical *manufacturer* to prepare a material safety data sheet for his product, and to make it available upon request to employer/user and as an employer to inform his employees of the hazards" (Ex. 19–111).

Another chemical producer who supported the assignment of responsibility to the manufacturer we Vulcan Chemicals. "As a chemical producer, we have developed and distributed material safety data sheets for our products and we concur that it is desirable for us to obtain MSDS's for the hazardous chemicals we purchase. However, we do not agree that each employer should *develop* an MSDS for hazardous chemicals purchased for use. The development of an MSDS should be the responsibility of the manufacturers of hazardous chemicals or products which contain hazardous chemicals" (Ex. 19–165).

While chemical manufacturers did not generally take issue with assuming responsibility for preparing the sheets, they did raise two objections to the requirements as proposed. First of all, they were concerned that the chemical manufacturer would be held responsible for providing information on the MSDS that only the downstream employer could know based on the specific use of the product, and secondly, many believed the MSDS should only be provided when requested, rather than being furnished automatically as proposed.

The first objection, concerning the provision of specific information in certain MSDS categories, resulted from a misinterpretation of, or a lack of clarity in, the proposed requirements. Employers such as Phillips Petroleum company believed that the proposal required them to know every downstream use of their products, and provide specific information on the MSDS related to that use. Phillips stated (Ex. 19–177a):

> Material safety data sheets are the most effective means of communicating technical and related data to employers who are chemical users. However, the data must be limited to general technical information concerning the chemicals or mixture and not attempt to be an assessment of specific hazards under every possible condition in a downstream workplace. Individual hazard communication programs must be tailored by each user employer.

OSHA agrees that the chemical manufacturer can only provide general information regarding certain items required to be on the MSDS. Nevertheless, this does not mean that the chemical manufacturer should not consider these categories, and provide as much information as the manufacturer has. Similarly, if the downstream employer has additional specific information that is applicable to a given category, the standard does not preclude addition of these data to the sheet to make it specific to that workplace. In any event, workplace-specific information must be incorporated into the training program required by the final standard.

A number of participants suggested that the categories in question, such as engineering controls recommended and procedures for decontaminating equipment, be deleted from the MSDS requirements (e.g., Exs. 19 (46, 54, 59, 76, 91, 162, 194, A–19). OSHA does not agree, since where available this information would be a valuable addition to the hazard communication program. Only control measures which are generally known to the chemical manufacturer or importer are required to be listed. Employers are not required to engage in extensive research to develop recommendations where information is not generally known. In the final standard we have attempted to clarify the extent of the chemical manufacturers' duty, and have indicated the responsibility of the downstream employer to contribute information when extant and appropriate.

It should also be noted that just as a chemical manufacturer cannot make specific control measure recommendations for unknown downstream uses, it also cannot accurately predict the hazard presented by the chemical downstream. Therefore, the chemical manufacturer must provide thorough hazard information, which would be applicable to a full range of reasonably foreseeable exposure situations, rather than limiting the information on the basis of presumed use. The downstream employer will then be assured of having the information reasonably necessary to make informed choices for control measures.

With respect to the second issue, under the proposed standard the chemical manufacturer would have been responsible for ensuring that an MSDS is provided with the first shipment of a hazardous chemical to another employer within the manufacturing SIC Codes. A number of chemical manufacturers objected to this provision, preferring that their customers request an MSDS from them. (See, for example Exs. 19–43, 19–84, 19–111, and 19–119). Two issues were involved in their rationales. One is that OSHA has no authority for requiring automatic downstream transmittal of material safety data sheets. OSHA concludes that the Agency does have such authority, and the legal rationale for this decision is discussed in the Legal Authority section of this preamble. The second is that manufacturers can maintain better control over the transmittal of the MSDS when it is only sent on request. For example, the Dyes Environmental and Toxicology Organization, Inc. submitted the following representative statement (Ex. 19–205):

> Paragraph (e)(5) directs manufacturers to provide their customers with an appropriate MSDS with their initial shipment of a hazardous chemical and with the first shipment after an MSDS is updated. This requirement is inappropriate, even on the assumption that OSHA has authority over downstream shipments of hazardous chemicals. For example, a manufacturer often cannot determine whether a particular shipment to a customer is the first shipment of the chemical to that customer. An MSDS sent with a shipment could well be directed to the wrong location so that the customer's employee responsible for maintaining MSDSs might not receive it. A better, more cost-effective approach is to require the manufacturer to have an appropriate current MSDS for each hazardous chemical it sells. The customer should have to request an initial MSDS, since the customer can best determine when a shipment is the first shipment and to whom the MSDS should be delivered. Therefore the manufacturer can mail updated MSDSs to the proper address.

In the final standard, OSHA has maintained the duty of the chemical manufacturer to provide downstream employers with an MSDS automatically when they purchase a hazardous chemical. The necessity for maintaining automatic provision of the MSDS is amply supported by statements in the record concerning the difficulties encountered by downstream employers in obtaining the MSDSs, and in follow-up time required to ensure their receipt. One difficulty in requiring downstream employers to request information is that they may not be aware that the chemicals that they purchased are hazardous, and that a material safety data sheet is available and thus should be obtained. The American Feed Manufacturers Association testified to this point (Ex. 35):

> Thousands of feed manufacturers are very small firms and most of them use large numbers of ingredients. There is no practical way for the average feed manufacturer to determine if one of the many products which he uses in his business is hazardous if he is not so informed by the supplier of the product.
>
> A downstream manufacturer must be able to assume that no health hazard exists or that the current MSDS is the one in effect * * *

Although small firms have special problems in requesting and obtaining MSDSs, large firms using literally thousands of hazardous chemicals also have significant problems with the "on request" system of obtaining the necessary hazard information. For example, the Motor Vehicle Manufacturers Association presented statistical information in their testimony

which indicated the problems encountered by large companies in obtaining this information despite the significant marketplace pressure they may exert due to the quantities of chemicals they use (Ex. 102):

> MVMA members have experienced varying response to requests for MSDSs. One member company has compiled data on their experience in obtaining MSDSs. The first slide represents the time from the first request made to a supplier to receipt of a response either with or without an MSDS. It can be seen that this can vary from three days to seven months. A second request was usually made within six months.
>
> If multiple requests are made, the response time can extend up to two years, at which time no further requests are made or an alternate supplier has been found.
>
> The next slide indicates that percentage of suppliers responding to requests for information. These figures show that even after four or more requests, almost ten percent of the suppliers had not responded to requests for an MSDS.
>
> The next slide presents figures on chemicals in one member company's inventory. There are 10 to 20 thousand chemical products in inventory. Based on an analysis of 1800 chemicals, there is an average of 5.4 chemicals/product, with a range of from one to twenty-seven. Multiple requests for information or the employer's attempt to obtain information independently on this number of substances would be unduly burdensome. As a result, MVMA feels that the standard must require the inclusion of an MSDS with the first chemical shipment. Since the MSDS is the key element of this proposed standard, MVMA emphasizes the fact that the downstream employer who purchases chemical products cannot obtain as required in the proposal, and MSDS from the chemical manufacturer if the manufacturer chooses not to provide one. Where the required MSDS is not supplied, the purchasing employer can only make a request to the supplier.

OSHA's draft Regulatory Impact Analysis prepared for the proposed standard also demonstrated the cost-effectiveness of automatic transmittal versus an "on request" approach. Since downstream transmittal with the initial shipment is the most cost-effective means of ensuring that downstream employers receive the necessary information, OSHA has concluded that the evidence presented warrants maintaining the proposed provision requiring chemical manufacturers to send the MSDS at the time of the first shipment.

One clarification has been made to the requirement, however, to respond to that part of the arguments which deals with the possibility of sending the MSDS to the wrong person if it is attached to the shipment. The proposed standard's provision concerning downstream transmittal was not intended to imply that the MSDS had to be physically attached to the shipment to comply, as was interpreted by some commenters (e.g. Exs. 19 (8, 48, 54, 55, 117, 124, 147, 162, and 167). The chemical manufacturer may mail the MSDS to the downstream employer, and direct it to any appropriate recipient on the downstream employer's staff. However, it is also possible that attaching it to the shipment may be the preferred means of transmittal in some cases. Some testimony in the record indicates that in the near future, MSDSs may be transmitted to customers via computer link-ups (Tr. 2276; 2341). OSHA is specifying that the information be sent, but not the manner in which it is to be transmitted.

Much of the material in the record addressing material safety data sheets concerns the information to be included in the documents. As discussed above, a number of comments were received suggesting that the requirement for providing information on engineering controls and equipment decontamination procedures, etc., be deleted. (See, for example, Exs. 19–46, 19–59, 19–91, 19–111, and 19–169). Since OSHA maintains that this information, where available to the manufacturer, should be included on the sheets for the use of employees and downstream employers, we have chosen to modify these requirements by indicating that the information to be provided may be stated in general terms rather than to delete them altogether.

A number of commenters similarly suggested that the requirement to include medical conditions which may be aggravated by exposure be deleted. For example, Mobil Oil Corporation stated. (Ex. 19–59):

> While there are examples of underlying medical conditions which would warrant special consideration regarding exposure to a toxic substance, e.g., a worker with underlying kidney disease working with lead, the requirement as proposed in not realistic or achievable. Information regarding the effects of toxic exposure on underlying medical conditions is available only for a very small number of substances.
>
> The employer therefore would be placed in the position of listing theoretical possibilities for which minimal or no supportive data are available. Thus, judgments of whether there could be aggravating effects for every possible medical condition for the most part would be speculative even for the well trained occupational health professional. Requiring every employer to make such determinations is totally unwarranted.

OSHA proposed this requirement to elicit just such information as that cited by Mobil involving workers who have kidney conditions and are to be exposed to lead. This type of data needs to be included on a material safety data sheet when it is know. OSHA does not expect, or require, the MSDS preparer to engage in a speculative activity to predict every type of medical condition which may be aggravated by exposure to a hazardous chemical. However, the utility of the information when available cannot be denied. For example, the Refractories Institute also objected to including such information on the sheets. However, when questioned regarding the usefulness of knowing an employee who was to be exposed to silica had an existing respiratory condition, they testified (Tr. 4072):

> That's one example. We feel that workers exposed to silica should not smoke. I think this has been well established that it aggravates the effects of inhaling silica . . .

Thus, OSHA has maintained the requirement, although it has been clarified in the text of the standard that the information to be included is that which is generally recognized concerning the hazardous chemical in question.

In the proposed standard, the MSDS served as the primary source for information about the chemical identity of the hazardous chemical, and in the case of mixtures, required a listing of those ingredients which were found to be hazardous. The proposal also required CAS Numbers for the chemical or chemicals involved, as well as any applicable common names, including the identity used on the label.

Some commenters thought that the common names or label identity should suffice (Exs. 19–54, 19–71, 19–115, 19–158, and 19A–19). The purpose of providing the chemical identity of the chemical(s) is to provide access to the scientific literature. In most cases, what is considered to be a common name will not serve this purpose (e.g. Tr. 2225). However, as discussed previously under definitions, in some instances a name is commonly used for a chemical which is not a precise chemical identity, but is used in the literature. Thus, using the common name will permit access to the information in the scientific literature. The definition of "chemical name" has been modified to permit this type of designation as appropriate. Other than this clarification, the duty to provide both chemical and common names is maintained as a necessary feature to ensure that employees and downstream employers can make the link between the commonly used designations and the proper chemical identity used in the scientific literature.

A number of comments were also received concerning the requirement to

provide CAS Numbers for the hazardous chemical(s) (for example, Exs. 19–59, 19–76, 19–85 and 19–91). Some pointed out that CAS Numbers are not available for most mixtures. This is true, but the provision was proposed anticipating that CAS Numbers would be provided for the hazardous components of the mixture in question. In addition, some of these commenters suggested that having both the chemical name and the CAS Number on the MSDS is redundant, and that having one would be sufficient to serve the purpose. OSHA agrees with this point. Where available OSHA believes that the CAS Numbers do provide useful information. However, the requirement to list them has been deleted to accommodate the concerns expressed regarding duplicative information.

One other suggestion made by several participants was that it may be more appropriate to provide the name and address for the preparer of the MSDS, or responsible party, rather than the manufacturer (Exs. 19–84, 19–109, 19–144, 19–158). The rationale for this suggestion was that in some cases, if a user of the MSDS is looking for additional information, the original manufacturer may not be the proper contact point. We have modified the standard to allow a "responsible party" to be named on the sheet, by which we mean that the name and address should be for someone who can provide clarification of the information on the MSDS, or additional information if necessary, in lieu of the manufacturer.

One other suggestion made by an interested party was that information should be provided concerning available exposure limits in addition to the required OSHA permissible exposure limit (Ex. 19–71). We agree that such information would be useful, particularly the Threshold Limited Value (TLV) recommended by the American Conference of Governmental Industrial Hygienists (ACGIH), or any exposure limits recommended by the manufacturer, and have included such a requirement in the final standard.

Various other suggestions for information to be included were made by interested parties, such as requiring composition percentages and information needed to comply with other Federal laws (Ex. 19–109). Although these suggestions may provide useful information in some situations, OSHA has determined that they are not necessary to protect employee health. Employers are free to include such information if they wish.

The proposed standard required material safety data sheets to be updated within a reasonable period of time following the manufacturer's becoming aware of any new and significant information concerning the health hazard of a hazardous chemical. The proposal did not specify a particular time period for adding this information to the MSDS. OSHA anticipated that to comply with this standard manufacturers would maintain a current awareness of the hazard information related to the chemicals produced in their facilities.

A specific time period was not established because many manufacturers with batch processes change their products frequently, and may not produce a given product for another year. In that case, it would be reasonable not to prepare and send out updates of the MSDS until the product was being made and sold again. For manufacturers with continuous processes and a stable product inventory, a reasonable time might mean a much shorter period. A number of participants suggested that OSHA specify what is meant by "reasonable" and include a specific time-frame in the final standard (e.g., Exs. 19–40, 19–172, 19–193, 123, 125, 131, 180, L–6). The time periods recommended varied, but we have decided that three months is a reasonable requirement for adding new and significant information to the MSDS. If the product is not currently being produced in the workplace, the information must be added before the chemical is used again.

Another issue of concern to participants in the rulemaking involved blank spaces on material safety data sheets. The proposal required chemical manufacturers to mark the MSDS when no information was found for a given category. The chemical manufacturer would be free to use whatever marking seemed appropriate—not applicable, not available, etc. In order to allow existing, properly completed MSDSs to continue to be used, OSHA stated that until such sheets are updated and marked as required, they would be assumed to mean information was sought but not found. It would thus be the manufacturer's responsibility to ensure that this interpretation is accurate. In other words, the manufacturers with sheets that have not been properly researched before completion were not being exempted from providing complete information by allowing blank spaces for an interim period.

The intent of the proposal was to eventually eliminate the practice of having blank spaces on MSDSs. Downstream recipients cannot be assured that each category of information was properly considered by the manufacturer in completing the sheets if blank spaces are permitted. The Conservation Foundation in its report addressed the need to mark blank spaces as follows (Ex. 18–2):

> • • •(I)f an LD50 acute toxicological test result is not reported on an MSDS, the reader cannot know definitively whether the information is unavailable, omitted by error, or simply not disclosed. Similarly, the absence of information on carcinogenic or mutagenic testing might lead the reader to infer that test results are negative, when actually these results may not be available, or the manufacturer may have omitted the information either accidentally or deliberately. For certain important classes of information, whatever results are available should be presented; otherwise, the statement "not available" or "unknown" should be entered on the form.

Some respondents believe that permitting this practice will encourage some manufacturers to continue distributing inadequate MSDSs. For example, in a joint post-hearing comment submitted by the AFL–CIO, ICWU, UAW and USWA, it was stated (Ex. 180A):

> Specifically, under the proposed standard the agency indicates it would assume that blank spaces on a data sheet meant that a manufacturer had searched for the required information and that such information was not found. However, the record is replete width testimony showing safety data sheets are typically incomplete, failing to reflect known information (Tr. 102, 112, 187, 389, 567, 1052, 1357, 1902, 3090, 3163, 4014, 4099, 4153). Under the OSHA proposal, allowance of blank spaces would, in practice, permit continued use of these incomplete sheets.

Other participants objected to this particular provision because they believed it increased the liability of the receiving manufacturer to an unacceptable degree. The Adhesive Manufacturers Association indicated that (Ex. 19–156):

> The discussion relating to blank spaces on MSDSs concerns AMA. Blank spaces create the potential for unnecessary liability problems. If through some clerical or administrative error a space is left blank, someone could mistakenly assume that no hazard is associated with the particular listing. The use of some term such as "not applicable," "unknown" or "not relevant" would ensure better protection for the manufacturer, downstream receivers and workers.

Conversely, some employer representatives believed that interpreting the blank spaces as meaning information was sought but not found placed an undue burden of responsibility on the manufacturer distributing the sheet. For example, the National Paint and Coatings Association wrote (Ex. 19–62):

* * *Such an interpretation is unfair and unwarranted in the context of the purpose of the MSDS which is to honestly convey useful hazard information. In addition, it fails to recognize human frailty and the likelihood of an inadvertent omission due to clerical error. To presuppose that the mere presence of a blank space is per se evidence that information was sought and not found places an overwhelming burden of absolute perfection on the preparer. Certainly a chemical manufacturer is responsible for the completeness and accuracy of the MSDS and will strive to assure that any omissions or errors are readily corrected* * *

In the final standard, OSHA has merely required that when there is no relevant information for a given category, the chemical manufacturer or importer should mark it appropriately. This should serve the original intent which is to eliminate eventually the practice of having blank spaces on distributed MSDSs. Marking the MSDSs will give extra assurance to employees and downstream recipients that all available information has indeed been included on the sheets.

Several commenters endorsed the use of OSHA's current Material Safety Data Sheet, Form 20, as a standard format for MSDSs (Exs. 19–46, 19–82, 19–98, 19–135, 19–160 and 19A–37). OSHA has determined that in keeping with the performance nature of this standard, a specified format or form should not be required, as long as the necessary information is provided. A number of companies have developed their own formats which they find most useful for their own facilities (e.g. Ex. 19–124). Anyone wishing to use the Form 20 may continue to do so, as long as they ensure that all of the information required by this final standard is provided.

Some participants also suggested that employers be permitted to prepare a single MSDS for a group of related chemicals or mixtures when the hazards do not vary significantly (Exs. 19–57, 19–63, 19–124, 19–194, and 19–209). OSHA has adopted this suggestion in the final standard, and allows one MSDS to be used for similar complex mixtures in certain situations.

6. *Employee information and training.* The final component of the comprehensive hazard communication program proposed by OSHA is employee information and training. Under the provisions of the proposed standard, the employer would be required to provide employees with training about the nature of the hazards they work with, and protective measures to be taken, at the time of initial assignment, and whenever a new hazardous chemical is introduced into the workplace.

Training serves to explain and reinforce the information presented to employees through the written mediums of labels and material safety data sheets. Labels and material safety data sheets will only be successful when employees understand the information presented and are aware of the actions to be taken to avoid or minimize exposure, and thus the occurrence of adverse effects. Training is critical to effective hazard communication—it is the forum in which hazard information can best be presented in such a way as to result in workers taking protective action, and thus decreasing the possibility of occupationally-related chemical source illnesses and injuries.

Richard Fleming, in an article which appeared in the *Toxic Substances Journal* dealing with the employer's responsibility for informing workers, addressed the need for training as follows (Ex. 18–8):

> In the highly developed and specialized modern workplace, there is usually very little of the new worker's prior experience in the more normal outside environment that sensitizes or trains him or her to perceive the hazards present. Furthermore, a number of these hazards may in fact be imperceptible to the ordinary senses, or even to common sense.
>
> There is, then, no substitute for direct, specific information about the special and inevitable hazards confronted by a worker in a new work assignment. Nothing short of specific knowledge and experience in carrying out the job and the circumstances surrounding it can fully teach the safety needs of that job. It may take more than this, but it cannot take less. Thus, a new worker must rely on adequate and appropriate information and training from those who know the job best * * *.

The record contains considerable support for the concept of employee training programs, and endorses the need to include such requirements in the final standard (see, for example, Exs. 19–11, 19–48, 19–51, 19–119, 19–146, 19–207, L–1, 182, and 19A–18). Individual workers testifying as members of panels during the public hearings provided extensive support for the need and usefulness of training regarding workplace hazards. For example, the following testimony was presented by members of the United Steelworkers of America:

> I think the education part of it has a lot to do with it because we had people that were using solvents and there was warning labels on it. The warning label said "Caution: Hazardous Substance. Do Not Get on Your Skin. Do Not Breathe Excess Amounts of it," and the people, they washed their hands with it and they breathed it and everything else until we told them what it was doing to them, how it was affecting their liver and was possibly a carcinogen.
>
> Since then, our people don't wash their hands with it anymore and now they take the precautions—once they are provided with the proper information of what it actually could do to them, then they care.
>
> (Foster, Tr. 973)
>
> * * * Workers are human. They don't want to lose their hearing, or vision or ability to breathe or anything else and I think the big thing lies in education, proper education.
>
> I think you folks ought to give it serious thought in promulgating any standard to put the burden and responsibility where it belongs, on the employer, to ensure that you have adequate training and education programs in relation to the hazards associated with any chemical.
>
> * * * It really falls into the court of the local union in many cases to ensure that they advocate training and education programs. It shouldn't have to be, it should be mandated by law that all employers are responsible for that type of program.
>
> (Brown, Tr. 973–74)

Employer representatives were also enthusiastic in their support of the need for training provisions in the final standard for hazard communication. The American Iron and Steel Institute stated that (Ex. 19–207):

> Employee education and training is a critical link in the successful implementation of any hazard communication regulation; without it, such a rule would be ineffective. AISI believes that the education and training provisions included in the current proposal are vital to the implementation of a complete and effective Hazard Communication Standard * * *.

Similarly, the American Textile Manufacturers Institute also endorsed the need for training provisions (Ex. 19–60):

> The most serious shortcoming of the earlier proposal lay in its failure to accept the importance of training. There was no way for the extensive specification detail to have overcome the training omission. Indeed, training must be at the center of any occupational program for dealing with hazards in the workplace. Every workplace has its own peculiar characteristics around which a training program must be designed and flexibility is needed depending upon their variety and degree of hazard. Thus can every worker be made to understand and be aware of the potential hazards he faces and learn to treat the chemicals he handles with the respect they are due.

The American Chemical Society, a professional organization, supported the inclusion of employee training as well (Ex. 19–206):

> The American Chemical Society believes that the use of good work practices is a very effective way to reduce chemical exposure risks. The responsibility to insure such practices lies with both the employee and employer. Good work practices can be maintained best through employee training

and safety programs. Training programs should apprise employees of: (1) potential hazards to which they may be exposed; (2) methods of protection; (3) the employee's role in reducing potential exposure; and, (4) employee rights and responsibilities under the standard.

Union representatives supported the concept of employee training, but were concerned that the training would not be adequate for purposes of hazard communication. For example, in a post-hearing submission from the AFL–CIO, ICWU, UAW and USWA, it was stated (Ex. 180A):

> Without question, effective training on workplace chemicals is an important part of a comprehensive hazard communication program. Workers and unions support and welcome meaningful training (Tr. 2518, 2530, 2541, 2551, 3390). Indeed, training on workplace chemicals is a major part of union health and safety activities (Exs. 49, 58, 74, 80, 90, 101, 107, Tr. 2550, 3390). However, the record clearly shows that, despite employers' claims to the contrary, meaningful training programs conducted by chemical manufacturers and employers are rare. Training on workplace chemicals is absent entirely or conducted by Supervisors who themselves have little information, as part of meaningless safety talks, "tool-box" talks, or "tail-gate" talks (Tr. 745, 1899, 2554, 3107).

The unions further stated that since, in their opinions, training efforts by industry have been inadequate to date, OSHA should ensure that training provisions in the final standard not be used to supplant other requirements. In particular, they believe that the disclosure of chemical identities of substances in the workplace is the only assurance workers will have of obtaining complete information on the hazards.

As previously stated, OSHA considers training to be one of three vital components in a comprehensive hazard communication program. No one of these three components alone—labels, material safety data sheets, or training—can be demonstrated to be completely effective in communicating hazards. Therefore the final standard has not been designed to use the training requirements to supplant the other aspects of the hazard communication program. The purpose for having training provisions in the hazard communication standard is to establish minumum information requirements for these programs, and to help ensure that all employees will receive the information they need. As with the MSDS requirement, the fact that existing training programs are sometimes inadequate of non-existent simply demonstrates the need for having a comprehensive standard to require that such programs are implemented, and that they meet established criteria.

There is evidence in the record to support OSHA's contention that effective hazard communication, and particularly training, reduces the potential for chemical source illnesses and injuries. For example, the Ethyl Corporation established a pilot program to reduce lead exposures in employees, as measured by lead levels in their urine and blood (Ex. L–8). They instituted a comprehensive training program on the industrial hygiene aspects of lead exposures, and included means to motivate employees to use good work practices to reduce their exposures. Over the twelve months of the program, urine lead levels decreased by 40% and blood lead levels by 24%.

This reduction in exposure, as measured by biological monitoring, was attributed to the employee motivation techniques employed during the training program. The Ethyl Corporation is now expanding this program to other employees, and considers their training to be a cost-effective and proven method of reducing exposures.

Teamsters Local 2707 testified during the Los Angeles session of the public hearings that, following training they presented on hazardous chemicals to employees of World Airways, the illness and injury incidence rate decreased nearly 30 percent. Ms. Nancy Garcia Stated (Tr. 2826):

> The employer found a significant decrease in the number of injuries and illnesses, and I think that part of that has to do with an awareness on the part of the employees of the chemicals and of the nature of the hazards in the workplace.
>
> I think the more information you can give to people, the better informed they're going to be, the more responsible they're going to be, in both the employer and the employee.
>
> We expected some good results, but we didn't expect the 30 percent decrease.

Local 2707 provided further information regarding their training program, and the change in incidence rates, in a post-hearing submission (Ex. 153). From 1980 to 1981, the injury/illness incidence rate dropped from 26.7 to 20.65 for World Airways. Another employer who did not undertake such a training program with the union experienced an increase in their incidence rate during the same time period.

During the public hearings, OSHA asked members of a United Steelworkers worker panel to describe what types of training they thought would be appropriate and effective. They replied as follows:

> • • • we need some type of scare tactic to the workers to let them know right across the board the danger that's involved in the chemicals and as far as the training program is concerned, I think that the company should have these training programs on a regular basis and not one that is brought up simply because of an investigation or something of this nature.
>
> (Guilbeau, Tr. 2552)
>
> I'd say a formal training program, periodic retraining, you know, slide shows, what I would call perhaps based on a blood and gut film, you know, here is a picture of what it will do to you type thing of what the chemical will do to you, stuff like that, and information—what you call a training program, you know, more or less, scare the people or something like that so they'll never live with that stuff.
>
> (Phillips, Tr. 2552)
>
> Well, I'm in full agreement with the training. You can take any label you want to and no matter how good that label is, you know, people have a tendency to look over these labels like the one that is on these cigarettes right here. The Surgeon General has determined that • • • . There are millions of Americans that have overlooked that every year.
>
> You take them same Americans, take them out and show them a good blood and gut film, give them first hand experience on what it will do to a lung or a heart or whatever, you know, that will change their minds. Training is the only way and retraining.
>
> (Walters Tr. 2553)

These statements indicate that employees could assist their employers in designing training programs which will accomplish the desired effect of modifying worker behavior. Employee assessments of training and other hazard communication program elements can provide good feedback to the employer in terms of qualitatively assessing the effectiveness of the information transmittal. Some employers are already using such evaluative tools. For example, PPG Industries, Inc. included in their submission some comments received from workers concerning their program (Ex. 19–85). In addition, the Hazardous Materials Identification System (HMIS) devised by the National Paint and Coatings Association (NPCA) includes a quiz to give employees which can objectively ascertain whether the presented information has been understood (Ex. 18–5).

The proposed provisions were performance-oriented, listing the categories of information to be transmitted to employees, but not specifying how this was to be accomplished. A number of participants endorsed this flexible approach (see Exs. 19–64, 19–67, 19–91, 19–176, 19–210, 167), while others suggested that the requirements should be more specific (Ex. 19–89, Tr. 2270–71). OSHA has made minor modifications to the

requirements in response to specific comments, but in general, the training provisions are largely the same as those proposed. In particular, the final standard expressly requires employers to train employees regarding protective practices implemented in their workplace, and specifically states that employers must explain the labeling system used and how to obtain and use material safety data sheets.

Several participants suggested that training should be given when the hazard changes in the workplace, rather than each time a new chemical is introduced. Since in some facilities chemicals change frequently, retraining would be done almost constantly, even though the actual hazard of the operation does not change. (Exs. 19–45, 19–63, 19–67, Tr. 1316–17). Similarly, other commenters suggested that due to the large number of hazardous chemicals in some work areas, the employees should be trained on the hazards of the process or operation, rather than specific chemicals (Exs. 19–188, 19–201, 19A–18, 19A–19). This suggestion has been incorporated into the final standard. However, specific information still must be available to employees for each hazardous chemical on the material safety data sheets.

Other participants suggested that periodic retraining be provided (e.g., Exs. 19–114, 122, 131). Although OSHA would certainly encourage employers to provide retraining if they wish to, the greatest need for training is prior to initial assignment, and when the hazard changes, requiring the employee to be aware of new procedures or protective measures. Since the employees will always have visual reminders of hazards in the form of labels, and will have ready access to detailed sources of hazard information (the MSDSs), these should serve to reinforce the information provided in initial training and the sessions provided when the hazard changes.

7. *Trade secrets.* One of the most difficult policy questions raised by this standard involves the treatment of hazardous chemicals that are considered trade secrets by the chemical manufacturer or employer. The general policy of OSHA reflected in this rule is that the interests of employee safety and health are best served by full disclosure of chemical identity information. OSHA acknowledges, however, and the record in this proceeding fully supports, the critical need to protect trade secret information because the economic well-being of the employer and its employees may be dependent upon the protection of such information, and once lost, its value as a trade secret cannot be recaptured. For these reasons, OSHA has a special responsibility to strike a particularly fine and creative balance in order to accommodate both the health interest in limited trade secret disclosure and the economic interest in trade secret protection. As discussed below, we believe that the record has pointed the way toward achieving this twin goal while minimizing any potential conflict between the two competing interests. It does so by permitting OSHA to narrowly define the circumstances under which specific chemical identity must be disclosed and to authorize the use of confidentiality restrictions that are necessary to protect the value of the trade secret to its holder. Both aspects of the rule are essential to the establishment of a responsible trade secret disclosure policy.

As a legal matter, OSHA has consistently taken the position that the Act requires OSHA to balance and accommodate employee occupational safety and health with the protection of trade secrets (45 FR 35248–51; 47 FR 12107). OSHA's basic legal authority to carry out this mandate has been upheld in a District Court decision, *Louisiana Chemical Ass'n et al.* v. *Bingham, et al.*, 550 F. Supp. 1136 (W.D. La., 1982) the appeal of which is pending in the Fifth Circuit Court of Appeals (No. 83–4099).

Implementation of this legal authority in the context of particular rulemakings is largely a matter of policy discretion. There is no one scientifically correct way to balance the competing interests. OSHA first faced this regulatory dilemma when it issued its rule on access to employee exposure and medical records, 29 CFR 1910.20. The records access rule took the approach of requiring the disclosure of all chemical identities to employees and their designated representatives, as well as their levels of exposure and health status data regarding "toxic substances", regardless of any trade secret claims. However, it permitted the conditioning of access to such information on the signing of confidentiality agreements, as well as the withholding of any trade secret process or percentage of mixture information. At the same time, OSHA expressly stated that the confidentiality agreement requirement was not intended to authorize the employer to demand penalty bonds or agreement to liquidated or punitive damages provisions. 29 CFR 1910.20(f); 45 FR 35274–75.

Responding to concerns expressed by industry representatives that the records access provisions were not sufficiently protective of trade secrets, OSHA's approach to trade secret disclosure in the hazard communication proposal was modified in several respects. First, a distinction was drawn between "high chronic hazard" chemicals and other hazardous chemicals with respect to the employers' duty to disclose their specific chemical identities. Second, a distinction was made between treating physicians and others with a "need to know" with respect to their access to trade secrets. Third, OSHA expressed its neutrality with respect to the terms of confidentiality agreements by not including a prohibition on the use of "reasonable" penalty bonds, liquidated damages provisions, and the like. This latter proposal had previously been the subject of a proposed modification to the records access rule (46 FR 40492), but was subsequently merged into the overall reconsideration of the records access rule in recognition of the fact that the issue of confidentiality agreements cannot be viewed in isolation from related issues (47 FR 30429).

Thus the hazard communication proposal permitted an employer to withhold precise chemical identity from anybody other than a treating physician if the employer could "substantiate that it is a trade secret" and that the chemical was not a "carcinogen, mutagen, teratogen, or cause of significant irreversible damage" for which there is a "need to know" the precise chemical name. When withholding such identity information, the employer was required to identity the chemical by a generic chemical classification which would provide useful information to a health professional and to disclose all other information required on the data sheet. When trade secret information was to be disclosed, the employer could condition employee, designated representative, and downstream employer access to such information upon acceptance of a "reasonable confidentiality agreement" which could "provide for compensation or other legally appropriate relief."

A number of commenters expressed general agreement with the approach taken in the proposal, although not without reservations in some cases (Exs. 19–40, 19–62, 19–65, 19–69, 19–73, 19–79, 19–91, 19–116, 19–119, 19–135, 19–146, 19–188; Ex. 182; Tr. 1318, 2023). However, the trade secret issue remained an area of great controversy and wide disagreement. Several employers stated that the proposal was insufficiently protective of trade secret interests (Exs. 19–44, 19–63, 19–87, 19–115, 19–155, 19–

165, 19–168; Ex. 177, 179). This view stemmed primarily from a belief that protecting trade secrets is of paramount concern to a chemical manufacturer, and essential to maintaining a viable business. The Chemical Manufacturers Association, while generally supportive of the proposal's basic approach, stressed the importance of trade secrets to them:

> Protection of trade secrets is essential to the chemical manufacturing industry. In the industry, formulations and the techniques for making them are an essential part of a company's edge over its competitors.
>
> The research that is required for the development of new chemicals and mixtures will be undertaken only if the results of the research are protected from competitors to permit a return on the investment in research.
>
> (Ex. 19–91)

> Numerous chemical manufacturers, as well as other companies and trade groups within the coverage of this proposed standard, have testified to the importance of trade secret protection to them. While it is difficult to attach a reliable monetary figure to this protection, there can be little doubt that the protection of proprietary information is of paramount importance. Indeed, the very existence of the extensive legal protection afforded under the patent system and trade secret law attests to the importance of encouraging research by permitting those who develop a new product to obtain financial rewards from the sale of that product.
>
> (Ex. 182)

The need for greater protection of trade secrets was particularly expressed by some manufacturers in specialized lines of business:

> For [a chemical speciality] manufacturer, its trade secrets may constitute its most valuable assets. Such trade secrets usually cannot be protected by patents. Were the rule to require revelation of trade secrets to customers, confidentiality agreements would not preclude the customers from switching to other sources of the same products which bear no development costs, resulting in irreparable injury to the manufacturer. * * * [or] from reverse engineering the competitive product, also injuring the manufacturer * * *.
>
> By insisting on revelation of trade secrets, the proposed rule substitutes a requirement to provide information for a mandate to communicate hazards. Unless OSHA can adequately restrict its exclusion from trade secret protection to circumstances where identified persons have a need to know directly related to employee safety health, OSHA should not require that trade secrets be revealed to anyone except physicians (and then on a confidential basis).
>
> (SOCMA, Ex. 19–44)

> * * * formulas cannot be safeguarded once they are disclosed * * * Both [the flavor and fragrance] industries rely heavily on their abilities to maintain the secrecy of valuable product formulas that are painstakingly developed over long periods of time and at great expense. It is no exaggeration to say that these secret formulas are the primary assets of the industries * * *. Trade secret information should be disclosed [only] in those cases where there is a significant hazard to workers and the disclosure will significantly alleviate the hazard.
>
> (D. Thompson, Flavor and Extract Manufacturers Association, Fragrance Materials Association, Ex. 27–15)

> Basic chemicals are generally marketed under their chemical name. There is very little need for restriction or secrecy regarding the chemical identity of these products. In chemical mixture formulations, however, the ingredient information is the crucial trade secret, very often the only trade secret. In mixtures, it is the synergism, antagonism and overall blend of chemical and physical properties of specific chemical substances in specific ratios that give the mixture unique properties and allows it to function as desired. This specific formulation of a firm's product is the key to its competitiveness in the marketplace. Once the chemical ingredients have been ascertained, formulation is easily duplicated. For this reason, disclosure of the chemical ingredients destroys the secret or confidential nature of this specific product formulation * * *. Because without trade secret protection the chemical identity disclosure provision would unduly jeopardize trade secrets of a small chemical processor like Master Chemical, this protection must be provided for in any final rule.
>
> (Master Chemical Corporation, Ex. 19–87)

By contrast, unions and other employee advocates approach the trade secrets issue from an opposite perspective. In general, they argue that to achieve the occupational health goals of the standard, all chemical identities must be disclosed to employees and their designated representatives, subject only to the kinds of basic confidentiality agreements permitted by the records access rule when *bona fide* trade secrets are involved. (Exs. 19–172, 19–175; 122; 123; 168; and 180A; Tr. 305, 612, 1647, 1838, 1938, 2092, 2235, 2643, 2693, 2934, 3057, 3105, 3279, 3602, 3640, 3788, 3978, 4031, 4107). These representatives contend that the trade secret provisions would inadequately protect employee health interests because they maintain that specific chemical identity rather than hazard warning information is the essential ingredient of a hazard communication standard (AFL–CIO, et al., Ex. 180A):

> While the two are inextricably linked, chemical identity is the key—you cannot get chemical identity from a hazard warning, but the chemical identity will provide you with access to hazard information.

Viewed from this perspective, the proposal "improperly subordinates worker health interests to employer trade secret claims" because "for those chemicals deemed trade secrets, specific chemical identity may be withheld, subject to certain conditions, even though the employer has determined that the chemical is hazardous." (AFL-CIO et al., Ex. 180A, p. 55).

Downstream employers who purchase chemicals from chemical manufacturers and are dependent on them for chemical identity information generally expressed views similar to the unions' with respect to their own need for access to trade secret identity information:

> * * *a manufacturer should not be allowed to withhold the chemical identity of any chemical which "contributes substantially" to the hazards of a mixture and for which there is a need to know the specific chemical identity in order to provide a safe workplace. Downstream employers, for example, may need to know the specific chemical identity of an ingredient in order to monitor the level of airborne contaminants. This would be true even if the ingredient does not fit the description listed in subsection (g)(1) (ii) [for "high chronic hazards"].
>
> (American Paper Institute, Ex. 1973)

> We feel that the latitude provided chemical manufacturers in identifying most chemicals by the broad generic chemical classification will substantially hinder the efforts of safety and health professionals to determine the requirements for safe usage of specific products.
>
> It is commonly accepted that both the product constituents and the method of application are equally important to determining the potential hazard posed by a particular product. By withholding specific identification of chemicals in lieu of generic chemical classifications, the user's hazard evaluation process can be severely compromised. Some chemical manufacturers have contended that the use of generic classifications, in conjunction with their assessment of the potential hazards, would provide sufficient information for users to determine the requirement for safe usage. We feel that this argument falls short since chemical manufacturers cannot be familiar with the variety of ways in which their products may ultimately be used. * * * We feel the benefits to be derived in fully disclosing the constituents of a hazardous material far outweigh the risk (real or imagined) that may be incurred by chemical manufacturers as a result of disclosing this information.
>
> (Caterpillar Tractor Company, Ex. 19–201)

The proposed standard deals with the generally recognized need for trade secret protection in some depth, but the proposed standard does not address some circumstances which a downstream user of chemical products may encounter.

For example, Chemical Product A, containig xylene (TLV = 100 ppm) as a component known to an employer and its employee, could be used in such a way as to produce a known employee exposure below the OSHA TLV. At the same time, Chemical

Product B which contains an unknown amount of trichloroethane (TLV = 350 ppm) because of trade secret status may be used by the employee in such a way as to produce a simultaneous exposure that exceeds the additive TLV limitations for mixtures imposed by existing OSHA regulation. Thus, the employee's health may not be adequately protected, and his employer could be subject to an OSHA citation.

We suggest that the proposed standard require that a chemical's identification be disclosed if such chemical may potentially produce synergistic or additive toxic effects with other chemicals and that the precise chemical name be disclosed in any case in which the chemical product contains a component regulated by name, by OSHA.

(West Point Pepperell, Ex. 19–150)

Similarly, both the National Paint and Coatings Association and the Motor Vehicle Manufacturers Association testified that precise chemical identity is essential to their efforts as downstream employers to evaluate the hazards of chemicals they purchase, and that they undertake considerable effect to obtain this information from their suppliers when it has initially been withheld on trade secret grounds. (Tr. 564, 675–81, 3684–86). Because of their need for this information, the MVMA expressed concern that the proposed trade secret provisions might result in an overuse of the trade secret exemptions permitting the withholding of chemical identity under certain conditions (Tr. 3682). In general, however, these employers report less difficulty than do the unions in obtaining trade secret information concerning chemical identities when needed for occupational health purposes (Tr. 598–605, 679–81).

These basic positions on the trade secret issue led to some specific criticisms of the proposal. Several commenters said that there is a need to define "trade secret" (Ex. 19–65, 19–91, 19–155, 19–164, 19A–11). The CMA (Ex. 19–91; Ex.182), Procter and Gamble (Ex. 19–116), and Michelin Tire (Ex. 19–155) each recommended that a definition be taken from the Restatement of Torts (s757), since it is widely accepted and has been adopted by the common and statutory law of many states. Under this definition, chemical identity could be considered trade secret if, essentially, it is not known or used by a competitor. OSHA has incorporated a slightly modified version of this definition into the final standard.

While the Restatement of Torts definition is generally recognized as an appropriate basis for a regulatory definition, a more difficult question is whether a chemical in commerce whose identity can be ascertained by well-known analytical techniques — "reverse engineered" — should be considered known to the competitors and therefore not a proper subject for a trade secret claim. Underlying this discussion is a wide disparity of opinions on the relative ease with which complex chemical mixtures can be "reverse engineered."

With modern analytical laboratory equipment, and a limited amount of time and funding, the constituents of most chemical products can be readily identified. This vulnerability of product constituents to identification, in our opinion, negates the validity of the standard's trade secrets provision.

(Caterpillar Tractor Company, Ex. 19–20)

The plain fact is that most chemical identities are not and cannot be trade secrets today because of the relative ease with which they can be discovered by independent means through gas chromatography and mass spectrometry. Although some natural food flavorings and chemical intermediates may attain trade secret status, the vast bulk of chemical identities simply are not a secret under the law. A heavy burden should be placed on those who claim trade secret status unless they can fit into one of these small categories.

(California Department of Industrial Relations, Ex. 22C–18)

Typically a trade secret is claimed in a case where a solvent manufacturer's supplier, for example, takes a—let's say an aliphatic hydrocarbon and adds a chlorinated hydrocarbon to raise the flash point, sells it as safety solvent, charges three times for the mixture what his costs were for the ingredient, says that's trade secret.

Now, you know, in all those cases the buyer or a competitor could easily obtain it and analyze it, if they cared to. So it's really not a trade secret from anyone except the workers forced to use it.

Mr. Michael Wright, United Steelworkers of America, Tr. 854)

In general industry presents a different picture of the relative ease of reverse engineering complex chemicals that are trade secret:

The makeup of a chemical product, which is the essential knowledge providing the competitive advantage to a manufacturer, is frequently not ascertainable by competitors through analytical processes. "Reverse engineering" is not always possible. Chemical reactions may mask the identity of an ingredient, and materials present only in small quantities may not show up in laboratory analyses. Procter & Gamble estimates, for example, that an analysis to determine in detail the ingredients of its BOLD–3 would cost as much as $300,000—and might still be unsuccessful. Thus, in the absence of an OSHA disclosure requirement, these trade secrets would not be available to competitors.

(Chemical Manufactures Association, Ex. 19–91)

It is the presence of traces of trade secret ingredients or unique combinations of ingredients, that make those fragrances successful. History shows that the formulas of leading perfumes have been maintained as trade secrets for decades.

(Mr. Wallace Dempsey, Fragrance Materials Association, Tr. 3417)

The popular belief that it is now a simple matter for a competitor to determine the exact chemical composition and percentages of various formulations by "reverse engineering" is incorrect. While reverse engineering is theoretically possible, its usefulness is extremely limited. The analytical procedures involved in reverse engineering are extremely complicated and expensive. The complexity of the procedures make it virtually impossible to obtain accurate, reliable, results. Moreover, the cost of the procedures make it economically prohibitive. The cost has been estimated to be between $50,000 and $1 million dollars or more per sample, with no guarantee that the exact composition will be determined. However, if the precise chemical components of a product are supplied, via labels or any other means, the percentage of any given chemical in the formulation is relatively easy to determine. As a result, once the precise chemicals are known, the product can be duplicated by any competitor who cares to spend $500 to $10,000 to determine the precise percentage of each chemical in the formulation.

(Master Chemical Corporation, Ex. 19–87)

OSHA has determined that the record does not provide adequate support for using "reverse engineering" capability to modify the trade secret definition. It is clear from the statements quoted above that there is no consensus regarding the ease or practicality of reverse engineering. Furthermore, as a practical matter, it is impossible for the Agency to develop criteria for when reverse engineering would be considered feasible and thus would negate a trade secret claim. Many products can be reverse engineered if sophisticated analytical techniques are applied, and yet cannot be if less advanced technology is used. The determination of what is "practical" in terms of reverse engineering capability rests with this degree of analysis, rather than with a definitive finding of "ability" to be reverse engineered or not. Furthermore, the definition of a trade secret says that the competitor or potential competitor does not know *or* use the information. Thus, even though a competitor could theoretically "reverse engineer" and discover the components of a product, if this information is not in fact used, it remains a *bona fide* trade secret.

The question of trade secret definition also relates directly to a second set of comments involving the proposed requirement that the employer be capable of substantiating that the withheld information is a trade secret.

The unions and some employers testified that excessive denial of information on unsubstantiated trade secret grounds has been a significant problem to date. The AFL–CIO summarized the situation as follows (Ex. 180A):

> The record demonstrates that employer and chemical manufacturer trade secret claims have routinely been overbroad (Tr. 896, 1491, 1492, 1495, 1524, 1539, 3275–6, 3279). Union requests are frequently met with an initial employer response that all or a large proportion of chemicals are trade secrets (Tr. 896, 1890, 1495, 3640). When subjected to further scrutiny, these claims are often found to be invalid (Tr. 853, 1891) * * *
>
> The unions are not alone in their experience of broad trade secret claims. The Motor Vehicle Manufacturers Association, Ford Motor Company, Caterpillar Tractor Corporation, and Department of Defense all report difficulties in securing chemical identity information in the face of trade secret claims (Exs. 46, 102, 113, App. 1, Tr. 604 * * *

Although the CMA has cautioned that past experience in the absence of a standard is not a proper guide to how many trade secret claims will be made and predicts that the number of trade secret claims will be few (Ex. 182), the concern has been expressed that the substantiation requirement of the proposal would not prevent unjustified claims (Exs. 19–51; 180A). For example, the AFL–CIO et al. stated (Ex. 180A):

> Substantiation of trade secret claims is required but there is no requirement to commit the substantiation to writing or make it available for review to employees, designated representatives or OSHA. Thus, manufacturers and employers will be allowed to continue overly broad, invalid trade secret claims with no justification.

Certain employers whose primary concern is the protection of trade secrets have also expressed the need for a mechanism to be created whereby OSHA could monitor trade secret claims and referee, in the first instance, disputes that arise over the validity of a claim (Exs. 19–155; 27–6, 27–10, and 27–27). The suitability of conventional OSHA enforcement mechanism for this purpose has been described by the Michelin Tire Company (Ex. 19–155):

> It is Michelin's position that disputes about trade secret claims under the labeling standard should be resolved through conventional OSHA enforcement mechanisms. If an employer conditions the release of trade secret information on the execution of a confidentiality agreement and the employee or designated representative objects to the employer's decision, the employee should file a complaint with OSHA alleging that the labeling standard has been violated. OSHA should then make a limited inspection or request for information to determine if a citation is warranted. If OSHA issues a citation, litigation under normal administrative enforcement procedures should resolve any disputes between the parties.

OSHA agrees that the statutory enforcement mechanism will be satisfactory to investigate and in many cases settle disputes of this nature. In order to clarify the enforcement proceedings to be followed, OSHA has incorporated the specific steps into the provisions of the final standard. To facilitate these proceedings, OSHA is requiring that requests for trade secret information be prepared in writing, with supporting documentation, and that any denials of such requests also be written and include appropriate evidence. Then if the matter is to be referred to OSHA to settle any dispute between the requesting party and the employer protecting a trade secret, the Agency will be able to base a decision upon a review of these written materials. Should the matter not be resolved to the satisfaction of all parties, it may result in a citation and referral to the Occupational Safety and Health Review Commission (OSHRC) for judicial review. The OSHRC Judge may decide the case based on an *in camera* review of the documents prepared by the parties. The matter will then be resolved through the normal OSHRC enforcement proceedings.

Many comments were received on other aspects of the proposed trade secret provisions. For instance, a number of commenters observed that the authorization to withhold the "precise chemical name" under certain conditions suggested that the CAS number would nevertheless have to be disclosed, thereby negating the protection afforded (Exs. 19–43, 19–46, 19–52, 19–85, 19–115, 19–140, 19–146, 19–155; Tr. 2997). Since this was not OSHA's intent, the final standard has been written to make clear that all specifically identifying information may be withheld if the chemical identity is being withheld as a trade secret.

A more fundamental set of questions involves the issue of which trade secrets, if any, should be required to be disclosed, under what circumstances disclosure should be required, and to whom this information is appropriately disclosed. Discussion of these questions was generally in the context of addressing the proposed requirement that only "high chronic hazard" chemicals needed to be disclosed to downstream employers, employees and designated representatives with a "need to know," but that in any event, all trade secret identity information must be disclosed to a treating physician.

The proposal equated "high chronic hazard" with any "corcinogen, mutagen, teratogen, or a cause of significant irreversible damage to human organs or body systems" for these purposes. Other than some general agreement with the proposal, there was little or no specific support for having regulatory consequences turn on a distinction between these chemicals and other hazardous chemicals. Numerous commenters criticized the lack of definitions for the critical terms as making the provision unduly vague (Exs. 19–44, 19–46, 19–63, 19–65, 19–76, 19–89, 19–109, 19–123, 19–155, 19–164, 19–196, 19–204, 19–219; Tr. 2185, 2200–1, 2324). Some commenters thought that the terms, unless narrowly defined, would result in the overcategorization of trade secrets as "high chronic hazards" (Exs. 19–44, 19–46). For example, SOCMA stated (Ex. 19–44):

> Furthermore, the proposed rule could be interpreted to exclude from trade secret protection virtually all substances or mixtures. Just as any substance could be a "hazard" under the proposed definition, so any hazard could be considered a "cause of significant irreversible damage to human organs or body systems", at a sufficiently large exposure level.

Other commenters expressed concern that these categories could be interpreted too narrowly, both because inherent scientific uncertainty may permit a holder of trade secrets to deny that virtually any chemical is a proven "carcinogen, mutagen, [or] teratogen" (Tr. 1938, 2185–6, 2200–3) and because a chemical could cause "significant" damage to humans that may nevertheless be revrsible (e.g., Kepone, DBCP) (Ex. 180A; Tr. 3641–2).

Lack of definition was not the only criticism directed at the proposed distinction between "high chronic hazards" and other hazardous chemicals. Arguments were also made that the proposed distinction was both overinclusive and underinclusive. Thus, a few commenters argued that "mutagens" should not be considered "high hazard" because "no link between mutagenicity and workplace safety has been demonstrated" (Exs. 19–91, 19–115, and 19–105). On the other hand, arguments were made by several employers that the categories of hazardous chemicals to be disclosed on a "need-to-know" basis should be expanded to include "suspect" carcinogens, mutagens, and teratogens (Ex. 19–90), OSHA regulated substances (Ex. 19–90, 19–150), chemicals that have established TLV's (Ex. 19–90), and chemicals that cause synergistic or additive effects when combined with

other chemicals (Ex. 19–150). In addition, the American Lung Association commented that chemicals which cause acute toxic effects should be included in any mandatory disclosure requirement regardless of trade secrets (Ex. 19–154). The Federal Advisory Council on Occupational Safety and Health suggested that the standard should require the disclosure of "all hazardous chemicals which are recognized hazards that are causing or likely to cause death or serious physical harm to an employee, or if those chemicals are known to be carcinogens, mutagens, teratogens, or sensitizers when in low concentrations." (Ex. 125). And the AFL–CIO and supporting unions recommended that the more inclusive term "reproductive toxin" be used instead of "teratogen"; that the "significant irreversible damage" category be replaced by all chemicals which cause "a material impairment to health"; and that the "need to know" qualification be dropped (Ex. 180A).

A more fundamental criticism was that a distinction based on degree or kind of hazard is not a rational basis for making a categorical determination that certain trade secrets must be disclosed and others need not. For example, The CMA stated (Ex. 182):

> The hearings have not, however, provided sufficient reason to maintain the proposed standard's special treatment of the so-called "high chronic hazards." It has not been established that trade secret information that might be revealed under this provision (subsection (g)(1)(ii)) would add to employee protection. Epidemiological studies based on this information remain a rarity. There has been little evidence that trade secret claims have posed a barrier to such studies that would otherwise have been undertaken, much less that the limited category of trade secrets under the proposed standard would interfere with studies of this type.
>
> Rather, the same principles that govern the release of trade secret information for other hazards should logically be applied to the chronic hazards. As the foregoing comments have demonstrated, the proposed standard reasonably reconciles disclosure interests and trade secret interests. There is no basis in the record for the special treatment of the "high chronic hazards"

This position was generally shared by a number of employer interests (Exs. 19–46, 19–79, 19–111, 19–123, 19–147, 19–164). By the same token, the recommendation of the AFL–CIO and supporting unions was sufficiently broad as to constitute a rejection, from the opposite perspective, of the proposed different treatment for "high chronic hazards" and other hazardous chemicals as well. Thus, the proposed approach with respect to "high chronic hazards" was not favored by either employer or employee interests.

Many of the same commenters who believed that no special status should be afforded to "high chronic hazards," however, agreed that the "need to know" concept is an appropriate basis for making regulatory decisions. At one level, this qualification on trade secret disclosure takes the form of saying that trade secret identities should not have to be routinely revealed on labels and data sheets, where virtually anyone regardless of need can see the information (Exs. 19–47, 19–123; Tr. 700–1). At a somewhat different level, support for the "need to know" concept was expressed in terms of saying that trade secret information should only have to be disclosed in response to a request for the information from somebody who has a legitimate health need for it (Ex. 19–91, 19–155, 19–185; Ex. 167; Tr. 763). For example, the CMA stated (Ex. 182):

> There is no real conflict between the interest of the employee and the employer's interest in preserving its trade secret unless the employee has a real need to know the identity of a chemical. The "need to know" standard is an appropriate means of balancing these interests.

The Celanese Corporation commented (Ex. 19–185):

> * * * this standard should only disallow trade secrecy protection where the employee needs to know to protect himself and where the downstream employer needs to know to protect his employees * * *.
>
> Celanese suggests that OSHA take a different approach to this problem. For chemical manufacturers: if there is a need for a downstream employer to monitor his employees' exposure to a chemical, there is a need to know the precise chemical identity.
>
> For employers: if there is a need for an employer to monitor exposure of his workers to a chemical (whether he does it or not), there is a need for the employee to know its identity.

While the unions expressed concern that the "need to know" phrase "could be used to bar effective access to critical information" (AFL–CIO et al., Ex. 180A), in general they agree that there is a balance to be struck between the needs of employers to protect legitimate trade secrets and the needs of employees to obtain information concerning legitimate health interests (Tr. 844, 903, 2215–16, 3291, 3652, 4122–23).

Based on the information provided by various parties concerning the uses for which chemical identity information is necessary (e.g., Exs. 19–51, 19–207; Tr. 1945–6), OSHA considers the following to be purposes which demonstrate a medical or occupational health need to know specific chemical identity under the provisions of the final standard:

1. To assess the hazards of the chemicals to which employees will be exposed.

2. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels.

3. To conduct pre-assignment or periodic medical surveillance of exposed employees.

4. To provide medical treatment to exposed employees.

5. To select or assess appropriate personal protective equipment for exposed employees.

6. To design or assess engineering controls or other protective measures for exposed employees.

7. To conduct studies to determine the health effects of exposure.

With respect to the question of who should be given access to trade secret information, there was general agreement that a treating physician should have access to any trade secret chemical identity that is needed for medical diagnosis or treatment of an employee exposed to the chemicals (Exs. 19–44, 19–46, 19–87, 19–88, 19–155, 19–193; Ex. 182; Tr. 598).

> * * * whenever a physician requests specific ingredient information for our products this information is provided to the doctor without hesitation. Master Chemical has no objection to supplying whatever information a physician may deem necessary for the treatment of a patient. On occasion we have even provided samples of the raw materials that make up the product. Master Chemical feels secure with the professional ethics of physicians and the confidentiality of their files.
>
> (Master Chemical Corporation, Ex. 19–87)
>
> The desirability of requiring disclosure to treating physicians—under terms of confidentiality—is undisputed. The proposed standard clearly meets this employee interest by requiring this disclosure.
>
> (Chemical Manufacturers Association, Ex. 182)

To this, some employers would add the qualification that even a treating physician should be required to document the need for the trade secret identity (e.g., that general chemical classification and toxicological information will not suffice) and enter into a confidentiality agreement (Exs. 19–44, 19–63, 19–158, 19–193).

While nobody objected to trade secret disclosure to treating physicians under appropriate circumstances, many commenters criticized the proposal for not providing the same general access to other health professionals (Exs. 19–40, 19–51, 19–73, 19–89, 19–161, 19–207, 19–

211; Exs. 158, 180A; Tr. 442, 558, 763, 1945–46, 1960–61).

MVMA regards the primary objective of this standard as prevention of unsafe and unhealthful exposures. To meet this objective health professionals, other than the treating physicians, need to be aware of health problems which may be the result of occupational exposure to a substance or mixture designated as trade secret. Such health professionals would include those responsible for the industrial hygiene programs and environmental control programs (i.e., appropriate disposal). MVMA recommends that such health professionals be included in obtaining information on a confidential basis.

(Motor Vehicle Manufacturers Association, Ex. 19–51)

I think certainly on a need to know basis, any member of a health care team, whether it is the physician, industrial hygienist, the occupational health nurse, safety professional, certainly needs to have information available to them, but on a need to know basis.

(Mr. L. Keller, PPG Industries, Tr. 763)

With regard to preventive medicine, withholding chemical identity information interferes with the ability of a physician hired or retained by a user employer to devise a proper medical surveillance program. For example, if the manufacturer of a chemical has not performed an adequate hazard evaluation and fails to mention the hepatotoxic effects of a trade secret ingredient, how will the company doctor catch the mistake and know to include liver function tests in a medical surveillance program?

Or if biological monitoring is desired to assess chemical exposure or body burdens, how will the company doctor specify a test if he or she doesn't know what chemical or metabolite to test for?

Physicians who are consultants to labor unions also have a proper need to know chemical identity information. Labor unions use consulting physicians to review the adequacy of company designed medical surveillance programs and just as with the doctors retained by the user employers, labor union doctors must know the chemical identities of work materials to independently arrive at a proper medical surveillance program.

In selected cases, physicians for labor unions also review the medical records of members who have suffered serious illness suspected of being work-related. Although the unions' doctors act as consulting physicians and not treating physicians, the union doctors can have a valuable role in suggesting further clinical testing or laboratory analysis to help determine work-relatedness.

* * * I, myself, am called upon to review industrial hygiene programs of companies where we have members and if I don't know what chemicals the people are working with, I have no idea, for one, whether—the kinds of controls that are in place are adequate. Whether they should be doing more monitoring to look for exposure. And if the type of personal protective equipment being provided—which there normally is some provided—is adequate to do the job.

(Mr. M. Nicas, IUE, Tr. 1945–46; 1960)

The one thing that I was going to add as far as epidemiology that we face situations where outside researchers have been brought in by local unions to do studies and they haven't been able to get a lot of different kinds of information, but some of that has been chemical identity information, trade secret information that has made their studies much more difficult.

(Ms. J. Gordon, IUE, Tr. 1960–61)

* * * these health professionals (consulting physicians, epidemiologists, industrial hygienists, toxicologists, or other health professionals) need full chemical identity information to evaluate potential health problems from actual exposure and recommend and institute appropriate controls (Tr. 442, 558, 763, 1960, 3304). Without full access to chemical identity information worker health protection cannot be assured (Tr. 564, 810, 1483, 1513, 1940, 2037).

(AFL–CIO et al., Ex. 180A)

Since other health professionals (e.g., occupational nurses, industrial hygienists, toxicologists; etc.) may have a need to know certain proprietary information, we recommend that "any necessary health representatives" be added to "treating physician." In this way, pertinent data can be made accessible to all critical personnel involved in the occupational health care system, without unduly burdening physicians with the sole responsibility for information collection.

(American Iron and Steel Institute, Ex. 19–207)

The CMA panel presented the only direct refutation of the arguments in favor of broadening the access provided to "treating physician" to encompass other health professionals who need identity information to carry out their occupational health duties. They stated that the greater urgency involved in a medical emergency where chemical identity is crucial to a specific diagnosis or treatment warrants special exception for treating physicians; and that with other health professionals, it is often sufficient to provide them with chemical and toxicological information which does not reveal the specific trade secret identity. At the same time, they recognized that there may be some instances where specific trade secret identity should be provided to other health professionals subject to confidentiality agreements (Tr. 1204–11). For instance, Dr. Curtis Smith stated (Tr. 1207):

I'd like to add that certainly we are interested in working with the professionals in other companies to help them in protecting their employees, but that—if confidential information is involved, that does take some working out of confidential agreement or of providing the information without reaching the trade secret.

Moreover, some commenters expressed concern about providing access to "designated representatives" (other than treating physicians) in general without focusing on the "other health professional" issue. In addressing this question, the CMA panel drew a distinction between access by local union representatives who work inside a plant, and union representatives from outside the given workplace where the identity of a trade secret chemical is being sought (Tr. 1087–88, 1088–89):

Most union representatives are employees also * * * I am talking about the local union representative. The local union representative is an employee and as such he would have as much information as any other employee.

Where it was a company proprietary bit of information he would also have the same obligation to keep that confidential within the confines of the company. So, there is no bar against the union representative provided it is on a localized basis.

But the (international) unions represent many different clients, so that they have a multiplicity of relationships and in that regard represent the outside world. The other fact that has to be kept in mind and it is critical for a trade secret, is how many people know about it and under what conditions was it made available. The more people who know a trade secret, the less it is a trade secret.

In its post-hearing comments, the CMA suggested the following on the question of "treating physician" versus "designated representative" access in general (Ex. 182):

Two employee witnesses on behalf of the ACTWU testified that disclosure to a treating physician would fully satisfy their interest in chemical identity information. (Tr. 4111, 4013).

(Another) interest, in access to chemical identity to permit the union to perform its own evaluation of the material, has been asserted by some union witnesses (although the testimony of the employee witnesses just described suggests that this interest may be of more concern to union officials than to the workers). Provision of trade secret information to a union is a matter of concern to many companies, in part because the union may well represent employees from competitive companies, thereby adding to the risk of disclosure and the harm in case of disclosure.

It argued that the issue of union access to trade secrets is best left to NLRB jurisdiction. Similarly, Michelin Tire Co. recommended modifying the definition of "designated representative" to encompass only "physicians" (Ex. 19–155):

By limiting the "designated representative" concept to physicians, several goals will be accomplished. First, the employee will have complete personal access to the information

required by the standard regardless of any limitation on the concept of "designated representative." Second, the employee may designate a representative who can effectively respond to any medical problem arising from the hazard communication information. Third, the employer must disclose sensitive information only to individuals who are subject to ethical rules of conduct and disciplinary sanctions. While unauthorized disclosure of trade secrets and confidential information is still possible, it is unlikely when release is limited to licensed individuals acting in their professional capacities.

Neither of these comments, however, explain why other health professionals have a less legitimate need for identity information than do physicians, or why they are less trustworthy to protect trade secret information given to them in confidence to carry out their professional health duties.

Based on this record, OSHA has decided to provide access to trade secret chemical identity to health professionals providing occupational health services to employees, while permitting the chemical manufacturer, importer or employer to withhold such information from other "designated representatives" who are not health professionals. It is noteworthy that neither downstream employers nor unions who argued for broadened access to trade secrets made specific arguments that such access was necessary for non-health professionals within their organizations. Indeed, they indicated that it was their practice to restrict their own access to such information to their health professionals and, as necessary, exposed employees.

(Confidential information) is available only to the health and environmental professionals, all of them are aware of the confidential nature and how we treat it. It's maintained centrally at staff rather than out in the operations.

The only exceptions to that would be (if) one of the physicians at one of our operations, or medical, wanted to get that information for medical purposes * * * They would have access to that.

(Mr. L. Roslinski, Ford Motor Company, Tr. 599–60)

We will readily agree that the only people in the union who will have access to that kind of information (i.e. trade secret chemical identity) are several of us who are working on that case specifically and as far as the union is concerned are the ones who need to know and that's typically—For example: one of our industrial hygienists, perhaps Dr. Parkinson, perhaps one other person.

(Mr. Michael Wright, United Steelworkers of America, Tr. 903)

Except in a medical emergency, the standard permits access to trade secrets by health professionals to be conditioned on a written statement of need and the signing of a confidentiality agreement, conditions which most commenters believed to be essential to striking a proper balance between the legitimate need for trade secret protection and the legitimate health needs of employees. The standard, however, no longer draws a distinction between "high chronic hazards" chemicals and other hazardous chemicals for purposes of access, since the record did not support the distinction as providing a rational basis for balancing the competing interests. In addition, in response to a comment requesting clarification on the question of OSHA's own access to trade secrets under the standard (Ex. 19–155), the standard explicitly provides that OSHA shall be provided access to such information upon request, and further states that any trade secret claim "shall be made no later than at the time the information is provided to the Assistant Secretary so that suitable determinations of trade secret status can be made and the necessary protections implemented."

It should be noted that in providing for access by health professionals and in eliminating the proposed disclosure requirements for certain "high hazard" chemicals, direct employee access to the specific chemical identities of such substances has been eliminated from this standard. Under the proposed standard, employees or their designated representatives would have had access to such identities if there was a "need to know" the precise chemical identity. The reasons for eliminating the distinction for disclosure of identities between "low" and "high" hazard chemicals has already been described. In addition, OSHA has indicated in the discussion various purposes for obtaining such information that would constitute a "need to know." A review of these purposes reveals that by and large professional training would be required for any of these activities. Given the lack of control a chemical manufacturer or importer has over "downstream" employees, OSHA believes that providing access to trade secret chemical identities only to health professionals on a confidential basis will protect these employees adequately while providing protection for the *bona fide* trade secrets of employers. This is not to say that "downstream" employees are more likely to disclose trade secrets or violate confidentiality agreements than health professionals, but it is an unmistakable fact that the more people who have access to confidential information, the more difficult it is to preserve its secrecy or to locate the source of a leak if one occurs. In any event, employees will continue to have restricted access to the identities of all toxic substances known to their own employers an a non-confidential basis under the records access rule.

The final area of discussion involved the issue of confidentiality agreements. The focus of this discussion was on the question of whether the standard should explicity authorize or prohibit the practice of requiring penalty bonds or liquidated damages provisions in such agreements. As noted earlier, this question was the subject of a prior proposed modification of the records access rule, the docket of which has been incorporated into the record of this rulemaking (Ex. 27). A number of employers commented that OSHA should permit the use of such contractual devices to strengthen their remedy in the event of an unauthorized disclosure of trade secrets (Exs. 27–6, 27–7, 27–9, 27–10, 27–11, 27–12, 27–14, 27–18, 27–19, 27–20, 27–21, 27–23, 27–25, 27–26, 27–27, 27–37). Several employers, however, including some who supported the proposed change, stated that confidentiality agreements, with or without bonding or liquidated damages provisions, were ineffective in protecting their economic interest. The key to protection was to restrict access to trade secrets in the first place (Exs. 27–14, 27–15, 27–16, 27–24, 27–25, 27–29, 27–34). For instance, Daniel Thompson, representing trade associations in the flavor and fragrance industries, commented (Ex. 27–15):

Liquidated damage clauses or penalty bonds are totally inadequate for a number of reasons. To begin with, bonding is commercially unavailable and legally insufficient as a protection against unconsented disclosures. First, blanket bonds routinely exclude the types of actions which can cause the loss of the valuable secret, e.g. mishandling of the information or a dissemination which cannot be prosecuted as a fraud under state law. (*P. Gordis, Property & Casualty Insurance* (12th Ed. 1965). Second, a bonding firm is most unlikely to write bonds covering individual union members or ex-employees against passage of the secrets. Third, bonds would not repay the employer/innovator where the union can show unintentional dissemination in any fashion: the secret is lost but the bonding company would probably refuse to pay. (Note, "The Freedom of Nonfree Information", 32 Stanford L. Rev. 339 (1980) Liquidated damages, likewise are easier to permit than they are to collect; few designated representatives have sufficient assets to pay liquidated damages or to post penalty bonds. Under the standard, anyone may be made a designated repesentative with an unqualified right to records. For those designated representatives that do have assets, for example, labor organizations, difficult problems of proof may well have to be

overcome by the wronged employer before he could received any relief through a liquidated damages clause. Moreover, the availability of labor organization funds for this purpose is at least uncertain.

An accused designated representative could defend himself by stating that the employer's competitor independently discovered the trade secret without relying on records wrongfully obtained through the access standard. The burden of proof would be on the wronged employer.

If a labor union entered into a secrecy agreement with a liquidated damages clause and its employee admitted to wrongfully disclosing trade secret information, the union could defend itself by stating that its employee's act was *ultra vires*. The wronged employer would be left without remedy unless he could prove otherwise. These are but a few of the numerous practical and legal problems with the proposal.

Even if all of these problems could be overcome; the net result, a cash award to a wronged employer, could not begin to compensate for the financial loss caused by disclosure of (some of our more popular) trade secrets * * *

For their part, the unions universally object to any authorization of bonding or liquidated damages provisions (Ex. 19–161; Exs. 27–28, 27–36, 27–38, 27–39, 27–41, 27–42, 27–43, 27–44, 27–45; Tr. 900–1, 3145–46). For example, the AFL–CIO, et al. stated (Ex. 180A):

When employers do agree to disclose chemical identities deemed trade secrets, the proposal permits employers to condition employee, designated representative, and downstream user access upon acceptance of a restrictive confidentiality agreement. Bonding requirements and liquidated damages clauses may be permitted as conditions for access. However, there is no evidence in this rulemaking record showing union or employee abuse of trade secret information which would justify restrictive conditions (Tr. 92, 859, 3522). Rather there is substantial evidence demonstrating that conditioning the release of trade secret information on written agreements with bonds or liquidated damages clauses is infeasible. Bonding agencies are reluctant to guarantee against the disclosure of information whose value cannot be assessed (Ex. 27). And not one union or employee representative testified that they would sign a confidentiality agreement which contained a clause for liquidated damages as a condition for receiving trade secret information (Tr. 377, 568, 603, 680, 702, 856, 2474, 3686). Thus the proposed restrictions are, in practical terms, the equivalent of denying workers, their designated representatives and user employers access to chemical identity information.

These comments point out the legal and practical risks both parties face when trade secrets are divulged on a confidential basis. Breach of confidentiality serves no one's interest. Because this is so, it is important that the trade secret holder and the health professional seeking the information enter into explicit agreements which set forth the conditions under which the trade secret is being disclosed and will be maintained. It is also important that each party understand the consequences of failure to live up to the agreement. OSHA has concluded that confidentiality agreements serve a important function in striking the balance between trade secret protection and health need. Short of a total ban on disclosure, limiting access to health professionals who state their need for the information and sign confidentiality agreements assures as much as possible that the necessary information is being entrusted to a minimal number of responsible, identifiable and accountable individuals. Confidentiality agreements impress upon the recipients of this information their obligation to use this information for the stated health purposes and to protect the provider of the information from competitive harm. To this end, the standard explicitly states that the confidentiality agreement may "restrict the use of the information to the health purposes indicated in the written statement of need," and "prohibit disclosure of the information to anyone other than OSHA who has not entered into a similar agreement without the consent of the employer." Overall, these authorized restrictions should effectively deter inadvertent or unauthorized disclosure of trade secrets. As stated by Michelin Tire Company (Ex. 27–16):

Perhaps the most important feature of any effective confidentiality agreement is a provision prohibiting any redisclosure of the trade secret to any person or organization who has not executed a similar confidentiality agreement. Such a provision is absolutely essential and is totally consistent with the purposes of the access rule in that it: (1) Allows access to exposure records containing trade secrets to all necessary persons; (2) ensures that the employer knows exactly who has had access to its trade secrets at any given point in time and will thereby assist the employer in enforcing his confidentiality agreement if it is breached; (3) ensures that each person who has access to the trade secrets fully realizes his disclosure responsibilities and is thereby deterred from nondisclosure; and (4) greatly reduces the uncontrollable casual redisclosure and dissemination of trade secrets which presently renders the confidentiality agreement provisions of the (records) access standard impotent.

The reference to OSHA disclosure was included to ensure that the confidentiality agreement does not preclude the health professional from disclosing information to the Agency, particularly when the potential harm to employees is great and the holder of the information is not providing proper protection. The standard does require the health professional to inform the holder of the information that OSHA will be receiving it prior to such disclosure. OSHA is required to protect the confidentiality of such trade secrets under Section 15 of the OSH Act.

While the primary function of a confidentiality agreement is to establish the conditions of trade secret disclosure and therefore preclude inadvertent or unauthorized dissemination of the confidential information, it is also important to recognize that, from a legal standpoint, the agreement constitutes a contract that is enforceable in the courts. As such, it may be appropriate that it contain not only provisions relating to the primary duties of the parties, but also provisions relating to remedies in the event of a breach. It is basic contract law that a party wronged by a breach of contract is entitled to actual damages, and that where the injury that will be caused by breach is difficult to estimate, as is the case of trade secrets, a provision liquidating the damages to be paid will be literally enforced if the court is convinced that it is a genuine pre-estimate by the parties of the extent of likely injury. Where such a provision is agreed to, it provides the advantage of greater certainty to both parties. On the other hand, where the stipulated amount is so large as to be out of proportion to the interest to be protected, it will be treated as a penalty or forfeiture and not enforced. Corbin, *Corbin on Contracts*, Ch. 58 (1964).

Accordingly, OSHA has concluded that the authorized confidentiality agreement may include a provision for "appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages." This language is designed to permit the kinds of liquidated damages provisions that would be enforced by any court, but not to permit penalty or forfeiture provisions that are inappropriate to a contractual agreement. At the same time, OSHA has decided to explicitly prohibit requirements for the posting of a penalty bond. Unlike liquidated damages, which must approximate actual damages and are payable only in the event of a breach, a bond would require the advance posting of money, is not dependent on the occurrence of any breach, and could easily act as an absolute barrier to access. Access to trade secret identity information is intended to be mandatory provided certain basic conditions of need and confidentiality are met. It would defeat the occupational health purposes of the

standard if holders of the information were given the freedom to set the terms of access prohibitively high by requiring the posting of penalty bonds.

Finally, OSHA recognizes that, while a confidentiality agreement provides a contractual basis for seeking remedies in the event of a breach, there may well be other non-contractual remedies available in law or equity to the trade secret holder. Milgrim, *Trade Secrets*, §§ 4.01–4.03 (1982). For instance, injunctive relief may be appropriate under certain circumstances, or, depending on the terms of the contract and the intentions of the parties, a tort action may be available in addition to or as an alternative to a contract action. While the measure of damages in tort would not be materially different than that in contract in most cases, there may be differences in terms of such factors as statute of limitations or elements of proof. In addition, punitive damages may be available in tort for willful or malicious disclosure or misappropriation of trade secrets. They may also be available under certain statutes authorizing such damages. Milgrim, *Trade Secrets*, § 7.08 (1982). Thus, to clarify that the confidentiality agreement is not meant to limit the trade secret holder to only contractual remedies if other remedies are available under state law—indeed, a confidentiality agreement is permitted but not required—the standard explicitly states that "nothing in this standard is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law."

In this way, the standard assures that chemical identity information which is trade secret is made available to those who need it but is not disclosed to others who may be in a position to use it to the competitive disadvantage of the trade secret holder. Employee protection is thus assured while maintaining the confidentiality of *bona fide* trade secrets.

8. *Effective dates.* In the proposed standard, OSHA staggered the projected effective dates by facility size (i.e. number of employees); whether the hazardous chemical is a pure substance or a mixture; and whether the employer is a chemical manufacturer or user of hazardous chemicals. The purpose of the staggered dates was to allow downstream employers to take advantage of the flow of information generated by chemical manufacturers to comply with the standard. The underlying approach was that larger employers would have to be in compliance first, and thus smaller firms could obtain information from them in time to meet their own compliance dates. This scheme was designed to comply with the Regulatory Flexibility Act, which requires Federal agencies to assess the impact of regulations on small entities, and establish different compliance standards for them where it is feasible, legal and desirable to do so.

As was pointed out by a number of commenters, the proposed scheme did not accomplish this intended effect (see, e.g. Exs. 19–58, 19–62, and 19–219). The primary problem is that small manufacturers may supply larger manufacturers with hazardous chemicals, and in those situations, the larger manufacturers would have to be in compliance with the standard before their smaller supplier was required to give them the necessary information. Small manufacturers may not be benefitted by this scheme as intended, as the U.S. Small Business Administration explained in their written comments (Ex. 19–58):

> Although OSHA attempted to properly analyze the impact of the rule, the fact that supply channels are not a function of size was not thoroughly addressed * * *
>
> To the contrary, it is a common phenomenon for small manufacturers to supply substances and/or mixtures to larger manufacturers. We understand that small manufacturers believe a staggered phase-in would not be beneficial to them because either:
>
> a. Large manufacturers would demand hazard information from their small suppliers; or
>
> b. Small manufacturers would supply their larger customers hazard information before OSHA required as a result of other market pressures.

Various suggestions for alternative time frames were submitted to the record. The majority of those commenting suggested that the time frame be the same for all employers, regardless of the number of employees involved (e.g. Exs. 19–46, 19–65, 19–79, 19–110, 19–147, 19–177, 122, 123, 125, and 180A). As expressed by Phillips Petroleum, Inc. (Ex. 19–177a):

> * * * The number of employees at any workplace has no direct bearing on the number of chemicals in the workplace. The time element will depend upon the number of chemicals to assess and the availability of qualified personnel to collect data, classify hazards, prepare material safety data sheets and develop or adopt a training and information program. Most companies can comply in a shorter period of time. However, all companies should be able to comply within two years.

Other participants suggested different time periods, generally ranging from one to four years (see, for example, Exs. 19–46, 19–62, 19–76, 19–91, 19–111, 19–119, 19–124, and 19–167). No specific justification was presented for any of the time frames suggested.

In the final standard, OSHA has followed the suggestions of the majority of participants who commented and modified the schedule of effective dates. A time period of two years has been established for labels and material safety data sheets to be transmitted downstream, and two and one half years for all employers to be in full compliance with the standard. This will permit downstream employers who use hazardous chemicals to take advantage of information generated upstream to design and implement their internal hazard communication programs. It will also shorten the proposed time frame for full compliance by one year, and thus employees will receive the full protection of the standard at an earlier date than originally anticipated.

D. Legal Authority

Authority for issuance of this standard is found primarily in sections 6(b) and 8(g)(2) of the OSH Act, 29 U.S.C. 655(b) and 657(g)(2). Section 6(b)(5) governs the issuance of occupational safety and health standards dealing with toxic materials or harmful physical agents. Section 3(8) of the Act, 29 U.S.C. 652(8), defines an occupational safety and health standard as:

> (A) standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

The Supreme Court has said that section 3(8) applies to all permanent standards promulgated under the Act and requires the Secretary, before issuing any standard, to determine that it is reasonably necessary and appropriate to remedy a significant risk of material health impairment. *Industrial Union Dep't* v. *American Petroleum Institute*, 448 U.S. 607 (1980).

The "significant risk" determination constitutes a finding that, absent the change in practices mandated by the standard, the workplaces in question would be "unsafe" in the sense that workers would be threatened with a significant risk of harm. *Id.* at p. 642. This finding is not unlike the threshold finding that a chemical is toxic or a physical agent is harmful. *Id.* at 643, fn. 48. This finding, however, does not require mathematical precision or anything approaching scientific certainty if the "best available evidence" does not warrant that degree of proof. *Id.* at *pp. 655.6;* 29 U.S.C.

655(b)(5). Rather, the Agency may necessarily base its findings largely on policy considerations and has considerable leeway with the kinds of assumptions it applies in interpreting the data supporting it. *Id.*

Moreover, under the authority of section 6(b), and specifically section 6(b)(7), OSHA may issue certain kinds of "backstop" requirements that are essentially "information-gathering" in function. These requirements may be imposed at levels of risk below what would be necessary for the setting of exposure limits because they serve the purpose of "keep[ing] a constant check on the validity of the assumptions made in developing the permissible exposure limit, giving it a sound evidentiary base for decreasing the limit if it was initially set too high." *Id.* at p. 658 (footnote omitted). By logical extension, the same kinds of requirements may be imposed even where there are no such limits set if there is substantial evidence to support them, since such information is necessary to see if levels should be set in the first instance.

Further elucidation on the characteristics of a section 6(b) standard has been provided by the United States Court of Appeals for the Fifth Circuit in *Louisiana Chemical Ass'n., et al.* v. *Bingham, et al.*, 657 F. 2d 777 (1981). In that case, the Fifth Circuit concluded that, as a jurisdictional matter, OSHA's records access rule, 29 U.S.C. 1910.20, must be treated as a section 8 regulation, and not a section 6 standard, mainly because the rule: (1) Does not require the employers to make the records in the first place but applies only to records which they already make; and (2) pertains to thousands of substances not even specified as "hazardous." *Id.* at p. 781. This conclusion was further supported by the Court's finding that the records access rule fits neatly within the language and history of section 8, with its emphasis on enforcement and detection of hazards via recordkeeping. *Id.* at p. 783.

The hazard communication standard stands in contrast on all three counts. First, it affirmatively requires the evaluation of chemical hazards and the development of material safety data sheets, labels, and education and training programs to transmit this information. Second, the core requirements concerning the establishment of hazard communication programs (i.e. data sheets, labels, and education and training) pertain only to "hazardous chemicals." The hazard determination procedures and supporting definitions are designed so that only chemicals for which there is scientific evidence of actual hazards are made the mandatory subject of hazard communication programs. Of course, in fashioning the hazard determination procedures, the Secretary was entitled to rely on conservative scientific assumptions and was not bound to limit the scope of the rule only to those chemicals for which sufficient evidence exists to set exposure limits, since the law and sound public policy recognize the basic distinction between disclosure requirements and more onerous, comprehensive "command and control" requirements. Thirdly, the standard fits neatly within the language and history of Section 6(b)(7) which pertinently states that:

> Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure * * *

The fact that it is being issued as a generic standard and is stated largely in performance language does not alter its essential character as a 6(b) standard.

Moreover, the practices mandated by the standard—hazard evaluations, written hazard communication programs, labels and other forms of warning, material safety data sheets, and education and training—are, at bottom, directed not merely at the identification of workplace chemicals, but more significantly at the correction of their hazards as well. This correction will occur largely as a result of employee compliance with instructions on how to protect themselves when exposed to hazardous chemicals that are an integral part of any hazard communication program, as well as by other hazard-reducing strategies adopted by employers (e.g., chemical substitution). And because, as is discussed at greater length elsewhere in this preamble, the record clearly indicates that inadequate communication about serious chemical hazards endangers workers and that the practices required by this standard are necessary or appropriate to the elimination or mitigation of these hazards, the Secretary is hereby able to make the threshold "significant risk" determination that is an essential attribute of all permanent standards.

The Secretary's authority to issue this proposed standard is further supported by the general rulemaking authority granted in section 8(g)(2) of the Act. This section empowers the Secretary "to prescribe such rules and regulations as he may deem necessary to carry out (his) responsibilities under the Act"—in this case as part of, or ancillary to, a section 6(b) standard. The Secretary's responsibilities under the Act are defined largely by its enumerated purposes, which include:

> —Encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions [29 U.S.C. 651(b)(13)];
>
> —Building upon advances already made through employee and employer initiative for providing safe and healthful working conditions [29 U.S.C. 651(b)(4)];
>
> —Exploring ways to discover latent diseases, estabishing causal connections between diseases and work in environmental conditions * * * [29 U.S.C. 651(b)(6)];
>
> —Encouraging joint labor-management efforts to reduce injuries and diseases arising out of employment [29 U.S.C. 651(b)(13);
>
> —Developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems [29 U.S.C. 651(b)(5)]; and
>
> —Providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health [29 U.S.C. 651(b)(6); 29 U.S.C. 670(c)].

Because the hazard communication standard is reasonably related to these statutory goals, and will also have the effect of enhancing the role that employers, employees and their designated representatives play in the OSHA process by making them better informed about workplace hazards, the Secretary finds that this standard is necessary to carry out his responsibilities under the Act. *Cf. Mourning* v. *Family Publications Service*, 411 U.S. 356 (1973); *Whirlpool Corp.* v. *Marshall*, 445 U.S. 1 (1980); *Louisiana Chemical Ass'n et al.* v. *Bingham, et al.*, 550 F. Supp. 1136 (W.D. La., 1982) (OSHA records access rule upheld as valid section 8(g)(2) regulation). In addition to its status as a section 6(b) standard, therefore, this rule also falls within the broader class of section 8 regulations.

In addition, Section 8(c)(1) of the Act, 29 U.S.C. 657(c)(1), authorizes the Secretary to issue regulations requiring employers to "make, keep and preserve, and make available to the Secretary * * * such records regarding his activities relating to this Act as the Secretary * * * (deems) necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses." Thus, specific statutory authority exists

for OSHA's own access to information under this standard.

Certain aspects of the standard merit further discussion regarding the legal basis for the approach taken in this standard. The standard directs its major obligations toward those employers who are in the best position to develop information concerning chemical hazards or who are the primary users of chemicals in industry. To this end, the standard applies directly only to employers in Division D (Manufacturing), SIC Major Groups 20–39. In issuing standards, the Secretary may, under priority-setting discretion given to him in Section 6(g), 29 U.S.C. 655(g), apply the standard only to certain segments of business, thus "(giving) due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments." The preamble discusses elsewhere why the Secretary's decision to direct the standard only towards employers in manufacturing is a rational one based on relevant policy considerations and the evidence in the record before him.

The system of hazard communication established by this standard is also designed to impose the duty of hazard evaluation primarily on the manufacturers who produce hazardous chemicals for distribution in commerce. It requires the disclosure of hazard-related information not only to their own employees involved in the manufacture of chemicals but also to the employers to whom the chemicals are shipped, so that this information will then be communicated to the employees of such employers. Chemical manufacturers are in the best position to develop and disseminate this information not only because they have greater scientific expertise with respect to the chemicals they produce, but also because they may be the only ones who know the identity of the chemicals in the first place. Likewise, an importer is in the best position to either develop the necessary information or obtain it from foreign chemical manufacturers who ship hazardous chemicals into the United States. A downstream employer cannot reasonably fulfill his obligations to establish an adequate hazard communication program unless the necessary hazard-related information originates with the chemical manufacturer or importer and is passed forward through the distribution system. Thus, requiring chemical manufacturers and importers to be responsible for hazard determinations and to provide their industrial customers with material safety data sheets and labeled containers is essential to carrying out the statutory mandate of prescribing "the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed * * *" 29 U.S.C. 655(b)(7). *Accord: American Petroleum Institute* v. *OSHA*, 581 F. 2d 493 (5th Cir. 1978) (benzene standard vacated on other grounds), aff'd other grounds *sub nom. Industrial Union De't., AFL–CIO* v. *American Petroleum Institute*, 448 U.S. 607 (1980):

> Placing the responsibility to warn downstream employees of concealed hazards on those upstream employers who create the hazards and know of the hazard is consistent with the remedial purpose of the Act and is within OSHA's broad authority to prescribe warning labels.

581 F. 2d at 411 U.S. 356 (1973); *cf., Mourning* v. *Family Publications Services, supra.*

This standard also provides for the degree of trade secret protection which the Agency considers to be consistent with its mandate to promote the health and safety of employees. As a matter of legal authority, OSHA has previously taken the position that its mandate requires it to balance and accommodate the interests in occupational safety and health with the protection of trade secrets, but that any unavoidable conflict should be decided in favor of the health interest. (See 45 FR 35248–51, Records Access Preamble.) This position has been based on: (1) Federal preemption doctrine, which says that state law (i.e., trade secret protection) may be preempted if it burden or conflicts with federal law; (2) the OSHA statute, whose limited trade secret section (Section 15; 29 U.S.C. 664) simply carves out an intragovernmental exception to the Trade Secrets Act, 18 U.S.C. 1905, and does not otherwise directly restrict OSHA's broad rulemaking authority in the are of providing access to toxic substance information; and (3) analogous judicial contexts, where the courts have adopted a balancing approach favorable to the health and safety interest.

In *Louisiana Chemical Ass'n.* v. *Bingham, supra*, the District Court upheld this approach as a valid exercise of legal authority—one which may, if adopted by rulemaking, be used to authorize the disclosure of trade secrets to non-government personnel under the Trade Secrets Act. *Cf Chrysler Corp.* v. *Brown*, 441 U.S. 281 (1979). The hazard communication standard strikes a somewhat different balance than the one originally taken in the records access rule in that it permits limiting trade secret disclosure, with appropriate confidentiality protection, only to health professionals providing occupational health services to employees. This new approach is based on a determination that health professionals acting in this capacity are, by profession, qualified to use the information (i.e., chemical identity information) in a manner which best serves the interests of occupational safety and health and may also be expected to scrupulously safeguard the confidentiality of that information, thereby minimizing the potential for competitive harm. Accordingly, it is consistent with the Supreme Court's decision in *Detroit Edison Co.* v. *NLRB*, 440 U.S. 301 (1979) in which the Court held that the National Labor Relations Board abused its remedial discretion when it did not limit union access to confidential test data to a psychologist acting as an intermediary on behalf of the union.

Finally, the fact that this rule is being issued as a § 6(b) occupational safety and health standard carries with it two significant consequences. First, judicial review of the standard lies exclusively in the United States courts of appeals. Section 6(f) of the Act, 29 U.S.C. 655(f); *Louisiana Chemical Ass'n.* v. *Bingham, supra*, 657 F. 2d 777.

Secondly, as a standard, it preempts competing state standards which do not meet certain procedural and substantive criteria. Section 18(a) of the Act, 29 U.S.C. 667(a), says that a state is not prevented from asserting jurisdiction over "any occupational safety and health issue with respect to which no standard is in effect under Section 6." Conversely, where OSHA has issued a standard under Section 6, § 18(b), 29 U.S.C. 667(b), requires a state desiring to issue standards relating to the same issue to submit a state plan to OSHA. Section 18(c), 29 U.S.C. 667(c) authorizes the Secretary to approve the submitted state plan only if the state plan provides for standards and a plan for their enforcement which are, *inter alia* "at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under Section 6 which relate to the same issues."

While questions of effectiveness and commonality of issues must be resolved on an *ad hoc* basis, in general the Secretary intends to scrutinize carefully any state law or regulation submitted under an approved state plan which contains any hazard determination or communication requirements which are applicable to chemical manufacturers or other employers in SIC Codes 20–39. The

purpose of this review is to assure not only equal or greater effectiveness but also that any additional requirements contemplated by the state do not conflict with or adversely affect the effectiveness of OSHA's standard. Because the hazard communication standard is "applicable to products" in the sense that it permits the distribution and use of hazardous chemicals in commerce only if they are in labeled containers accompanied by material safety data sheets, and because there is a strong policy justification for uniform application throughout the distribution system of a national hazard communication standard, the Secretary intends to approve a state standard only if it is "required by compelling local conditions and do[es] not unduly burden interstate commerce." Section 18(c) of the Act; 29 U.S.C. 667(c). If the Secretary does not approve such a standard, the state submitting the plan shall be afforded due notice and the opportunity for a hearing. Section 18(d) of the Act; 29 U.S.C. 667(d).

III. Regulatory Impact Analysis, Regulatory Flexibility Analysis and Environmental Impact Analysis

The following is a summary of the regulatory impact and regulatory flexibility analyses prepared by OSHA for the final hazard communication standard. Copies of the full text of the document may be ordered from the National Technical Information Services, U.S. Department of Commerce, Springfield, Virginia, 22161, or may be examined and copied in OSHA's Docket Office, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210; (202) 523-7894.

Statement of the Problem

During the 1970's, increased attention focused on chemicals found in the workplace as an important source of hazardous exposures which cause or contribute to chronic diseases such as heart ailments, kidney damage, sterility, and cancer. Many chronic diseases are characterized by long latency periods of 20-30 years or longer. Often the exact relationship between the intensity of exposure and the risk of disease is not well understood. The problem is exacerbated by the likelihood of multiple exposures. The worker might be exposed to numerous chemicals at a point in time or over a long period of employment. In addition, the exact synergistic effects of these chemicals on health is likewise highly uncertain.

Other chemicals can cause acute damage such as burns, rashes, or even toxic reactions after an immediate high level dose. Still other chemicals contribute to serious accidents on the job such as fires and explosions.

Data indicate that there may be as many as 575,000 chemical products, with hundreds of new chemicals introduced annually. This growth in the number of industrial chemical products can result in a wide variety of effects on health and safety in the workplace.

A large number of workers are exposed to such risks on their job. The National Occupational Hazard Survey (NOHS) indicated that about 8.5 million workers were exposed to chemical hazards in manufacturing during 1972-74 (Ex. 16-7). Because the manufacturing labor force grew at a 0.7 percent annual rate during the interim years 1973-82, the number of exposed workers in manufacturing may now total about 9 million workers. The NOHS data also indicate that over 280 million exposures to chemical hazards occurred in the manufacturing sector during 1972-74. Using the same labor force growth rate and assuming a 3 percent annual growth in the average number of hazards to which each worker was exposed, chemical exposures in manufacturing may total 388 million in 1982.

Efficient use of resources in our society requires that all participants have complete and accurate knowledge of economic and technological data. Rarely, however, is this requirement fully satisfied. Decisionmakers are often ignorant of the attributes of the good or service. Hence, the participants may not be apprised of the longer term consequences of the exchange.

The economic justification for a regulatory action in the case of chemical hazards is contingent on the degree of market failure. If the problem is an intermittent one, which is quickly rectified by market incentives, then the economic justification for regulatory intervention may be insufficient. This is not, however, the case.

The testimony presented to the public record on the March 19, 1982, OSHA proposal indicates that the market failure problem is extensive (see, for example, Exs. 19-61, 19-109, 94, 103 C, 103 R, 122, 178, L-16, and Tr. 98-101, 1308-9, 1811, 2932). This conclusion was perhaps best summarized by the Boeing Company (Ex. 19-109):

> Marketplace pressure, as suggested in the preamble, is not an acceptable means by which to ensure that suppliers will pass on the hazard warning information (specifically, Material Safety Data Sheets (MSDS's)) to users. This suggestion will only reinforce the current voluntary system which already relies on pressure from "the market," or users pressuring the suppliers and manufacturers for information. It is a cumbersome and ineffective system which we hope will not be sanctioned by OSHA as an old idea under the guise of new terminology.

Many of the potential hazards associated with chemical products have not been communicated to workers, or in many cases, to employers. Because of the inadequacy of chemical information, the employer cannot or does not take into account the potential impact his or her decision concerning the use of the chemical product may have on others. Employees pay for the inadvertent or advertent errors in judgment by an employer through impaired health, injury, or death. Other members of society pay through a reduction in production and community welfare. The failure in the market for hazard information in turn causes a misallocation of resources in other markets. For example, the employee is unable to match his or her risk preferences with the risk characteristics of the job.

Furthermore, the current remedies may magnify the information problem. The tort liability system on the whole provides disincentives for employers to provide information on the relative hazards of chemical substances. Tort liability does represent one form of redress for employees with injuries and illnesses from exposure to chemicals, but Worker's Compensation laws generally bar employees from suing their own employers. A lawsuit against a chemical manufacturer or supplier would provide compensation for risk-averse employers and employees and would encourage upstream distributors of chemical products to include potential accident costs in their decision-making process. The absence of correct information concerning the hazard posed by the chemical substance or mixture, however, will influence the decision to initiate a lawsuit. If the probability of a successful outcome of a lawsuit is relatively low, then the individual will be inclined to take a conservative stance and not litigate. It has been demonstrated that when the population-at-risk is more risk-averse, conservative behavior decision is the norm. Hence, the employer's incentive to provide a more healthful and safer work environment arising from the probability of litigation is likely to be muted. A similar situation results when the transactions costs associated with a lawsuit are high. The potential effectiveness of legal remedies is limited by the fact that workers often cannot afford to forego potential payments while awaiting settlement, especially if the probability of winning the lawsuit is relatively low. They may not be able to

afford the costly legal fees associated with protracted litigation.

Likewise, the Worker's Compensation system with its dual tests of workplace connection and employer responsibility provides disincentives to the provision of accurate information. Available evidence from a Department of Labor (DOL) study indicates that many occupational diseases are not compensated through the Worker's Compensation system and hence are "externalized" to society (Ex. 16–38).

The objective of a regulatory action by OSHA must be to prevent injury and illness due to mishandling of hazardous chemicals by employers and employees. OSHA could propose to achieve this objective by a case-by-case regulation of industrial chemicals. The dynamic nature of the production of health and safety information for existing and future chemical products does not, however, provide the environment for effective, efficient case-by-case regulation. The testimony of a representative of the Ford Motor Company provides a statement of the problem (Tr. 593).

> It's a dynamic happening out there, both in the hazard and toxicity sense of chemicals being made or changed or switched * * * there may not be any eyebrows raised today, but, you know, we switch chemicals a year from now—pick five that you think might be, you know, a problem a year from now that aren't really raising any eyebrows now because the tox[icity] data isn't in or hasn't been found.

The nature of the market failure problem together with the large variety of potential hazards suggests the value of a different approach—one which would provide accurate, continuously updated information to employees and employers on the hazards of chemicals in their work environment. In turn, it is not unreasonable to asssume that if employers and employees are provided with meaningful risk information, they will take the appropriate protective action. One representative from Mobil Oil Corporation testified that (Ex. 164 B):

> There should be very noticeable behavior changes and actions on the part of managers and employees which can be directly attributed to a chemical handling information system. The first, will be increased discussion and concern about the whole area of exposure to chemicals. There will also be inquiries about materials which were not included. Protective equipment will become of greater concern on two accounts: Employees will wear it more willingly in most cases and supervisors will enforce its use with more confidence. Management and employees will both review current work methods to minimize exposure. Some marginally safe tasks may be completely eliminated, either by new manual methods of working or through engineering improvements. If management encourages it, many creative improvements which are safer and more cost effective may be expected. A chemical handling information system which includes concern for not only the hazards of materials but also the methods of handling is not just another safety program. A well designed approach which communicates well and invites employee participation is a strong tool for organization change. Although a great deal of effort is involved in developing the system, the benefits more than justify the cost.

Improved hazard recognition will encourage market-oriented responses such as increased precautions when handling hazardous chemicals and substitution of less hazardous products. These responses will translate into reduced injury and illness incidences from exposures to industrial chemicals. The benefits of such a regulatory action will not be confined to substances that are not currently regulated by OSHA as indicated by the following testimony (Tr. 97–8):

> For example, I recently had occasion to treat a gentleman who was an automobile body mechanic who had developed carcinoma of the larynx. A question was raised as to whether or not there was an association between the materials with which he worked and the occurrence of a cancinoma of the larynx. This was particularly relevant in this gentleman's case becasue he had never been a smoker. After careful investigation, we learned that many of the automobile putties which were used over the last 20 years contained large amounts of asbestos. This dust was very likely involved in this gentleman's carcinoma of the larynx. He had no awareness of the presence of asbestos in the material at any time because the product label never listed it as an ingredient of the putty. This lack of information is often the fault of the employer, but more often than not the downstream employer does not have the information to pass along to the employee. Neither the product label nor the Material Safety Data Sheets currently disseminated by many manufacturers contains adequate toxic substances information for the development of an individual or company-wide materials health and safety program. This failure of labeling and of Material Safety Data Sheets is at the root of the current failure in hazard communications. Even those manufacturers and employers who have complied with various voluntary and required labeling protocols usually stress only the immediate, acute hazards. They do not stress such long-term or potential problems such as chronic pulmonary disease, chronic renal disease, allergies, cancer, mutagenesis, or birth defects which may result from exposure to to certain materials.

Several state and local right-to-know laws have been prescribed to deal with this market failure problem. The coverage and requirements of these laws, however, are consistent only in their inconsistency. The consequent cost and ineffectiveness of this decentralized effort has been well-documented in the public record as the following statements indicate:

> Compliance with separate differing pieces of legislation is unduly burdensome and a waste of scarce safety and health resources. Unfortunately, it is the employee who ultimately suffers from these potential non-uniform and possibly even conflicting requirements because the employer will be required to allocate a disproportionate amount of resources to comply, in form, with the multitude of disparities in worker right-to-know rules or laws. (American Iron and Steel Institute, Tr. 2023).

> Our experience with differing labeling, material safety data sheet distribution, employee training and customer communications required by the several states and localities which have adopted right-to-know ordinances or statutes has been brief but educational. We have found that the varying requirements are an increased burden. Each such state or jurisdiction essentially requires special handling with respect to advice on compliance procedures for shipment and instructions to distributors and salesmen. Such special handling is inefficient and costly. We urge the Occupational Safety and Health Administration (OSHA) to carefully consider this cost impact on interstate commerce with respect to any changes to the hazard communication standard that may be proposed by a State. Therefore, DuPont believes an appropriate federal rule that establishes a standard is timely and necessary. The concerns of the chemical industry with variable and cost-ineffective state regulations will not be alleviated unless OSHA utilizes its preemption authority as provided in the Act. (DuPont, Ex. 19–57).

> As a multi-state employer, U.S. Steel is potentially facing the administrative and economic nightmare of complying with fifty different state statutes and several hundred local ordinances on hazard communication. This potential morass is exacerbated by the realization that each of these statutes differ in basic as well as particular requests. Thus, the fundamental reason for legislating a hazard communication program, i.e., worker safety and health, is lost in the shuffle of attempting to comply (in form) with the multitude of hazard communication regulations (U.S. Steel, Ex. 19–125).

Evolution of the OSHA Standard

January 16, 1981 Proposal

On January 16, 1981, OSHA published a Notice of Proposed Rulemaking to address this market failure problem (Ex. 10). This proposal was subsequently withdrawn to allow for careful review of its regulatory provisions in accordance with Executive Order 12291 on improving regulatory management. The January proposal included the following key features: (1) Coverage of all manufacturing industries and importers

and repackagers of chemical products and virtually all containers including pipes and support systems such as pumps and valves; (2) highly specific search and evaluation procedures required for hazard evaluation by all manufacturers; (3) detailed labeling of chemical products with no adjustments for trade secrets; (4) Material Safety Data Sheets (MSDSs) for hazardous chemicals to be filed in a central location if available; (5) certification that a particular chemical product does not pose a hazard where applicable; (6) extensive recordkeeping on hazard search and evaluation procedures to be kept for 3 years; and (7) a phased-in compliance period of approximately 2 years. These components are summarized in Table 3.

Serious concerns were raised regarding the excessive costs and paperwork burdens that would be imposed by the January proposal. The initial (startup) cost of the January proposal, as shown in Table 4 was estimated to be between $2.6 and $3 billion depending on the amount of testing conducted to meet the certification requirement. The total annual cost of the January proposal was expected to approach about $1.254 billion. The total present value cost at a 10-percent discount rate amounted to about $22.864 billion or more over a 40-year period. Even these cost figures were somewhat understated because they did not include the costs of labeling pipes outside the chemical and petroleum manufacturing industries. In particular, the required labeling of pipes and support systems would have proven very costly with an initial cost estimated at $1.727 billion or between 58 and 66 percent (depending on the testing assumption for certification) of the total initial cost of the January proposal.

A related issue involved the "specification" orientation of the January proposal with its highly detailed set of required compliance activities. Particular concern centered on the specific search and evaluation procedures established to determine the chemical hazards, including search and evaluation of all relevant scientific literature for certain chemicals, and documentation in cases where the chemical posed no hazard. In addition, the labeling requirements were extensive, calling for chemical names, common names, Chemical Abstract Service (CAS) numbers for all ingredients present in concentrations of 0.1 percent or greater, and hazard warnings which were specified in an appendix. These detailed requirements did not recognize the flexibility necessary to accommodate the diversity among substances, different manufacturing industries, workplaces, process types, and other characteristics relevant to controlling workplace risks. Such detailed labels were clearly not cost-effective, because they did not accommodate current industry labeling practices, thereby requiring extensive redesign and modification of most existing labels.

Another issue involved the absence of an exemption for trade secrets. The January proposal required the provision of all ingredient information, thus making no allowance for trade secrets, except for the allowance for deletion of unpublished information from the hazard evaluation file.

In addition, many provisions appeared to be redundant. For example, the information to be provided by an information sheet, if available, was essentially identical to the label.

Finally, OSHA had serious questions regarding the overall effectiveness of the January proposal in light of its focus on *identification* of chemicals rather than on *communication* of the chemical hazards to employees and employers. No education and training requirements were provided to instruct employers and employees on the hazards of chemical and on appropriate precautionary measures. And finally, the required certification of "no hazard" could have easily directed scarce testing resource away from substances with the greatest hazard potential because of employer concern over the financial liability ramifications. As a result, it is doubtful that reliance on extensive labeling would have accomplished the goal of informing workers of chemical hazards and reducing the risk of exposure in an effective manner.

March 19, 1982 Proposal

OSHA carefully reviewed the January 1981 proposal and alternatives in light of these concerns. The objective of the review was to improve the cost-effectiveness of the information approach to the control of chemical hazards in the workplace. In March 1982 OSHA published a revised proposal (Ex. 15).

The March proposal was oriented toward providing hazard information to workers and employers, was largely performance-oriented, substantially reduced the paperwork burden of employers, and eliminated unnecessary regulatory requirements. As a result, the costs of the current proposed hazard communication standard were substantially reduced over those estimated for the January proposal. The total initial cost of the January proposal was estimated at about $2.6 billion, or $185 per employee. It was noted that an assumption of more rigorous testing in response to the certifications of no hazard could raise this cost as high as $3 billion, or $215 per employee. OSHA estimated that the March proposal would reduce the initial cost by 80–90 percent, down to approximately $591.44 million, or $42 per employee as presented in Table 4 [Ex. 17]. The annual cost of the March proposal was also substantially lower—$158.92 million, or only $11 per employee.[1] By contrast, the estimate of the January proposal was about $1.254 billion or more, or $89 per employee. Finally, the estimated total present value of the cost of the March 1982 proposal over a 40-year period using a 10-percent discount rate was $3.368 billion compared to $22.864 billion or more projected for the January 1981 proposal.

The March proposal did not require labels on pipes and support systems. This change alone eliminated almost 58–67 percent of the initial compliance cost contemplated in the January proposal. The exemption of pipes and support systems from labeling requirements would have lowered the annual costs by an even larger percentage, saving 70 percent of the annual cost of the January proposal. In part, these high costs stemmed from the expected need to relabel, one-half of the pipes and support systems annually.

As part of the approach of effective hazard communication, the March 1982 proposal also included an education and training provision (but left the specific content and format up to the employer) to inform employees about hazards and protective clothing and equipment. The education and training provision also required employers to instruct employees on the precautionary measures to take when handling hazardous substances and appropriate responses should exposures occur. This provision would have resulted in some increase in costs over the January proposal. It was expected that the education and training would, however, significantly enhance the effectiveness of the program.

In contrast to the January proposal, the March proposal was largely "performance-oriented." As noted above, both the labeling and education and training requirements were performance-oriented to allow employers to take advantage of a wide

[1] The cost per employee represents an average for all establishments in the manufacturing sector. Cost per employee for each respective industry and for each establishment size category is presented in the Regulatory Impact Analysis.

variety of compliance approaches tailored to their particular industries and work environments. Similarly, the hazard evaluation procedures were made substantially more flexible relative to the January Proposal. The evaluation was to be based on scientifically well-established studies and thus limited to known hazards of a chemical. Also, a list of references and data sources was provided merely as a guide rather than as a required procedure for this evaluation. If a chemical was determined to pose no hazard, no certification or other compliance activities would have been required for the chemical.

The March 1982 proposal added some specific information requirements for the data sheets filed in a central location for hazardous chemicals. The MSDS information included chemical names, common names, and CAS numbers for ingredients present in specified concentrations; physical hazards and/or known acute and chronic health effects; routes of entry; precautions for safe handling and use; effective work practices and personal protective devices; emergency and first-aid procedures; and date of preparation. This information was viewed as the minimum necessary to ensure an effective hazard communication standard. The chemical identifier on the label provided a link between a simple hazard warning on the label and appropriate precautionary measures provided on the MSDS. Under the March OSHA proposal, the MSDS was the only source of detailed information on the known health and safety effects associated with specific chemicals and appropriate precautions and emergency procedures. For this reason, the chemical manufacturer was required to develop an MSDS if one was not currently available for hazardous chemicals and include it with first shipments. Viewed from another perspective, these small cost increases would be cost-effective in supplying hazard information when compared to the substantially higher costs of providing the detailed information on each and every container as required by the January proposal. The extra $18.19 million initial cost of the current MSDS provision compares quite favorably (and provides more information) to the additional $395.94 million cost for extensive label provided in the January proposal. Likewise, extensive labels would have added $281.07 million to the annual cost of the limited label requirement in the current proposal, while the MSDS provision in the March proposal resulted in only a $1.35 million increase.

The March proposal provided for a trade secret exemption either through use of generic names to mask ingredients or through confidentiality agreements with industrial customers. While there are no cost estimates on the effect of the proposed change, the positive impact on commerce was expected to be substantial.

Final OSHA Standard

Components

OSHA evaluated the expected cost-effectiveness of the January 1981 and March 1982 proposals as well as other approaches to hazard communication. The evaluation of the cost-effectiveness of a hazard communication program must be based on the results of the "package" as a whole, not merely a sum of the expected results of the separate ingredients. Thus, the following discussion relies on the March 1982 proposal as the baseline "package."

The March 1982 proposal covered employees in the manufacturing sector (SIC 20–39). During the course of the proceeding, OSHA reevaluated this scope. Evidence indicates that employees in the manufacturing sector are at higher risk of harmful exposure to chemicals relative to other sectors (Ex. 17). Alternatively, the standard could be applied selectively to different industries within the manufacturing sector. This selection of industries would, however, introduce significant incentives to shift chemical production and use to exempted industries, since multi-product firms and vertically integrated firms are not accurately captured within the conventional SIC system. OSHA has included in the final standard a requirement for distributors and importers to pass on the MSDS and maintain the container labels for shipments destined for an employer in manufacturing. OSHA has also included a requirement that employees in laboratories be apprised of the hazards of the chemical products used in their respective workplaces.

OSHA also received much comment on the advantages and disadvantages of a performance approach as opposed to a specification approach to a hazard communication standard (Exs. 19–43, 19–44, 19–46, 19–50, 19–54, 19–57, 19–62, 19–81, 19–88, 19–91, 19–96, 19–115, 19–116, 19–140, 19–146, 19–147, 19–160, 19–188, 19–201, 19–204, 19–209). The wide diversity of production processes and work environments within and across industries in the manufacturing sector, however, precludes the promulgation of a cost-effective specification standard. The rapidly changing nature of the industrial production processes and the production of hazard information would quickly render a specification standard obsolete. All participants when questioned about the hazard determination process indicated that a significant amount of professional subjective judgment must be included in any hazard evaluation. Therefore, a completely specified weighting procedure for the hazard evaluation would suggest certainty where certainty does not exist. OSHA has, however, included selected lists of chemicals that have been evaluated and found to be hazardous to serve as a floor for the coverage.

OSHA has also included a requirement for the employer to develop a compliance plan. The plan would merely document the hazard determination procedures and the methods use to inform employees of the potential hazards associated with non-routine tasks.

The label in the March 1982 proposal was to serve as the alert mechanism to supervisors and employees about the presence of chemical hazards in his or her immediate work area. The content of the label was limited to hazard warning(s), a chemical indentifier to serve as the link to the MSDS, and the name, address and telephone number of the chemical manufacturer. An alternative approach to this limited label would be an extensive label which would include the chemical and common names, CAS numbers, and hazard warnings for all ingredients or all ingredients present above some cutoff defined in terms of percent concentration. Several problems with the extensive labeling approach, however, preclude its adoption. First, the objective of the standard is to communicate to employees and supervisors the potential acute and chronic hazards associated with chemical products. Evidence on the expected cost-effectiveness of the extensive label approach in achieving this objective was not presented to the public record. The limited label approach in combination with a detailed MSDS as required by the March proposed standard is expected to be at least as effective and, in light of the potential for information overload with the extensive label, perhaps more effective than the extensive label alternative. In addition, the limited approach would involve a cost savings of 50 percent. Second, the requirement for an extensive label would ignore proven industry practices. Changes in these practices to comply with a

requirement for extensive labeling of containers would involve significant costs with no gains in terms of the effectiveness of the overall hazard communication program.

Several participants in the public hearing questioned the need for implant labeling of containers. Again, the role of the label is to serve as the alert mechanism. Evidence was not presented to the public record to support other means of communication in all cases. OSHA has, however, acknowledged that labeling of reactor vessels and the like may be cumbersome and ultimately counterproductive. The final standard would therefore allow the employer the option in these cases to label the container or to provide batch tickets, production sheets, etc. as long as the necessary information is conveyed. The cost savings for this change cannot be determined. It is espected to be significant, expecially for small entities.

The March 1982 proposal did not require the labeling of pipes and pipe support systems, although comment on this provision was requested in the public hearings. OSHA did include a direct requirement in the March proposal for employers to inform employees about the potential hazards associated with non-routine tasks as the cost-effective approach to this particular problem. Testimony presented during the public hearing did not refute the conclusion that labels on pipes and pipe support systems are not the most cost-effective means of communicating hazards and precautions to take.

Many participants requested an exemption from the labeling requirement if a container label was already required by another Federal agency. To avoid any unnecessary duplication of effort and confusion that may be created by multiple labels, OSHA has included in the final standard a labeling exemption for certain substances (e.g. pesticides) required to be labeled by another Federal agency. The reduction in the cost of compliance as a consequence of this change could not be determined. It is expected to be significant, however, especially for small entities.

In the document accompanying the March 1982 proposal, OSHA tentatively concluded that the expected cost of providing MSDSs with first shipment was less than the expected cost of providing them to industrial users in manufacturing "upon request." The expected cost savings stemmed from the avoidance of requests from industrial users. Testimony submitted by chemical producers suggested that the relative cost of the "upon request" approach was lower than the provision of MSDS's with first shipment (see, for example, Exs. 19-43, 19-46, 19-59, 19-72, 19-79, 19-84, 19-85, 19-91, 19-94, 19-111, 19-115, 19-116, 19-117, 19-119, 19-124, 19-141, 19-147, 19-152, 19-164, 19-169, 19-177, 19-181, 19-205, and 19-213). Two major problems arise with this testimony. First the cost estimates failed to include the cost of requesting MSDS's for user employers in the manufacturing sector. A more appropriate cost evaluation must include the full social cost of the alternatives, not merely the cost to a particular segment. As indicated by several industry representatives and by the OSHA cost estimates, the additional cost of multiple requests that would be required with the "upon request" approach is significant. Second, the cost savings that chemical producers would presumably enjoy with the "upon request" approach relative to provision with first shipment was due to the perceived avoidance of the need to maintain customer lists. These participants then indicated in further testimony that they do currently maintain lists in order to provide their customers with updated chemical information. This inconsistency was not resolved in the testimony submitted to the public record.

Education and training in the March 1982 proposal was included to ensure the effectiveness of the standard. The format of the education and training program was left to the discretion of the employer. OSHA argued that the performance approach was necessary to allow for the diversity of production environments that characterize the manufacturing sector. The need for education and training was endorsed in the public hearing as a critical component of an OSHA standard.

In sum, OSHA's final standard is designed to support an effective hazard communication system while minimizing its cost impact on employers. The labels are limited to the hazard warning and an identifier to provide a link to the MSDS's, thus improving the effectiveness of the label and lowering the costs of providing the labels. The MSDS complements the label by providing more detailed ingredient and hazard information; all of this would be available in a central file as opposed to on every container. The education and training requirement encourages the employer and employee to use the information provided by the MSDS, thereby increasing the hazard awareness of employees and supervisory personnel. The standard provisions are largely performance-oriented and unnecessary paperwork has been eliminated.

Summary Costs of the Standard

The initial cost of the final OSHA standard does not differ significantly from the cost of the March 1982 proposal. The initial cost as presented in Table 3 is $603.926 million or $43 per employee. The total annual cost is $158.87 million or $11 per employee. The present value of the cost is $3.374 billion using a 10 percent discount rate. A complete discussion of the methodology used in the cost evaluation is provided in Chapter IV of the Regulatory Impact and Regulatory Flexibility Analysis.

TABLE 3.—A COST COMPARISON OF THE JANUARY 1981 AND MARCH 1982 PROPOSALS AND THE FINAL STANDARD

Cost	January 1981 proposal	March 1982 proposal [1]	Final standard
Initial cost:			
Total (millions)	$2,600.000	$591.440	$603.926
Average per employee [2]	185.00	42.00	43.00
Total annual:			
Total (millions)	1,254.000	158.490	158.870
Average per employee [2]	89.00	11.00	11.00
Total present value (40-year period; millions) [3]	22,864.00	3,366.000	3,374.000

[1] The estimates of the cost of the March 1982 proposal have been revised as necessary to reflect the testimony in the public record.

[2] The cost per employee represents an average for all manufacturing establishments. Hence, it is not a reflection of the average cost for a particular industry or establishment.

[3] The discount rate is 10 percent. The growth rates vary for each compliance activity. These are outlined in Chapter III.

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

Summary of Benefits of the Standard

General Scope. The purpose of the hazard communication standard differs substantially from other OSHA regulations. Rather than directly control exposure levels in the workplace, it is designed to enhance employer and employee awareness of the safety and health hazards associated with chemical substances. In turn, this hazard recognition produces market-oriented responses by employers and employees that translate into lower incidences of chemically-related injury and illness on the job. The standard will also provide benefits from the avoidance of multiple and redundant searches for information on chemical ingredients and hazards that are incurred by industrial users. Finally, the promulgation of a uniform, Federal standard will reduce the cost of compliance with the increasing number of state and local right-to-know laws. This section highlights these expected benefits which are described in greater detail in Chapter III of the Regulatory Impact and Regulatory Flexibility Analysis.

Reduction in the Incidence of Chemical Source Injury and Illness. Most importantly, the standard will increase employee awareness of the potential health and safety risks associated with industrial chemicals. This should result in increased worker use of personal protective devices improved work practices, and other precautionary measures when handling hazardous substances. Improved hazard communication should also result in early job transfers and treatment of chronic disease and lowering of future health care costs.

Similarly the standard will provide employers with improved information on the health and safety hazards of various chemical products as part of their investment and production process decisions. This knowledge should result in more safety-enhancing investments—in new control technology process redesign and, perhaps most importantly, in product substitution. The latter is often preferable because it substantially eliminates the hazard without extensive control devices. Improved information among supervisory personnel of the necessary precautions should result in proper day-to-day handling of hazardous substances.

In addition to the health effects implications, there are other expected efficiency improvements as well. In a properly functioning labor market improved information should lead to better matches between the risk preferences of workers and true job risks (and to some extent relative risks to the firm), thus improving labor market allocation. Employers would also benefit from lower production costs as a result of gains in worker and equipment productivity, reduced worker absenteeism and turnover, and over the long run, lower Worker's Compensation costs.

Finally, society should benefit from a reduction in occupational injury and illness costs currently externalized by firms. These include transfer payments to disabled individuals and their families, such as Social Security disability benefits and public assistance; health care costs not paid by the individual or company such as Medicare and Medicaid; and higher administrative costs of related government programs.

One method of estimating the benefits from a reduction in the incidence of injury and illness due to chemical exposure is the human capital approach. This includes an evaluation of the: (1) Reductions in lost earnings and medical expenses for various categories of chemical source illnesses and injuries as well as (2) lowered turnover costs; and (3) property losses from chemical fires. The injury and illness categories include non lost workday and first-aid cases; lost workday cases, permanent disease disabilities; and cancers related to industrial chemical sources.

Under the methodology used in this study, the current number of cases associated with each category were estimated together with the projected reduction in these cases as a result of the proposed standard over a 40 year period (the period necessary for complete turnover of the current workforce). For example, the rate of chemical source lost workday injuries is expected to decrease by 1 percent per year for 20 years, while cancer cases decline only 2 percent beginning in the 10th year to account for the long latency periods associated with carcinogenesis. The expected reductions in each year were then multiplied by an appropriate average economic cost measure (e.g., average number of workdays lost per lost workday injury converted into monetary terms through average manufacturing wages or average medical expenses per lost workday injury). Finally all benefits were discounted to the present using a 10-percent discount rate to facilitate the necessary benefit comparisons.

It is not possible with available data to precisely measure even the earnings and medical losses resulting from workplace exposure to chemical subtances. In fact, some cost components cannot be measured at all—i.e., the suffering that invariably accompanies a disabling disease. Others can be measured only imperfectly. For example, while the current number of lost workday injuries due to chemical sources can be reliably estimated from Bureau of Labor Statistics (BLS) data taken from Worker's Compensation initial reports and extrapolated to national incidence rates, this data source seriously underreports occupational illness cases.

Studies suggest that occupational illnesses may be underreported by as much as a factor of 50 because of variables such as latency periods which obscure the connection between occupational exposures and the onset of disability (Ex. 16–35). (See Chapter III of the Regulatory Impact Analysis for a more detailed discussion of these studies and the factors affecting this underreporting bias.) It was therefore necessary to adjust the chemical source illness data to account for this underreporting. Likewise, there is considerable scientific controversy over the specific fraction of cancers associated with occupational exposure to chemicals. Estimates of occupational cancers range from 1 to 5 percent of total U.S. cancers, all the way up to 40 percent. Unfortunately, all these studies suffer from various methodological limitations. In view of these and because of the multiple causal agents which impact on carcinogenicity, OSHA has used an estimate of 5 percent of all cancers as work-related. It should be noted that this 5 percent is further adjusted to account for the percent of work-related cancers in manufacturing to yield an estimate of 2.5 percent of all cancers as work-related in manufacturing. Thus, in the 10th year, using the methodology outlined previously, the expected reduction in the social cost of work-related cancers is 0.05 percent. At equilibrium in the 20th year, using this methodology, the expected reduction in the social costs due to cancer illness is 0.5 percent.

A second source of difficulty involves assessing the likely risk reduction benefits resulting from improved flows of information as distinct from measuring the benefits of lowered exposures. With current information it is simply not possible to estimate precisely the impacts on risk. Several studies have reported significant changes in various indicators of health improvement as a consequence of implementation of some component of a hazard communication program. (Exs. 153, 155, 160H, I.–8, Tr. 3709). (A full discussion of these studies is presented in Chapter III of the Regulatory Impact Analysis.) The patterns of likely risk reduction assumed by OSHA are constructed based on best available evidence of the likely effects.

All of the assumptions and possible sources of data error have been carefully analyzed in terms of their influence on the benefit estimates. Chapter III of the Regulatory Impact Analysis describes the benefit estimation procedures used in this study and data limitations in greater detail.

As shown in Table 4, the largest category of benefits attributed to a reduction in chemical source injuries and illnesses comes from a reduction in the social costs of cancer illness. Using the methodology outlined previously, the undiscounted production benefits from a reduction in cancer illnesses are estimated to be zero for the first 10 years to account for the latency. In the 40th year, the expected undiscounted benefits are estimated to be $808.68 million from increased production and $306.22 million from medical cost savings. Using a 10 percent discount rate, the present value of the benefits for a 40-year period is estimated to be $1047.5 million from increased

production and $393.3 million from medical cost savings.

TABLE 4.—SUMMARY OF QUANTIFIED BENEFITS

[Millions 1982]

Source	Undiscounted			Discounted for 40-year period [1]
	1st year	20th year	40th year	
Non-Lost Workday Cases				
Production lost	$0.000	$1.360	$3.600	$5.660
Medical cost	0.020	1.000	2.800	4.200
Lost Workday Cases				
Production lost	0.720	30.600	81.400	147.200
Medical cost	0.130	4.533	12.000	25.490
Disabling Illness				
Production lost	1.410	70.170	189.220	301.420
Medical cost	0.004	0.199	0.536	0.726
Cancer Illness				
Production lost		305.144	808.680	1,047.500
Medical cost		115.440	306.220	393.200
Turnover cost	0.070	4.060	10.780	16.400
Chemical fire	1.000	1.800	3.300	13.700
Reduced search costs	211.971	381.066	691.445	3,092.445
Uniform standard	74.800	135.410	244.580	1,093.880
Total	290.155	1,050.782	2,354.561	6,141.821

[1] The discount rate is 10 percent.

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

The second largest category of benefits is associated with a reduction in the incidence of disabling illnesses caused by exposure to toxic chemicals in the work environment. The undiscounted benefits in the 1st year are expected to be $1.414 million as presented in Table 4. Using the "1 percent" pattern, these benefits will increase such that the undiscounted benefits in the 40th year are estimated to be $189.756 million. The present value of the cost savings is expected to be $302.146 million for a 40-year period.

Similarly, for chemically induced injuries or illnesses involving the loss of one or more workdays, Table 4 shows the undiscounted production benefits from a reduction in lost workdays to be $0.72 million in the 1st year and $81.4 million in the 40th year, with a present discounted value of $147.2 million for a 40-year period. The corresponding benefits from expected reduction in medical payments amount to $0.13 million in the 1st year and $12 million in the 40th year with a present discounted value of $25.49 million.

The other estimated benefit categories include reductions in non-lost workday injury and illness cases, turnover costs, and property cost due to chemical fires. The present discounted values of these benefits over the 40-year period are estimated at $9.86 million, $16.4 million, and $13.7 million respectively.

While these various estimates are clearly not exact, they do provide a reasonable order of magnitude of the likely beneficial impact of the proposed hazard communication standard. Moreover, they do not incorporate intangible costs important to the individual and associated with premature death, pain, suffering, and family bereavement. Nor do the estimates include firm-based costs, and productivity gains. Indeed, as noted above, there is not even a complete accounting of the medical and wage lost costs. Finally, changing some of the key assumptions regarding the extent of health and safety improvements and occupational cancer incidence will not alter the basic conclusion that the proposed standard constitutes an inpressive reduction in societal costs.

Reduction in Search Costs

Because of inadequate documentation provided with purchased chemical products, many user employers and employees have incurred substantial costs of searching for the necessary information. Several users of chemical products in the manufacturing sector presented testimony during the public hearing on the resource cost of searching for chemical information. Using these submitted estimates of cost currently incurred, the expected total annual cost of searches for chemical information by employer and employee groups has been determined. The OSHA standard will require the provision of complete chemical information to all manufacturing employers and employees. Thus, the cost associated with the redundant searches will be eliminated. As presented in Table 4, the undiscounted benefits in the 1st year are estimated to be $211.971 million. The undiscounted benefits in the 40th year are expected to be $691.445 million. The present value of the benefits using a 10 percent discount rate is expected to be $3,092.445 million. These benefits are likely to be underestimated since the potential savings in search costs by industrial users outside of manufacturing have not been included. A full discussion of the methodology and assumptions used to derive these estimates is available in Chapter III of the Regulatory Impact Analysis.

Reduction in the Cost Compliance With State and Local Laws

The promulgation of a cost-effective federal standard is likely to reduce the cost of complying with the various state and local right-to-know laws. OSHA and several industry representatives have evaluated the expected additional cost of complying with the proposed state and local right-to-know laws. The estimate on methodology is discussed fully in Chapter III of the Regulatory Impact Analysis. The expected undiscounted cost savings *at minimum* using the parameter estimates provided by industry representatives or the estimates presented by OSHA are expected to be $74.8 million in the 1st year and $244.58 million in the 40th year. The present value of the cost savings is expected to be $1093.88 million using a 10 percent discount rate. The estimate does not include the additional cost of hazard evaluations that may be required by a state or local jurisdiction which will be avoided with the promulgation of a Federal standard. Furthermore, the estimates only include the additional cost of providing some form of information sheet and label. Thus, the cost of any other requirements has not been included. Also, any inefficiencies created due to the location of a plant or due to the change in the route of a chemical shipment have not been evaluated.

Discounted Cost Per Case

The monetized health benefits using the human capital approach do not represent the total expected benefits, but simply the portion of the benefits that could be quantified in dollar terms. A more appropriate measure of the benefits of health risk reduction is the workers' willingness to pay for the reduction in risk. Willingness to pay values invariably exceed the monetized human capital value by roughly a factor of 10: Workers have a much stronger stake in their individual health than would be reflected simply in foregone earnings or medical care bills.

To correct for the shortcoming of the human capital approach, an alternative method has been used to valuate the benefits from reduction in health improvements. The discounted cost per case has been estimated using an assumption of immediate effectiveness of either 5 or 10 percent. This estimate can then be compared to the estimates of the average willingness to pay to prevent a lost workday injury or illness, or $30,000. A full discussion of the methodology is provided in Chapter III and Appendix D of the Regulatory

Impact Analysis. It must be noted that this approach represents an alternative to the human capital method. Hence, these benefit values cannot be added to the benefits attributed to the reduction in chemical source injuries and illnesses.

The aggregation of the various categories of illness is achieved by weighting the illness and injury categories. The weights on non-loss workday cases, lost workday cases, disabling cases, and cancer cases are (½, 1, 1, 20) respectively. The discounted cost per case using an alternative weight of 5 on disabling illnesses is also estimated. Using the alternative assumptions and weighting schemes, the discounted cost per case ranges from $5,405 to $23,984. Thus, in light of the value of the willingness to pay the standard is justifiable using a wide range of effectiveness assumptions.

Effects on Small Entities

The final OSHA standard has included several provisions that will directly benefit small entities. In addition OSHA has designed the compliance activities and the phase-in of the final standard to reduce the regulatory burden for small entities in Standard Industrial Classification (SIC) Codes 20–39.

Relative Impact of Provision of MSDS Upon Request Versus With First Shipment

The final OSHA standard requires chemical manufacturers, repackagers, or other suppliers to provide material safety data sheets (MSDSs) with the first shipment of a chemical product. Several participants in the public hearing indicated that this requirement was necessary to ensure the effectiveness of a hazard communication program for small entities:

> Thousands of feed manufacturers are very small firms and most of them use a large number of ingredients. There is no practical way for the average feed manufacturer to determine if one of many products which he uses in his business is hazardous if he is not informed of this by the supplier of the product. MSDS are important sources of information to feed companies. Without them a feed company: (1) Would have no idea if a substance was hazardous or not; (Most feed manufacturers have neither the expertise nor resources to evaluate substances or mixtures.) (2) would be unable to evaluate what hazards the substance presents in order to determine any safety precautions necessary for employee safety. Feed manufacturers are at the mercy of their upstream suppliers to provide accurate MSDS's. OSHA needs to express clearly the responsibility of all upstream suppliers to supply downstream users with MSDS's (Ex. L–16).

> * * * the printing industry feels strongly that it is the distributors, repackagers, and importers who must furnish to the user employer material safety data sheets. This is essential in our industry since the fact (sic) majority of companies in printing purchase their supplies from distributors and repackagers. MSDS sheets from these firms will be the only way that thousands of small companies can gain access to the material and the information (Tr. 1315–16).

> * * * the small foundry and 80 percent of the 4300 foundries employ fewer than 100 people, so this is primarily and industry of small business. They do not have, I guess the word would be clout to obtain additional information from the vendors of the products (Tr. 1812).

Thus, the evidence in the public record supports the conclusion that one element of the market failure problem is the inability of managers of small manufacturing establishments to obtain the necessary information to implement a hazard communication program.

OSHA estimated the relative cost of an approach to require industrial users of chemical products to request an MSDS versus an approach to require chemical suppliers to provide an MSDS with the first shipment. These costs of the alternative approaches can be allocated to the respective employment categories in SIC 20–39 by weighting the total cost. The weights are simply the estimated total shares of shipments of regulated chemicals for each SIC/employment category.

The costs of developing the MSDSs, evaluating the hazards, and keeping records on the hazard evaluation process have been allocated to the entity size categories by weighting the total cost of compliance figures by the respective shares of regulated products for each employment category for SIC 28. A full discussion of the methodology and assumptions is available in Chapter V of the Regulatory Impact Analysis.

As presented in Table 5, the expected initial cost of the approach to require manufacturers to request MSDSs assuming $18.40 per request is $95.093 million for entities with 19 or fewer employees or $459 per establishment. The initial cost for this approach assuming $14.40 per request is $74.172 million for these entities or $358 per establishment. The final OSHA standard requires the MSDSs be provided with the first shipment of a chemical product. The expected initial cost for entities with 19 or fewer employees is $4.614 million or $23 per establishment.

TABLE 5.—DISTRIBUTION OF INITIAL COSTS OF ALTERNATIVE APPROACHES TO PROVISION OF MSDS

(Millions 1982)

Alternative approach	Entity size by number of employees (number of entities)			
	1–19 (207,103)	20–99 (76,933)	100–249 (20,807	250 or greater (13,592)
Upon Request [1]				
$18.40 per Request	$95.093	$53.490	$21.792	$27.735
(Cost per Establishment	(459)	(695)	(1,047)	(2,040)
$14.40 per Request	74.172	41.722	16.998	21.633
(Cost per Establishment)	(358)	(542)	(817)	(1,592)
First Shipment [1]	4.614	3.345	1.384	2.191
(Cost per Establishment)	(23)	(43)	(66)	(161)

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis, Tables IV-7, IV-8.

[1] Assumes 60 percent prior compliance. Provision of the MSDS with the first shipment is the approach selected by OSHA.

Relative Impact of Limited Versus Extended Responsibility of Hazard Determination

The final OSHA standard requires that a chemical manufacturer conduct a hazard evaluation of the chemicals he or she produces. The results of this preliminary evaluation are then to be provided to industrial customers in SIC 20–39 via hazard warning labels and MSDSs. This provision assigns the responsibility for the hazard determination to the employer who is most likely to have the evaluation expertise and data on the specific chemical. This delegation of responsibility for the initial hazard evaluation will prove beneficial to managers of small entities who do not have the staff and other support facilities to evaluate chemicals purchased. This conclusion was supported by testimony such as that provided by Vulcan Chemicals:

> * * * we do not agree that each employer should *develop* a MSDS for hazardous chemicals purchased for use. The development of MSDS should be the responsibility of the manufacturers of hazardous chemicals or products which contain hazardous chemicals. It would be unreasonable to require each employer to evaluate each and every chemical-containing

product which he purchases in order to determine whether or not it contains a hazardous chemical. It would also be unreasonable to require that each employer develop a MSDS for each product which he purchases and which contains a hazardous chemical (Ex. 19–165).

OSHA has evaluated the relative cost of the approach to limit responsibility for the hazard evaluation to chemical manufacturers or other suppliers versus the approach to extend responsibility to all manufacturing employers. Using the weighing procedure, the expected initial cost of limiting the responsibility for the hazard determination to chemical manufacturers as presented in Table 6, assuming an average cost of $650 per search, is $71.76 million for entities with 19 employees or fewer or $346 per establishment. The expected initial cost of extending responsibility to all employers in manufacturing assuming $650 per search is $83.982 million for entities with 19 employees or fewer or $405 per establishment. The initial cost for these entities if some testing of chemical products is necessary is expected to be $585.158 million or $2,825 per establishment assuming 1 percent of the chemical products would be tested for acute hazards.

TABLE 6.—DISTRIBUTION OF INITIAL COSTS OF LIMITED VERSUS EXTENDED RESPONSIBILITY FOR HAZARD DETERMINATION

(Millions 1982)

Alternative approach	Entity size by number of employees (number of entities)			
	1–19 (207,103)	20–99 (76,933)	100–249 (20,807)	250 or greater (13,592)
Limited Responsibility [1]				
$650 per Search	$71.760	$41.400	$16.450	$20.930
(Cost per Establishment)	(346)	(525)	(791)	(1,540)
Extended Responsibility [2]				
$650 per Search	83.982	47.239	19.246	24.495
(Cost per Establishment)	(405)	(614)	(925)	(1,802)
$4,529 per Test	585.158	329.152	134.099	170.671
(Cost per Establishment)	(2,825)	(4,278)	(6,445)	(12,557)

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis, Tables IV-7, IV-8.

[1] Assumes 60 percent prior to compliance. The limited responsibility alternative is the approach selected by OSHA.

Relative Impact of Allowance for Optional Labeling of Reactor Vessels

Many participants recommended that the final standard amend the labeling requirement to allow for the use of batch tickets, operating procedures, production sheets, and the like (Exs. 19–43, 19–44, 19–46, 19–48, 19–55, 19–58, 19–59, 19–60, 19–61, 19–64, 19–67, 19–71, 19–73, 19–76, 19–79, 19–88, 19–110, 19–111, 19–115, 19–119, 19–122, 19–126, 19–134, 19–137, 19–138, 19–140, 19–152, 19–158, 19–160, 19–162, 19–167, 19–176, 19–188, 19–190, 19–192, 19–194, 19–196, 19–204, 19–209, 19–215). The evidence presented in the public record indicates that this change will reduce the regulatory burden on small entities. Many small scale chemical specialty manufacturers, pesticide producers, etc., are characterized by operations which include such processing. Hence, eliminating the perceived need to continually relabel in the case of a reaction process will not only reduce the cost of compliance for small entities, but also will enhance the effectiveness of a hazard communication program.

Relative Impact of Provision of Lists of Substances

Many participants requested that OSHA provide further guidance on the hazardous substances that would be covered by the standard (Exs. 19–65, 19–74, 19–109, 19–148, 19–166 and 19–175). A large segment of this population was representative of small entities. OSHA has included lists of chemicals that have been evaluated and found to be hazardous. This will provide a floor to the coverage of the standard.

Relative Impact of Exemption for Other Agency Labeling

Many participants, especially those representing small entities requested an exemption from the labeling requirement if a label was already required by another Federal agency (Exs. 19–51, 19–84, 19–110, 19–119, 19–143, 19–145, 19–162, 19–199, 19–204, 19–214). OSHA has included in the final standard a labeling exemption for hazardous chemicals that are subject to other Federal labeling requirements. This change should reduce the costs of compliance, especially for pesticide production, frequently a small scale operation.

Inclusion of Importers and Distributors

The final OSHA standard requires these employers to transmit labeled containers and MSDSs to manufacturing employers. The SIC 516 (Merchant Wholesalers of Chemicals and Allied Products) and SIC 517 (Merchant Wholesalers of Petroleum Products) are expected to be affected by this provision. A large proportion of these establishments are small entities: for SIC 516 and 517 respectively, 87 and 86 percent of the establishments have 19 employees or fewer. The additional cost that would be incurred by these employers, however, is expected to be minimal. These employers will merely be passing on information obtained from the chemical manufacturers. The benefits to these employers may be significant. The provision of hazard information will encourage the adoption of safer handling procedures.

Inclusion of Laboratories

The final OSHA standard requires that laboratory employees be apprised of the hazards of the chemical products used in their respective workplaces. The final standard exempts these entities, generally small scale production processes, from the labeling and MSDS requirements (except to maintaining existing labels), but subjects them to the education and training requirements. The additional cost of compliance for these entities is expected to be minimal, because testimony presented during the public hearing indicated that such education and training is already provided as a general rule.

Relative Impact of the Phase-In

The March 1982 proposal included different compliance periods for substances and mixtures and for employers as a function of employment size. The Small Business Administration (SBA) has indicated, however, that supply channels are not a function of size (Ex. 19–158). Large chemical manufacturers will demand information from small chemical suppliers, especially if the large manufacturer is developing a chemical mixture that will in turn be purchased by industrial users in SIC 20–39. As suggested by SBA, OSHA has therefore adopted a uniform effective date for chemical manufacturers and a delay in the effective date for industrial users:

Chemical manufacturers must be in compliance with the requirements to provide MSDSs and labels to industrial customers within 24 months. All employers in SIC 20–39 must be in compliance with all components of the standard within 30 months.

This phase-in will affect the total initial costs of the activities as well as distribution across entity size categories. The costs for development of MSDSs, labeling, hazard evaluation, and recordkeeping will be significantly reduced for small entities as a consequence of this phase-in of the standard. This is demonstrated in the following way. First, the expected distribution of the initial cost of compliance for the final standard allowing for the regulatory flexibility is presented. Second, the expected additional cost of compliance with the standard omitting the regulatory flexibility is presented.

As presented in Table 7, the total initial cost for small entities (establishments with 19 employees or fewer) is 30 percent of the total initial cost of the final standard. The hazard determination activity is approximately 34 percent of the total cost for these entities. It must be noted, however, that the weights applied may not fully capture the effects of regulatory flexibility on small entities. (A full explanation of the weights is available in Chapter V of the Regulatory Impact Analysis). The compliance time made available to chemical producers will allow employers in small establishments to use chemical hazard information generated by employers in larger establishments in SIC 28. The actual quantity of regulated chemical products that are purchased from large chemical manufacturers (with greater than 19 employees) by small chemical manufacturers (with 19 employees or fewer) was not available. In addition, the cost of labeling was not fully adjusted for the allowance for use of batch tickets and the like. Information on the exact number and distribution of containers that would qualify for such an option was not available. Evidence in the record suggests that this adjustment will reduce the relative costs for small entities. In the absence of these adjustments., the costs of some of the activities for small entities may be overstated.

TABLE 7.—DISTRIBUTION OF EXPECTED INITIAL COSTS BY ESTABLISHMENT SIZE ALLOWING FOR REGULATORY FLEXIBILITY

(Millions 1982)

Provision	Entity size by number of employees (number of entities)			
	1–19 (207,103)	20–99 (76,933)	100–249 (20,807)	250 or greater (13,592)
Review of Labels and MSDSs	$3.864	$2.801	$1.159	$1.835
Review of Education and Training	2.568	1.444	0.588	0.749
Hazard Determination	59.800	43.355	17.940	28.405
Labeling:				
Containers Shipped	20.240	14.674	6.072	9.614
Large In-Plant	3.031	1.705	0.694	0.884
Small In-Plant	17.774	9.998	4.073	5.184
Subtotal	41.045	26.377	10.839	15.682
MSDS:				
Preparation	6.794	4.926	2.038	3.227
Provision	4.614	3.445	1.384	2.191
Filing	4.434	2.494	1.016	1.293
Subtotal	15.842	10.865	4.438	6.711
Education and Training	37.693	57.067	46.911	129.133
Recordkeeping:				
Compiling	1.306	0.991	0.410	0.649
Accessing	10.155	5.712	2.327	2.962
Compliance Plan	6.089	3.355	1.427	1.652
Subtotal	17.610	10.058	4.164	5.263
Total	178.422	151.967	86.039	187.778

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

As presented in Table 8, the average initial cost per establishment allowing for regulatory flexibility is influenced significantly by the size of employment. The average expected initial cost per entity for those with fewer than 19 employees is $861. For relatively large entities with 250 employees or greater, the average initial cost is $13,815.

TABLE 8.—DISTRIBUTION OF EXPECTED AVERAGE COST ALLOWING FOR REGULATORY FLEXIBILITY (1982)

Employment size category	Average initial cost per entity	Average employment per entity	Average initial cost per employee
1–19	$861	5	$172
20–99	1,975	37	54
100–249	4,135	124	33
250 or greater	13,815	559	25

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

Scale economies do occur, however, as reflected by the estimates of average initial cost per employee for each entity size category. Larger establishments can effectively spread much of the overhead cost of a hazard communication program over a larger work force. The average cost for large entities with 250 employees or greater is approximately $25. For relatively small entities with 19 employees or fewer, the average initial cost per employee is $172.

Without the allowance for regulatory flexibility, each employer in the manufacturing sector may have to inventory the chemical products in the workplace, evaluate the chemical products in his or her workplace for health hazards, develop MSDSs for the chemical product in the workplace if they are not already available, and review the labels on some of the chemical containers in the workplace. Assuming a worst case scenario, each employer in manufacturing would be required to conduct an immediate inventory of chemical products in his or her workplace. The employer would then evaluate the chemical products for health hazards, review the labels on containers of such products, and develop an appropriate MSDS for each product if one does not exist in the workplace. The potential costs associated with this scenario have been estimated as follows.

It is assumed that a supervisor would spend an average of 5 minutes per chemical developing a chemical inventory and reviewing the label on the container. Supervisory time is valued at $21 per hour. Thus, as presented in Table 9 an additional cost of $21.619 million would be incurred by small entities and an additional cost of $44.59 million would be incurred by all entities in manufacturing. As presented in Table 9, the expected additional cost for each employer to evaluate immediately the chemical products in his or her workplace would be $4,941.5 million for small entities and $10,182.835 million for all of the entities in the manufacturing sector.

The expected incremental cost of MSDS development as presented in Table 9 would be $183.33 million for small entities and $377.783 million for all of the entities in the manufacturing sector. The expected total additional cost for all of these activities would then be $5,146.499 million for small entities and $10,605.208 million for all entities in the manufacturing sector. These estimates are conservative in that only 5 minutes of the supervisor's time has

been allocated to the inventory and the label review. Furthermore, it has been assumed that appropriate labels would be readily available from the producers of the chemical products. Relaxing these assumptions would imply that additional costs for the chemical inventory, label review, and label modification and redesign would be incurred by all entities.

TABLE 9.—DISTRIBUTION OF ADDITIONAL COSTS ATTRIBUTED TO THE ELIMINATION OF REGULATORY FLEXIBILITY

(Millions 1982)

Provision	Entity size by number of employees				
	1–19	20–99	100–249	250 or greater	Total
MSDS Development	$183.330	$101.383	$43.127	$49.943	$377.783
Chemical Inventory	21.619	11.995	5.086	5.890	44.590
Hazard Evaluation	4,941.500	2,732.686	1,162.462	1,346.187	10,182.835
Total	5,146.449	2,846.064	1,210.675	1,402.02	10,605.208

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

Industry Effects

The expected compliance cost for the final OSHA standard has been calculated for each industry in manufacturing. The cost estimates are approximations and may not sum to the total figures provided in Chapter IV of the Regulatory Impact Analysis. These cost figures do, however, indicate the relative impact on the respective industry. The costs of hazard evaluation, labeling of chemical shipments, label review, label modification and redesign, MSDS development. MSDS provision with shipments, and hazard recordkeeping have been attributed to SIC 28. Some of these costs may actually be incurred by establishments in SIC 2911 or perhaps by other industrial suppliers.[1] Further disaggregation of these costs, however, was not possible. In the absence of the necessary information for an accurate adjustment for the industry groups, the costs assigned to SIC 28 may be overestimated.

As presented in Table 10, the industries associated with a relatively high compliance cost include Food and Kindred Products (SIC 20). Lumber and Wood Products (SIC 24), Printing and Publishing (SIC 27), Chemical and Allied Products (SIC 28), Fabricated Metal Products (SIC 34), Machinery Except Electrical (SIC 35), Electrical Equipment and Supplies (SIC 36), and Transportation Equipment (SIC 37). The cost as a percent of payroll and value-added are the highest for SIC 28 at 2.1 percent and 0.14 percent, respectively. As noted previously, some of the cost attributed to producers of chemical products is likely to be incurred by employers in other industries.

[1] The distributional impact on importers, repackagers, and distributors was discussed in a previous section.

TABLE 10.—EXPECTED TOTAL INITIAL COST AS A PERCENT OF PAYROLL, AND AS A PERCENT OF VALUE-ADDED BY INDUSTRY (1982)

(SIC)	Expected total cost (millions)	Cost as percent of payroll [1]	Cost as percent of value-added [2]	Average cost per employee
(20) Food and Kindred Products	$27.428	0.15	0.04	$23.82
(21) Tobacco Manufacturers	0.872	0.12	0.02	17.60
(22) Textile Mill Products	13.979	0.19	0.09	20.84
(23) Apparel and Other Textile Products	22.809	0.27	0.13	20.60
(24) Lumber and Wood Products	17.391	0.28	0.13	33.68
(25) Furniture and Fixtures	9.134	0.24	0.12	25.78
(26) Paper and Allied Products	11.663	0.14	0.05	24.31
(27) Printing and Publishing	38.105	0.30	0.13	44.00
(28) Chemicals and Allied Products	260.018	2.10	0.14	408.09
(29) Petroleum and Coal Products	2.252	0.09	0.02	25.55
(30) Rubber and Plastic Products	14.200	0.21	0.09	26.51
(31) Leather and Leather Products	4.314	0.24	0.12	22.48
(32) Stone, Clay and Glass Products	12.533	0.18	0.07	26.91
(33) Primary Metal Industries	18.024	0.11	0.05	19.96
(34) Fabricated Metal Products	30.674	0.17	0.08	27.21
(35) Machinery, Except Electrical	41.247	0.16	0.07	28.48
(36) Electrical Equipment and Supplies	29.355	0.15	0.07	21.58
(37) Transportation Equipment	27.368	0.10	0.05	21.25
(38) Instruments and Related Products	10.163	0.15	0.06	25.89
(39) Misc. Manufacturing Products	11.555	0.29	0.13	34.36

[1] The payroll (1976) for each SIC category is taken from U.S. Department of Commerce, Bureau of Census, *Statistical Abstract of the U.S.*, 1979.
[2] The value-added (1976) for each SIC category is taken from U.S. Department of Commerce, Bureau of Census, *Statistical Abstract of the U.S.*, 1979.

Source: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

OSHA has determined that the final standard will not impose a substantial burden on the affected industries. Hence, OSHA has concluded that the standard is economically feasible.

Environmental Assessment—Finding of No Significant Impact

The Hazard Communication standard and its major alternatives, as well as responses to OSHA's Notice of Proposed Rulemaking (NPRM) (47 FR 12092–12123, March 19, 1982) have been reviewed. No comments were received which specifically addressed the

environmental assessment for this standard.

In accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), as interpreted by the Council on Environmental Quality (CEQ) guidelines (40 CFR Part 1500 et seq.), and with the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR Part 11; 45 FR 51187 et seq., August 1, 1980), the Assistant Secretary for OSHA has determined that the proposed rule will have no significant environmental impact.

As presented in the NPRM and as outlined in earlier sections of this preamble, this action would allow employees easier access to information on hazardous chemical substances present in the workplace through the use of labels and hazard warnings, material safety data sheets, information and training, and access to written records. The worker population, in effect, is expected to experience a significant benefit in health and safety from the improved workplace environment that is expected to result from implementation of the standard.

A review of the summary and explanation of this rule indicates that the standard is unlikely to result in the occurrence of significant health or environment effects outside of the workplace. The labeling of chemical containers to identify their contents would not have a direct or significant impact on air or water quality, land or energy use, or waste disposal outside of the workplace, because the nature of a substance would not be changed through its identification. For example, the labeling of a container would not eliminate the possibility of the chemical contents leaking into the external environment. However, it is possible that there would be some potential, indirect benefit to the external environment as a result of the proposed regulation. The labeling of toxic substances generally would create a greater awareness of their nature and effects, which in turn could lead to a more careful handling of them. To the extent that these substances are handled more carefully, there would be a beneficial impact on air and water quality and on solid waste disposal, although containers of hazardous waste are exempt from the labeling requirements. In cases where reclamation or recycling of materials from solid waste occurs, or where cleanup of abandoned or contaminated landfills takes place, identification of hazardous substances may prove useful and cost-effective. Such benefits of course depend on the continued presence of the hazard information itself, and labels can deteriorate or be removed over time. Moreover, because hazard warning information on the label is intended to alert employees to hazardous materials in the workplace, this information will not identify or encompass all of the potential hazards that may occur outside of the workplace.

In addition, for reasons discussed elsewhere in this preamble, none of the alternatives considered by OSHA would significantly increase the effectiveness of the standard. Other provisions, such as expanded requirements of material safety data sheets, chemical listing, education and training, compliance periods, and recordkeeping, would have no significant environmental impacts outside of the workplace.

Moreover, no evidence has been presented to show that the regulation would have any significant adverse impacts on the external environment, would result in any irreversible or irretrievable commitment of resources, or would adversely affect the short-term uses of the human environment and the maintenance or enhancement of long-term productivity.

Accordingly, on the basis of the discussion presented earlier in this notice, OSHA has determined that the hazard communication standard does not significantly affect the quality of the human environment and that preparation of an EIS is not required.

IV. Summary and Explanation of the Standard

The following is a paragraph-by-paragraph summary of the provisions of the final standard:

(a) *Purpose.* In the final standard, a paragraph has been added to specify what OSHA intends to accomplish through promulgation of the standard. In essence, the paragraph states that the final Hazard Communication standard is intended to ensure that all employees in the manufacturing sector, Standard Industrial Classification (SIC) Codes 20 through 39, are apprised of the hazards they work with through a hazard communication program. This program is to include container labeling material safety data sheets, and employee training.

The paragraph goes on to state that OSHA intends to comprehensively address the issue of evaluating and communicating chemical hazards to employees in the manufacturing sector in this standard, and to preempt any state law pertaining to this subject. Thus if a state wishes to regulate in this area, it can only do so if the standard is approved by OSHA under section 18(b) of the Act which deals with state plans. This preemption will serve to reduce the burden on interstate commerce produced by conflicting state and local regulations and will ensure that all employees in the manufacturing sector are accorded the same degree of protection. OSHA will examine carefully any state requests to regulate in this area to determine any potentially burdensome impact on interstate commerce as well as to ascertain whether there is a compelling need for a separate regulation.

(b) *Scope and application.* The final hazard communication standard applies to employers and employees in the manufacturing SIC Codes, 20 through 39. The manufacturers in these SIC codes who produce chemicals for use or distribution, and importers of such chemicals, must evaluate the hazards of these substances. All employers in the manufacturing sector must establish a hazard communication program for their employees. In addition, distributors of hazardous chemicals are required to transmit hazard information to their manufacturing sector customers.

The proposed standard also applied to the manufacturing SIC codes. As discussed elsewhere in this preamble, OSHA has concluded that the need for hazard communication is greatest in the manufacturing sector, and is exercising its priority setting authority by choosing to regulate this segment of industry at this time, and reserving the right to separately regulate other segments in the future.

The scope of the final standard has been expanded to cover importers and distributors. The rulemaking record indicated that in order for the flow of hazard information from upstream manufacturers to downstream users to be continuous and effective, all aspects of the supply chain have to be specifically included in the scope of the standard. Thus, in the final standard importers are required to supply the same information as domestic manufacturers of a hazardous chemical. Distributors are to ensure the downstream flow of information by shipping labeled containers and making an appropriate material safety data sheet available to downstream purchasers.

The standard also applies only to chemicals which are known to be present in the workplace and to which employees may be exposed under normal conditions of use or in a foreseeable emergency. This means that employers must assess and communicate the hazards of any such chemicals, but do not have to analyze complex chemical mixtures in the

workplace to determine the precise composition and components. That is, the term "known" means the employer need not analyze intermediate process streams, for example, to determine the presence of quantity of trace contaminants. However, where the employer knows of such contaminants, and they are hazardous, then they fall under the provisions of the standard.

There are a number of laboratories in the manufacturing facilities covered by this standard, and they receive different treatment in terms of hazard communication requirements. Employers are to ensure that labels on incoming containers of hazardous chemicals are not removed or defaced. Furthermore, any material safety data sheets received with such chemicals are to be maintained, and accessible to employees. Employers are also to ensure that laboratory employees are apprised of the hazards of the chemicals they work with in accordance with the training provisions of this standard. In all other respects laboratories in the covered SIC Codes are exempt from the provisions of the hazard communication standard. For example, employers need not label every container used in the laboratory with an identity and hazard warning as would otherwise be required.

The standard also exempts potentially hazardous chemicals that are brought into the workplace for the personal consumption of employees, such as foods, drugs, cosmetics or tobacco products.

The standard also included specific labeling exemptions for chemicals which are regulated by other Federal agencies, and total exemptions for certain classes of substances which are not expected to be hazardous for purposes of this standard.

(c) *Definitions.* The final standard includes a number of definitions which provide the framework to determine which employers are covered by the standard; what substances are covered by the standard; how the standard defines hazards; and how OSHA defines other key terms for purposes of the standard, such as what constitutes a trade secret. Since a number of these definitions are unique to this standard, they should be consulted to ensure that the provisions are properly understood.

The standard applies to several different groups of businesses, in varying degrees of coverage. All of the hazard communication provisions apply to "employers" who are defined as businesses within SIC Codes 20 through 39 where chemicals are "either used, or are produced for use or distribution." "Produce" means to "manufacture, process, formulate, or repackage." "Use" means to "produce, handle, react, or transfer." Those "employers" who "produce" chemicals for "use or distribution" are considered to be "chemical manufacturers," and thus have additional hazard evaluation duties to perform.

The standard also requires "importers" to evaluate the hazards of chemicals. An importer "receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or manufacturing purchasers within the United States." "Distributors" supply "hazardous chemicals to other distributors or to manufacturing purchasers." "Manufacturing purchasers" are "employers" who purchase a hazardous chemical for use within a workplace in SIC Codes 20 through 39.

The standard applies to any chemical which is known to be present in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency. A "chemical" is broadly defined as "any element, chemical compound, or mixture of elements and/or compounds." "Articles" are excluded under the scope of the standard from being covered as a "chemical." A mixture is defined as "any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction". "Exposure" occurs when an employee may inhale, ingest, or absorb a hazardous chemical during the course of employment. The definition includes both potential and current "exposure." A "foreseeable emergency" is one which employers would normally plan for as a presumed potential occurrence determined by the nature of the operation, i.e. equipment failure or rupture of containers.

The standard applies to both "physical" and "health" hazards. Each of these terms is defined by listing the various types of "physical" and "health" hazards covered. These listed hazards are then individually defined, or in the case of "health" hazards, further explained in Appendix A.

If a "container" of a hazardous chemical is present in, or leaves the workplace, it must be labeled with an "identity" and "hazard warning." A "container" is anything that holds hazardous chemicals except pipes and piping systems. A "label" is any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals. An "identity" is any name used on the material safety data sheet for the chemical, and on the list of hazardous chemicals in the workplace. The name used should permit cross-references to be made among these three items. The "hazard warning" conveys the hazards of the chemical(s) in the container to employees. This message may be conveyed by words, symbols, pictures, or any combination thereof.

(d) *Hazard determination.* A new paragraph has been added to the final standard to separate out and highlight the provisions concerning the determination of what constitutes a hazard for purposes of the standard.

The primary duty for hazard evaluation lies with the chemical manufacturers and importers of hazardous chemicals. Under the provisions of this paragraph, they are required to evaluate the chemicals they produce or import in their workplaces to determine if they are hazardous. Employers may rely on the evaluation performed by the chemical manufacturer or importer for chemicals they use within their workplaces to satisfy this requirement.

The chemical manufacturers, importers, or employers are to be held accountable for the quality of the hazard determinations they perform. Each chemical is to be evaluated for its potential to cause adverse health effects, as well as its potential to pose physical hazards, such as flammability. The particular health and physical hazards to be considered are enumerated in the definition for a "hazardous chemical." Additional definitions are provided for the terms used in the definition for a hazardous chemical. The specific physical hazards are also defined in the definitions paragraph. The health hazard definitions are contained in Appendix A. Appendixes A and B are integral parts of this hazard determination paragraph.

Appendix A contains a discussion of the difficulty in definitively identifying all possible health effects, and indicates the broad approach the standard intends in its coverage of such effects. It further provides specific definitions for certain acute hazards, such as "corrosive" and "sensitizer." In addition, the Appendix includes a target organ categorization of health effects which gives examples of signs and symptoms of exposure as well as indications of substances which have been found to affect the target organ. This information is also provided to indicate the broad scope of health hazards to be covered. Essentially, the employer must report any adverse health effect for which there is scientific (i.e. statistically significant) evidence based on at least one positive study conducted in accordance with established scientific principles, that it

may occur as a result of employee exposure.

Appendix B provides further guidance to the employer in terms of the criteria to be applied in determining whether or not a chemical is hazardous for purposes of the standard. As examples of evidence to be considered, OSHA indicates that both human and animal data must be evaluated. Furthermore, if an available study indicates that an adverse health effect is likely to occur, and that study is conducted according to scientific principles and results in statistically significant findings, the employer is required to report it whether he agrees with the finding or not. Employers are free to report such findings in a non-conclusionary fashion, i.e. they don't have to agree with it, but they do have to report it. Employers may also report any negative data they believe is relevant to the hazard potential of the chemical. An additional Appendix C lists a number of sources which are available for employers in their search for information on hazards.

The hazard determination paragraph also includes two provisions which establish certain substances as being hazardous chemicals in any occupational setting. These substances are those currently regulated by OSHA under 29 CFR Part 1910, General Industry Standards, and those listed by the American Conference of Governmental Industrial Hygienists (ACGIH) in their latest edition of the *Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment.* This provision establishes a "floor" of over 600 substances to be communicated to employees.

In addition, OSHA has defined a carcinogen for purposes of communication of hazards as any substance found to be a confirmed or suspected carcinogen by the International Agency for Research on Cancer, the National Toxicology Program, or OSHA. Use of these sources should eliminate much controversy involved in defining and identifying carcinogens. The hazard determination paragraph (d) also addresses the coverage of hazardous chemicals which are mixtures. Mixture coverage is divided into several considerations. First of all, if the employer has objective test data on the mixture as an entity, that data must be used to determine the hazards. If such data are not available for the health hazard determination, then the employer must consider the mixture to have the health hazards of those components which comprise one percent or more of the total composition. If any of the components are carcinogens, the mixture must be considered to be carcinogenic if the component is present in concentrations of 0.1% or more.

If the mixture has not been objectively evaluated to determine its physical hazard potential, the employer may use whatever scientifically valid information is available to subjectively assess the potential hazards.

Finally, if the employer has evidence to indicate that a component which comprises less than one percent of the mixture could be released in concentrations which would exceed an established permissible exposure limit under normal conditions of use, it must be identified. Furthermore, if the employer has reason to believe that the component could be released in quantities hazardous to the health of employees, it shall also be identified even though present in quantities less than one percent of the total weight or volume, or less than 0.1% in the case of a carcinogen. The procedures used to evaluate hazards must be prepared in writing. The written description may be included in the written hazard communication program required under paragraph (e).

(e) *Written hazard communication program.* The final standard requires each employer to establish a comprehensive hazard communication program for their employees, which includes at least the mandated container labeling, material safety data sheets, and an employee training program. The program is to be written, and is to include how the employer plans to meet the criteria of the standard regarding labels, material safety data sheets, and training; a list of the hazardous chemicals in each work area, the methods the employer will use to inform employees of the hazards of non-routine tasks, as well as of the hazards associated with chemicals contained in unlabeled pipes in their work areas; and the methods employers will use to inform contractors in manufacturing facilities of the hazards to which their employees may be exposed.

The written program need not be lengthy or complicated, but should adequately address each of the required components in the program. Some employers already have aspects of their existing hazard communication programs in written form. These need not be modified to comply with this requirement as long as they address the minimal criteria established in the standard.

The written program is to be made available to employees, their designated representatives, the Assistant Secretary for OSHA and the Director of NIOSH.

(f) *Labels and other forms of warning.* Chemical manufacturers, importers and distributors are required to ensure that containers of hazardous chemicals leaving the workplace are labeled, tagged or marked with the identity, appropriate hazard warnings, and the name and address of the manufacturer or other responsible party. Additionally, they are to ensure that these labels do not conflict with those applied in accordance with Department of Transportation regulations under the Hazardous Materials Transportation Act. If labels already applied by the manufacturer, importer, or distributor contain the minimal information required by OSHA, additional labels need not be affixed.

The final standard requires that each container in the workplace be labeled, tagged or marked with the identity of hazardous chemicals contained therein, and hazard warnings appropriate for employee protection. The term "identity" is defined for purposes of this standard as being any designation the employer chooses to use, as long as it also appears on the list of hazardous chemicals for the work area, and on the associated material safety data sheet. The hazard warning is to be any type of message, words, pictures, or symbols, which convey the hazards of the chemical(s) in the container. The employer is responsible for selecting the message and ensuring that it is effective for the purpose involved.

OSHA recognizes that container labeling may be difficult, or in some cases impractical, to accomplish within a plant. Therefore, several exemptions to in-plant individual container labels have been included in the final standard. If there are a number of stationary containers within a work area which have similar contents and hazards, the employer may post signs or placards which convey the hazard information required rather than individually labeling each piece of equipment. Employers may also use various types of standard operating procedures, process sheets, batch tickets, blend tickets, or other such written materials as substitutes for individual container labels on stationary process equipment. However, these written materials must contain the same information as is required on the labels, and must be readily accessible to workers in the work areas. This requirement does not apply to pipes or piping systems, which are exempted altogether from the labeling requirements.

One additional exemption is included for in-plant containers. Employers are not required to label portable containers, into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer. According to the definition of immediate use, the container must be under the control of the employee performing the transfer, and used within the workshift when the transfer has been made, for the exemption to apply.

The standard also requires that employers ensure that labels on incoming containers of hazardous chemicals are not removed or defaced, unless they are immediately replaced with another label with the required information. In addition, labels are to be legible, in English and prominently displayed on the container. Employers may add information in other languages as well, as long as the message also appears in English.

(g) *Material safety data sheets.* The final standard requires chemical manufacturers and importers to develop material safety data sheets for each hazardous chemical they produce or import. Employers are required to obtain or develop a material safety data sheet for each hazardous chemical used in their workplaces.

Specific requirements are included for the information to be provided on the MSDS. Such information is to be in English, and includes the identity, as well as chemical and common names, for the hazardous chemical. Special provisions apply to the listing of ingredients for hazardous chemicals which are mixtures. For physical hazards, the employer is to list those ingredients which he or she has determined present a physical hazard. For health hazards, the employer must list each component which comprises 1% or more, and which is itself a health hazard. Any chemical which is determined to be a carcinogen must be listed if it is present in quantities of 0.1% or greater. Employers must also list ingredients present in concentrations of less than one percent if there is evidence that the permissible exposure limit may be exceeded or if it could present a health hazard in those concentrations.

In addition to identity information, the employer must provide information specified on the physical and chemical characteristics of the hazardous chemical, known acute and chronic health effects and related health information, as well as information concerning exposure limits, whether the chemical is considered to be a carcinogen by NTP, IARC, or OSHA, precautionary measures, emergency and first aid procedures, and identification of the person responsible for the sheet.

In some situations, employers may have more than one complex mixture in the workplace which have similar contents and hazards. For example, petroleum streams have essentially the same chemical components, but may vary slightly in concentrations of these components. The hazards are essentially the same. Employers may prepare one MSDS for all of these similar mixtures in order to comply with the provisions of this standard.

If a manufacturer or importer cannot find the appropriate information to complete a specified category, then the MSDS must be marked to indicate that no information was found. In other words, the employer must not leave blank spaces on the sheets which would then be open to interpretation as to the significance of not having an entry in them. If the category is not applicable to the chemical involved, the space should be marked to indicate that as well.

The chemical manufacturer, importer or employer is to ensure that the MSDS accurately reflects the scientific evidence which formed the basis for the determination that the chemical in question is hazardous. The chemical manufacturers, importers, and employers should remain aware of the development of new and significant information regarding the potential health hazard of a chemical in their workplace. When they do obtain such information, they must add it to the MSDS within three months. If the chemical is not being produced at the time of the information is discovered, the information need not be entered onto the MSDS until the chemical is reintroduced into the workplace, and thus employees are potentially exposed.

An MSDS is to be provided to manufacturing purchasers of hazardous chemicals with their first shipment. Providing an MSDS does not imply that the sheet need be physically attached to the shipment. It may be transmitted by mail, through a computer link-up, or in any other effective manner the manufacturer chooses. When an MSDS is updated, the new version must be transmitted to the manufacturing purchaser with the next shipment. Although the chemical manufacturers and importers have a positive duty to provide such information, there may be situations where the MSDS is lost or misplaced. If one is not received as anticipated, the manufacturing purchaser must make efforts to obtain one as soon as possible.

Distributors are responsible for ensuring that manufacturing purchasers of their hazardous chemicals are provided an appropriate MSDS. This may be accomplished by providing an MSDS prepared by the producer of the chemical.

Copies of the MSDSs for hazardous chemicals in a given work area are to be readily accessible to employees in that work area. In order for the MSDS to serve as a source of detailed information on hazards, it must be located close to workers, and readily available to them during each workshift.

As was the case with labels, alternatives to MSDSs within a plant are also permitted as long as they provide the appropriate information, and are readily accessible to employees. These would be expected to take the form of written operating procedures, manuals, etc. The employer may also use this alternative approach to address the hazards of a process, rather than individual chemicals. However, information must still be available to employees for each hazardous chemical involved.

MSDSs are to be made available to employees and their designated representatives, the Assistant Secretary and the Director. They must be maintained in a current fashion, and need not be retained for any specified period of time beyond that, except to the extent required by the Employee Access to Exposure and Medical Records rule, 29 CFR 1910.20.

(h) *Employee information and training.* Employers are to establish a training and information program for employees exposed to hazardous chemicals. Such training is to be provided at the time of initial assignment, and whenever a new hazard is introduced in their work area. Of course, any emplyees who have not been trained previously must receive training equivalent to the required initial assignment training when this standard takes effect.

The standard specifies the information to be transmitted to employees. First they are to be informed of the requirements of this regulation, i.e., that it exists, that employers are required to have hazard communication programs, and the components of the programs in their workplaces. Employees are also to be informed of any operations in their work area where hazardous chemicals are present, and where the employer will be keeping the written materials required under this standard, including the written hazard evaluation procedures, written program, lists of hazardous chemicals, and MSDSs required by this section.

Employees are also to be trained regarding methods and observations they may use to detect the presence of a hazardous chemical in their work area. For example, employees should be informed of the visual appearance or smell of the chemicals they may be exposed to, so they will know when they are being released into the work atmosphere. Employees are also to be trained specifically about the hazards of the chemicals in their work areas. This may be done by specific chemical or by categories of hazards, but in any case, the employee is to be aware that information is available on the specific hazards of individual chemicals through the material safety data sheets. Training is to include the measures employees can take to protect themselves from the hazards, and is to indicate the specific procedures implemented by the employer to provide protection, such as work practices and the use of personal protective equipment. In addition, the employer is to explain the hazard communication program implemented in that workplace, including how to read and interpret information on labels and material safety data sheets, and how employees can obtain and use the available hazard information.

(i) *Trade secrets.* OSHA recognizes in the final standard that specific chemical identity information can constitute a *bona fide* trade secret, and thus provisions are made to protect such an identity while providing for the proper protection of exposed employees. This is accomplished by providing for limited trade secret disclosure to health professionals under prescribed conditions of need and confidentiality. The term "specific chemical identity" is used to describe the trade secret information being discussed. This term refers to the chemical name, the Chemical Abstracts Services (CAS) Registry Number, or any other specific information which reveals the precise chemical designation. It does not include common names.

The proposed standard did not include a definition for the term "trade secret," although OSHA stated that the Agency considered the definition derived from the Restatement of Torts to be the appropriate one. In response to comments suggesting that the definition be explicitly stated in the final standard, a slightly modified version of that definition has been added to clarify what the Agency considers to be a trade secret for purposes of this standard.

Given that it is recognized that the specific chemical identity of a chemical may be a trade secret, the standard establishes an information disclosure scheme which requires the release of essential hazard information, and defines the terms under which the specific chemical identity must also be released.

The chemical manufacturer, importer or employer is permitted to withhold the specific chemical identity from the MSDS if certain conditions can be met: (1) The chemical manufacturer, importer or employer can support the claim that the information withheld is a trade secret; (2) information concerning the properties and effects of the hazardous chemical is disclosed as required on the appropriate material safety data sheet; (3) the chemical manufacturer, importer, or employer indicates on the MSDS that the specific chemical identity is being withheld as a trade secret; and (4) the specific chemical identity is made available to health professionals under certain specified situations. Health professionals are considered to be physicians. Industrial hygienists, toxicologists, or any other person providing medical or other occupational health services to exposed employees.

The final standard's provisions make a distinction between the trade secret disclosure requirements in the event of a medical emergency and in non-emergency situations.

In the case of a medical emergency, the chemical manufacturer, importer, or employer must immediately disclose the specific chemical identity of a hazardous chemical to a treating physician or nurse when the information is needed for proper emergency or first aid treatment. As soon as circumstances permit, however, the chemical manufacturer, importer, or employer may obtain a written statement of need and a confidentiality agreement as provided for below.

OSHA considers it to be appropriate for the treating physician or nurse to have the ultimate responsibility for determining that a medical emergency exists. At the time of the medical emergency, their professional judgment regarding the situation must form the basis for triggering the immediate disclosure requirement. Although there will undoubtedly be situations which, when viewed in retrospect, do not appear to be genuine emergencies, OSHA has determined that the short-term necessity for appropriate emergency treatment far outweighs the risk of unnecessary disclosure of secret information. Since the chemical manufacturer, importer, or employer can require a written statement of need and a confidentiality agreement to be completed after the emergency is abated, further disclosure of the trade secret can be effectively controlled. If a chemical manufacturer, importer or employer refuses to provide specific chemical identity information in the event of a medical emergency, OSHA regulations would provide appropriate enforcement remedies.

In drafting the medical emergency disclosure requirement, OSHA considered whether to allow the chemical manufacturer, importer, or employer to suggest alternatives to disclosure of the type stated in the provisions for non-emergency situations (paragraph (i)(7)(v)). However, OSHA determined that the emergency nature of the situation addressed necessitiates disclosure of the specific chemical identity immediately without the opportunity for the chemical manufacturers, importer or employer to explore possible suitable alternatives with the treating physician or nurse.

In non-emergency situations, chemical manufacturers, importers, or employers are required to disclose the withheld specific chemical identity to health professionals providing medical or other occupational health services to exposed employees if certain conditions are met. The concept of "health professional" is more broadly stated than for emergency situations, and includes any physicians, industrial hygienists, toxicologists, or epidemiologists who provide these medical or other occupational health services to exposed employees. Nurses are not included among the health professionals entitled to access to specific chemical identities in non-emergency situations. OSHA has determined that it is more appropriate, given the competing interests balanced in this standard, to entrust such information to the physician to whom a nurse would normally report. The request for information must be in writing, and must describe with reasonable detail the medical or occupational health need for the information. To be considered a medical or occupational health need for purposes of this standard, the health professional must be planning to use the specific chemical identity information for one or more of the following activities:

1. To assess the hazards of the chemicals to which employees will be exposed.
2. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels.
3. To conduct pre-assignment or periodic medical surveillance of exposed employees.
4. To provide medical treatment to

exposed employees.
5. To select or assess appropriate personal protective equipment for exposed employees.
6. To design or assess engineering controls or other protective measures for exposed employees.
7. To conduct studies to determine the health effects of exposure.

It should be noted that for purposes of this standard, exposure includes potential, as well as current, exposure situations. Thus the health professionals will be able to obtain the necessary information prior to the actual exposure of employees, and can implement preventive measures to avoid the occurrence of health effects.

In addition, the written request must also explain in detail why the disclosure of the specific chemical identity is essential to providing the occupational health services, and why disclosure of the following types of information would not satisfy the health professional's need:

1. Properties and effects of the chemical.
2. Measures for controlling workers' exposure to the chemical.
3. Methods of monitoring and analyzing worker exposure to the chemical.
4. Methods of diagnosing and treating harmful exposures to the chemical.

OSHA anticipates that in many situations this alternative information will be sufficient to satisfy the health professional's needs.

The request for the information must further provide a description of the procedures to be used to protect the confidentiality of the information. An agreement not to use the information for any purpose other than the health need asserted or to release it under any circumstances other than to OSHA must also be included, and signed by the health professional as well as the employer or contractor of the health professional's services. The requirement that the employer or contractor of the health professional's services be a co-signatory to the agreement applies equally regardless of whether the health professional is providing occupational health or medical services to a downstream employer, labor organization, or individual employees, and regardless of whether the health professional is being paid for his services. This makes explicit that both the principal and the agent are legally responsible for compliance with the agreement, although only the health professional may actually have access to the specific chemical identity information.

The provisions of the confidentiality agreement may not include requiring the posting of a penalty bond. It may restrict use of the information to the purposes indicated in the statement of need, prohibit disclosure to anyone other than OSHA who has not signed an agreement, and provide for appropriate legal remedies, including stipulation of a reasonable pre-estimate of likely damages. Nothing in the standard is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

If the health professional decides there is a need to disclose the information to OSHA, the chemical manufacturer, importer, or employer who provided the information must be informed by the health professional prior to, or at the same time as, such disclosure.

If the chemical manufacturer, importer, or employer denies the written request for information, the denial must also be in writing, and be provided to the health professional within thirty days of the request. The denial must provide evidence to support the claim that the chemical identity is a trade secret, state the specific reasons why the request is being denied, and explain in detail how alternative information may satisfy the occupational health need without revealing the specific chemical identity.

The requesting health professional who still needs the information may then refer the matter to OSHA for consideration. The original request, as well as the written denial, must be provided to OSHA at the time of this referral. OSHA will review these documents to determine whether the chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret, and that the health professional has demonstrated a medical or occupational health need for the information, as well as adequate means to protect the confidentiality of the information.

If OSHA determines that the specific chemical identity is not a trade secret, the employer will be subject to citation. Similarly, the employer will be subject to citation if the specific chemical identity is a trade secret, but the requesting health professional has demonstrated a medical or occupational health need, executed a confidentiality agreement, and has shown adequate means for complying with the terms of the confidentiality agreement. Abatement of the citation will most likely be to divulge the specific chemical identity subject to the confidentiality agreement. However, consistent with the power given to the Secretary in Section 15 of the Act, if the chemical manufacturer, importer, or employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret chemical identity, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon disclosure as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer. It is contemplated that the Assistant Secretary would personally review and approve such orders, limitations or conditions. If the employer continues to withhold the requested information after a citation has been issued, the contested citation will go to the Occupational Safety and Health Review Commission (OSHRC) for adjudication.

In accordance with OSHRC rules, The Administrative Law Judge (ALJ) from OSHRC may decide to review the matter *in camera*. At all stages of the proceeding, the normal OSHRC and judicial review procedures will be followed.

As a further clarification of the disclosure requirements of the final standard, the provisions specifically exclude trade secret processes or percentage of mixture information from disclosure. This is the type of information which is most likely to be trade secret and least likely to be of medical or occupational health interest. OSHA recognizes that, in rare cases, process information (such as where an intermediate hazardous chemical is not present in the final product) or even percentage of mixture information (such as for antidote treatment) may be necessary in an emergency situation. OHSA believes that responsible chemical manufacturers, importers, or employers will appropriately respond to such emergencies. Thus such information was not included in the concept of specific chemical identity.

The chemical manufacturer, importer or employer is required to divulge to the Assistant Secretary or designee any information required under this standard. However, the chemical manufacturer, importer, or employer may claim trade secret status at the time the information is provided, and the Assistant Secretary will make the necessary arrangements to ensure protection of such trade secrets, in accordance with the provisions of

section 15 of the Act and Agency procedures.

(j) *Effective dates.* The effective dates of the final standard are structured according to activity; that is, information being sent downstream must be prepared first, then other provisions of the hazard communication program are to be complied with by a later date. Chemical manufacturers and importers have two years in which to comply with the labeling of containers shipped downstream, and to provide material safety data sheets to manufacturing purchasers. Distributors must also begin transferring information downstream by this initial compliance date. All employers must be in compliance with all provisions of the standard within 2½ years.

V. Authority, Signature and the Standard

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Pursuant to Sections 6(b) and 8(g) of the Act, 29 CFR is hereby amended by adding a new § 1910.1200 to read as set forth below.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Hazard communication.

(Sec. 6(b), 8(c), and 8(g), Pub. L. 91-596, 84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657; 29 CFR Part 1911; Secretary of Labor's Order No. 9-83 (48 FR 35736))

Signed at Washington, D.C. this 21st day of November 1983.

Thorne G. Auchter,

Assistant Secretary for Occupational Safety and Health.

PART 1910—[AMENDED]

Subpart 2 of Part 1910 of Title 29 of the Code of Federal Regulations (CFR) is hereby amended by adding a new § 1910.1200 to read as follows:

§ 1910.1200 Hazard communication.

(a) *Purpose.* (1) The purpose of this section is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees within the manufacturing sector. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training.

(2) This occupational safety and health standard is intended to address comprehensively the issue of evaluating and communicating chemical hazards to employees in the manufacturing sector, and to preempt any state law pertaining to this subject. Any state which desires to assume responsibility in this area may only do so under the provisions of § 18 of the Occupational Safety and Health Act (29 U.S.C. 651 et. seq.) which deals with state jurisdiction and state plans.

(b) *Scope and application.* (1) This section requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers in SIC Codes 20 through 39 (Division D, Standard Industrial Classification Manual) to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers in SIC Codes 20–39.

(2) This section applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

(3) This section applies to laboratories only as follows:

(i) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

(ii) Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible to laboratory employees; and,

(iii) Employers shall ensure that laboratory employees are apprised of the hazards of the chemicals in their workplaces in accordance with paragraph (h) of this section.

(4) This section does not require labeling of the following chemicals:

(i) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency;

(ii) Any food, food additive, color additive, drug, or cosmetic, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and regulations issued under that Act, when they are subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Food and Drug Administration;

(iii) Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under that Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco, and Firearms; and,

(iv) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those Acts, or regulations issued under those Acts by the Consumer Product Safety Commission.

(5) This section does not apply to:

(i) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that Act by the Environmental Protection Agency;

(ii) Tobacco or tobacco products;

(iii) Wood or wood products;

(iv) Articles; and,

(v) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

(c) *Definitions.* "Article" means a manufactured item: (i) Which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Chemical" means any element, chemical compound or mixture of elements and/or compounds.

"Chemical manufacturer" means an employer in SIC Codes 20 through 39 with a workplace where chemical(s) are produced for use or distribution.

"Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS)

rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

"Combustible liquid" means any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

"Common name" means any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

"Compressed gas" means:

(i) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C); or

(ii) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

(iii) A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D–323–72.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that containes a hazardous chemical. For purposes of this section, pipes or piping systems are not considered to be containers.

"Designated representative" means any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

"Distributor" means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to manufacturing purchasers.

"Employee" means a worker employed by an employer in a workplace in SIC Codes 20 through 39 who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies, including, but not limited to production workers, line supervisors, and repair or maintenance personnel. Office workers, grounds maintenance personnel, security personnel or non-resident management are generally not included, unless their job performance routinely involves potential exposure to hazardous chemicals.

"Employer" means a person engaged in a business within SIC Codes 20 through 39 where chemicals are either used, or are produced for use or distribution.

"Explosive" means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

"Exposure" or "exposed" means that an employee is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (e.g., accidental or possible) exposure.

"Flammable" means a chemical that falls into one of the following categories:

(i) "Aerosol, flammable" means an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(ii) "Gas, flammable" means:

(A) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen (13) percent by volume or less; or

(B) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve (12) percent by volume, regardless of the lower limit;

(iii) "Liquid, flammable" means any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up 99 percent or more of the total volume of the mixture.

(iv) "Solid, flammable" means a solid, other than a blasting agent or explosive as defined in § 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

"Flashpoint" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(i) Tagliabue Closed Tester (See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24–1979 (ASTM D 56–79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(ii) Pensky-Martens Closed Tester (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7–1979 (ASTM D 93–79)) for liquids with a viscosity equal to or greater than 45 SUS a 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(iii) Setaflash Closed Tester (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278–78)).

Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

"Foreseeable emergency" means any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

"Hazard warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemical(s) in the container(s).

"Hazardous chemical" means any chemical which is a physical hazard or a health hazard.

"Health hazard" means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

"Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made

among the required list of hazardous chemicals, the label and the MSDS.

"Immediate use" means that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

"Importer" means the first business with employees within the Customs Territory of the United States which receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or manufacturing purchasers within the United States.

"Label" means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

"Manufacturing purchaser" means an employer with a workplace classified in SIC Codes 20 through 39 who purchases a hazardous chemical for use within that workplace.

"Material safety data sheet (MSDS)" means written or printed material concerning a hazardous chemical which is prepared in accordance with paragraph (g) of this section.

"Mixture" means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

"Organic peroxide" means an organic compound that contains the bivalent -O-O-structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

"Oxidizer" means a chemical other than a blasting agent or explosive as defined in § 1910.109(a), that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.

"Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

"Produce" means to manufacture, process, formulate, or repackage.

"Pyrophoric" means a chemical that will ignite spontaneously in air at a temperature of 130° F (54.4° C) or below.

"Responsible party" means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

"Specific chemical identity" means the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance.

"Trade secret" means any confidential formula, pattern, process, device, information or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

"Unstable (reactive)" means a chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks pressure or temperature.

"Use" means to package, handle, react, or transfer.

"Water-reactive" means a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

"Work area" means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

"Workplace" means an establishment at one geographical location containing one or more work areas.

(d) *Hazard determination.* (1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(2) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards. For health hazards, evidence which is statistically significant and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this section. Appendix A shall be consulted for the scope of health hazards covered, and Appendix B shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

(3) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

(i) 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or,

(ii) *Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment,* American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).

The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of the standard.

(4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

(i) National Toxicology Program (NTP), *Annual Report on Carcinogens* (latest edition);

(ii) International Agency for Research on Cancer (IARC) *Monographs* (latest editions); or

(iii) 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

Note.—The *Registry of Toxic Effects of Chemical Substances* published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be a potential carcinogen.

(5) The chemical manufacturer, importer or employer shall determine the hazards of mixtures of chemicals as follows:

(i) If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

(ii) If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under paragraph (d)(4) of this section;

(iii) If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and

(iv) If the employer has evidence to indicate that a component present in the mixture in concentrations of less than

one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health hazard to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(6) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the Assistant Secretary and the Director. The written description may be incorporated into the written hazard communication program required under paragraph (e) of this section.

(e) *Written hazard communication program.* (1) Employers shall develop and implement a written hazard communication program for their workplaces which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following:

(i) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas);

(ii) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas; and,

(iii) The methods the employer will use to inform any contractor employers with employees working in the employer's workplace of the hazardous chemicals their employees may be exposed to while performing their work, and any suggestions for appropriate protective measures.

(2) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this paragraph (e).

(3) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, the Assistant Secretary and the Director, in accordance with the requirements of 29 CFR 1910.20(e).

(f) *Labels and other forms of warning.* (1) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

(i) Identity of the hazardous chemical(s);

(ii) Appropriate hazard warnings; and

(iii) Name and address of the chemical manufacturer, importer, or other responsible party.

(2) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

(3) If the hazardous chemical is regulated by OSHA in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(4) Except as provided in paragraphs (f)(5) and (f)(6) the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged, or marked with the following information:

(i) Identity of the hazardous chemical(s) contained therein; and

(ii) Appropriate hazard warnings.

(5) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by paragraph (f)(4) of this section to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

(6) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.

(7) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

(8) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

(9) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this section if existing labels already convey the required information.

(g) *Material safety data sheets.* (1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import. Employers shall have a material safety data sheet for each hazardous chemical which they use.

(2) Each material safety data sheet shall be in English and shall contain at least the following information:

(i) The identity used on the label, and, except as provided for in paragraph (f) of this section on trade secrets:

(A) If the hazardous chemical is a single substance, its chemical and common name(s);

(B) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or,

(C) If the hazardous chemical is a mixture which has not been tested as a whole:

(*1*) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under paragraph (d)(4) of this section shall be listed if the concentrations are 0.1% or greater; and,

(*2*) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

(ii) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

(iii) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(iv) The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(v) The primary route(s) of entry;

(vi) The OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or

recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where available;

(vii) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) *Annual Report on Carcinogens* (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) *Monographs* (latest editions), or by OSHA;

(viii) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(ix) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(x) Emergency and first aid procedures;

(xi) The date of preparation of the material safety data sheet or the last change to it; and,

(xii) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(6) Chemical manufacturers or importers shall ensure that distributors and manufacturing purchasers of hazardous chemicals are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the manufacturing purchaser prior to or at the time of the shipment. If the material safety data sheet is not provided with the shipment, the manufacturing purchaser shall obtain one from the chemical manufacturer, importer, or distributor as soon as possible.

(7) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and manufacturing purchasers of hazardous chemicals.

(8) The employer shall maintain copies of the required material safety data sheets for each hazardous chemical in the workplace, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s).

(9) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(10) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the Assistant Secretary, in accordance with the requirements of 29 CFR 1910.20(e). The Director shall also be given access to material safety data sheets in the same manner.

(h) *Employee information and training.* Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area.

(1) *Information.* Employees shall be informed of:

(i) The requirements of this section;

(ii) Any operations in their work area where hazardous chemicals are present; and,

(iii) The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by this section.

(2) *Training.* Employee training shall include at least:

(i) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);

(ii) The physical and health hazards of the chemicals in the work area;

(iii) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to the used; and,

(iv) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

(i) *Trade secrets.* (1) The chemical manufacturer, importer or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

(i) The claim that the information withheld is a trade secret can be supported;

(ii) Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

(iii) The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and,

(iv) The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this paragraph.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical

manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of paragraphs (i) (3) and (4) of this section, as soon as circumstances permit.

(3) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under paragraph (i)(1) of this section, to a health professional (i.e. physician, industrial hygienist, toxicologist, or epidemiologist) providing medical or other occupational health services to exposed employee(s) if:

(i) the request is in writing;

(ii) The request describes with reasonable detail one or more of the following occupational health needs for the information:

(A) To assess the hazards of the chemicals to which employees will be exposed;

(B) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(C) To conduct pre-assignment or periodic medical surveillance of exposed employees;

(D) To provide medical treatment to exposed employees;

(E) To select or assess appropriate personal protective equipment for exposed employees;

(F) To design or assess engineering controls or other protective measures for exposed employees; and,

(G) To conduct studies to determine the health effects of exposure.

(iii) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in paragraph (ii) of this section:

(A) The properties and effects of the chemical;

(B) Measures for controlling workers' exposure to the chemical;

(C) Methods of monitoring and analyzing worker exposure to the chemical; and,

(D) Methods of diagnosing and treating harmful exposures to the chemical;

(iv) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and,

(v) The health professional, and the employer or contractor of the health professional's services (i.e., downstream employer, labor organization, or individual employer), agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to OSHA, as provided in paragraph (i)(6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

(4) The confidentiality agreement authorized by paragraph (i)(3)(iv) of this section:

(i) May restrict the use of the information to the health purposes indicated in the written statement of need;

(ii) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and,

(iii) May not include requirements for the posting of a penalty bond.

(5) Nothing in this standard is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to OSHA, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(i) Be provided to the health professional within thirty days of the request;

(ii) Be in writing;

(iii) Include evidence to support the claim that the specific chemical identity is a trade secret;

(iv) State the specific reasons why the request is being denied; and,

(v) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional whose request for information is denied under paragraph (i)(3) of this section may refer the request and the written denial of the request to OSHA for consideration.

(9) When a health professional refers the denial to OSHA under paragraph (i)(8) of this section, OSHA shall consider the evidence to determine if:

(i) The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

(ii) The health professional has supported the claim that there is a medical or occupational health need for the information; and,

(iii) The health professional has demonstrated adequate means to protect the confidentiality.

(10) (i) If OSHA determines that the specific chemical identity requested under paragraph (i)(3) of this section is not a *bona fide* trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by OSHA.

(ii) If a chemical manufacturer, importer, or employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

(11) If, following the issuance of a citation and any protective orders, the chemical manufacturer, importer, or employer continues to withhold the information, the matter is referrable to the Occupational Safety and Health Review Commission for enforcement of the citation. In accordance with Commission rules, the Administrative Law Judge may review the citation and supporting documentation *in camera* or issue appropriate protective orders.

(12) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the Assistant Secretary any information which this section requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the Assistant Secretary so that suitable determinations of trade

secret status can be made and the necessary protections can be implemented.

(13) Nothing in this paragraph shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is trade secret.

(j) *Effective dates.* Employers shall be in compliance with this section within the following time periods:

(1) Chemical manufacturers and importers shall label containers of hazardous chemicals leaving their workplaces, and provide material safety data sheets with initial shipments by November 25, 1985.

(2) Distributors shall be in compliance with all provisions of this section applicable to them by November 25, 1985.

(3) Employers shall be in compliance with all provisions of this section by May 25, 1986, including initial training for all current employees.

Appendix A to § 1910.1200—Health Hazard Definitions (Mandatory)

Although safety hazards related to the physical characteristics of a chemical can be objectively defined in terms of testing requirements (e.g. flammability), health hazard definitions are less precise and more subjective. Health hazards may cause measurable changes in the body—such as decreased pulmonary function. These changes are generally indicated by the occurrence of signs and symptoms in the exposed employees—such as shortness of breath, a non-measurable, subjective feeling. Employees exposed to such hazards must be apprised of both the change in body function and the signs and symptoms that may occur to signal that change.

The determination of occupational health hazards is complicated by the fact that many of the effects or signs and symptoms occur commonly in non-occupationally exposed populations, so that effects of exposure are difficult to separate from normally occurring illnesses. Occasionally, a substance causes an effect that is rarely seen in the population at large, such as angiosarcomas caused by vinyl chloride exposure, thus making it easier to ascertain that the occupational exposure was the primary causative factor. More often, however, the effects are common, such as lung cancer. The situation is further complicated by the fact that most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects.

There have been many attempts to categorize effects and to define them in various ways. Generally, the terms "acute" and "chronic" are used to delineate between effects on the basis of severity or duration. "Acute" effects usually occur rapidly as a result of short-term exposures, and are of short duration. "Chronic" effects generally occur as a result of long-term exposure, and are of long duration.

The acute effects referred to most frequently are those defined by the American National Standards Institute (ANSI) standard for Precautionary Labeling of Hazardous Industrial Chemicals (Z129.1–1982)—irritation, corrosivity, sensitization and lethal dose. Although these are important health effects, they do not adequately cover the considerable range of acute effects which may occur as a result of occupational exposure, such as, for example, narcosis.

Similarly, the term chronic effect is often used to cover only carcinogenicity, teratogenicity, and mutagenicity. These effects are obvious a concern in the workplace, but again, do not adequately cover the area of chronic effects, excluding, for example, blood dyscrasias (such as anemia), chronic bronchitis and liver atrophy.

The goal of defining precisely, in measurable terms, every possible health effect that may occur in the workplace as a result of chemical exposures cannot realistically be accomplished. This does not negate the need for employees to be informed of such effects and protected from them.

Appendix B, which is also mandatory, outlines the principles and procedures of hazard assessment.

For purposes of this section, any chemicals which meet any of the following definitions, as determined by the criteria set forth in Appendix B are health hazards:

1. *Carcinogen:* A chemical is considered to be a carcinogen if:

(a) It has been evaluated by the International Agency for Research on Cancer (IARC), and found to be a carcinogen or potential carcinogen; or

(b) It is listed as a carcinogen or potential carcinogen in the *Annual Report on Carcinogens* published by the National Toxicology Program (NTP) (latest edition); or,

(c) It is regulated by OSHA as a carcinogen.

2. *Corrosive:* A chemical that causes visible destruction of, or irreversible alterations in, living tissue by chemical action at the site of contact. For example, a chemical is considered to be corrosive if, when tested on the intact skin of albino rabbits by the method described by the U.S. Department of Transportation in Appendix A to 49 CFR Part 173, it destroys or changes irreversibly the structure of the tissue at the site of contact following an exposure period of four hours. This term shall not refer to action on inanimate surfaces.

3. *Highly toxic:* A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD_{50}) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD_{50}) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC_{50}) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

4. *Irritant:* A chemical, which is not corrosive, but which causes a reversible inflammatory effect on living tissue by chemical action at the site of contact. A chemical is a skin irritant if, when tested on the intact skin of albino rabbits by the methods of 16 CFR 1500.41 for four hours exposure or by other appropriate techniques, it results in an empirical score of five or more. A chemical is an eye irritant if so determined under the procedure listed in 16 CFR 1500.42 or other appropriate techniques.

5. *Sensitizer:* A chemical that causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure to the chemical.

6. *Toxic.* A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD_{50}) of more than 50 milligrams per kilogram but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD_{50}) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC_{50}) in air of

more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

7. *Target organ effects.* The following is a target organ categorization of effects which may occur, including examples of signs and symptons and chemicals which have been found to cause such effects. These examples are presented to illustrate the range and diversity of effects and hazards found in the workplace, and the broad scope employers must consider in this area, but are not intended to be all-inclusive.

a. Hepatotoxins:	Chemicals which produce liver damage.
Signs and Symptons:	Jaundice; liver enlargement.
Chemicals:	Carbon tetrachloride; nitrosamines.
b. Nephrotoxins:	Chemicals which produce kidney dsmage.
Signs and Symptons:	Edema; proteinuria.
Chemicals:	Halogenated hydrocarbons; uranium.
c. Neurotoxins:	Chemicals which produce their primary toxic effects on the nervous system.
Signs and Symptons:	Narcosis; behavioral changes; decrease in motor functions.
Chemicals:	Mercury; carbon disulfide.
d. Agents which act on the blood or hematopoietic system:	Decrease hemoglobin funciton; deprive the body tissues of oxygen.
Signs and Symptons:	Cyanosis; loss of consciousness.
Chemicals:	Carbon monoxide; cyanides.
e. Agents which damage the lung:	Chemicals which irritate or damage the pulmonary tissue.
Signs and Symptons:	Cough; tightness in chest; shortness of breath.
Chemicals:	Silica; asbestos.
f. Reproductive toxins:	Chemicals which affect the reproductive capabilities including chromosomal damage (mutations) and effects on feluses (teratogenesis).
Signs and Symptons:	Birth defects; sterility.
Chemicals:	Lead; DBCP.
g. Cutaneous hazards:	Chemical which affect the dermal layer of the body.
Signs and Symptons:	Defatting of the skin; rashes; irritation.
Chemicals:	Ketones; chlorinated compounds.
h. Eye hazards:	Chemicals which affect the eye or visual capacity.
Signs and Symptons:	Conjunctivitis; corneal damage.
Chemicals:	Organic solvents; acids.

Appendix B to § 1900.1200—Hazard Determination (Mandatory)

The quality of a hazard communication program is largely dependent upon the adequacy and accuracy of the hazard determination. The hazard determination requirement of this standard is performance-oriented. Chemical manufacturers, importers, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, but they must be able to demonstrate that they have adequately ascertained the hazards of the chemicals produced or imported in accordance with the criteria set forth in this Appendix.

Hazard evaluation is a process which relies heavily on the professional judgment of the evaluator, particularly in the area of chronic hazards. The performance-orientation of the hazard determination does diminish the duty of the chemical manufacturer, importer or employer to conduct a thorough evaluation, examining all relevant data and producing a scientifically defensible evaluation. For purposes of this standard, the following criteria shall be used in making hazard determinations that meet the requirements of this standard.

1. *Carcinogenicity:* As described in paragraph (d)(4) and Appendix A of this section, a determination by the National Toxicology Program, the International Agency for Research on Cancer, or OSHA that a chemical is a carcinogen or potential carcinogen will be considered conclusive evidence for purposes of this section.

2. *Human data:* Where available, epidemiological studies and case reports of adverse health effects shall be considered in the evaluation.

3. *Animal data:* Human evidence of health effects in exposed populations is generally not available for the majority of chemicals produced or used in the workplace. Therefore, the available results of toxicological testing in animal populations shall be used to predict the health effects that may be experienced by exposed workers. In particular, the definitions of certain acute hazards refer to specific animal testing results (see Appendix A).

4. *Adequacy and reporting of data:* The results of any studies which are designed and conducted according to established scientific principles, and which report statistically significant conclusions regarding the health effects of a chemical, shall be a sufficient basis for a hazard determination and reported on any material safety data sheet. The chemical manufacturer, importer, or employer may also report the results of other scientifically valid studies which tend to refute the findings of hazard.

Appendix C to § 1900.1200—Information Sources (Advisory)

The following is a list of available data sources which the chemical manufacturer, importer, or employer may wish to consult to evaluate the hazards of chemicals they produce or import:

— Any information in their own company files such as toxicity testing results or illness experience of company employees.

— Any information obtained from the supplier of the chemical, such as material safety data sheets or product safety bulletins.

— Any pertinent information obtained from the following source list (latest editions should be used):

Condensed Chemical Dictionary
Van Nostrand Reinhold Co., 135 West 50th Street, New York, NY 10020

The Merck Index: An Encyclopedia of Chemicals and Drugs
Merck and Company, Inc., 126 E. Lincoln Avenue, Rahway, NJ 07065

IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man
Geneva: World Health Organization, International Agency for Research on Cancer, 1972–1977. (Multivolume work), 49 Sheridan Street, Albany, New York

Industrial Hygiene and Toxicology, by F. A. Patty
John Wiley & Sons, Inc., New York, NY (Five volumes)

Clinical Toxicology of Commercial Products
Gleason, Gosselin and Hodge

Casarett and Doull's Toxicology: The Basic Science of Poisons
Doull, Klaassen, and Amdur, Macmillan Publishing Co., Inc., New York, NY

Industrial Toxicology, by Alice Hamilton and Harriet L. Hardy
Publishing Sciences Group, Inc., Acton, MA

Toxicology of the Eye, by W. Morton Grant
Charles C. Thomas, 301–327 East Lawrence Avenue, Springfield, IL

Recognition of Health Hazards in Industry
William A. Burgess, John Wiley and Sons, 605 Third Avenue, New York, NY 10158

Chemical Hazards of the Workplace
Nick H. Proctor and James P. Hughes, J. P. Lipincott Company, 6 Winchester Terrace, New York, NY 10022

Handbook of Chemistry and Physics
Chemical Rubber Company, 18901 Cranwood Parkway, Cleveland, OH 44128

Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment with Intended Changes
American Conference of Governmental Industrial Hygienists, 6500 Glenway Avenue, Bldg. D–5, Cincinnati, OH 45211

Note.—The following documents are on sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Occupational Health Guidelines
NIOSH/OSHA (NIOSH Pub. No. 81-123)
NIOSH/OSHA Pocket Guide to Chemical Hazards
NIOSH Pub. No. 78-210
Registry of Toxic Effects of Chemical Substances
U.S. Department of Health and Human Services, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health (NIOSH Pub. No. 80-102)
The Industrial Environment—Its Evaluation and Control
U.S. Department of Health and Human Services, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health (NIOSH Pub. No. 74-117)
Miscellaneous Documents—National Institute for Occupational Safety and Health
1. Criteria for a recommended standard * * * Occupational Exposure to "——"
2. Special Hazard Reviews
3. Occupational Hazard Assessment
4. Current Intelligence Bulletins

Bibliographic Data BAses

Service Provider and *File Name*

Bibliographic Retrieval Services (BRS), Corporation Park, Bldg. 702, Scotia, New York 12302
AGRICOLA
BIOSIS PREVIEWS
CA CONDENSATES
CA SEARCH
DRUG INFORMATION
MEDLARS
MEDOC
NTIS
POLLUTION ABSTRACTS
SCIENCE CITATION INDEX
SSIE

Lockheed—DIALOG, Lockheed Missiles & Space Company, Inc., P.O. Box 44481, San Francisco, CA 94144
AGRICOLA
BIOSIS PREV. 1972-PRESENT
BIOSIS PREV. 1969-71
CA CONDENSATES 1970-71
CA SEARCH 1972-76
CA SEARCH 1977-PRESENT
CHEMNAME
CONFERENCE PAPERS INDEX
FOOD SCIENCE & TECH. ABSTR.
FOODS ADLIBRA
INTL. PHARMACEUTICAL ABSTR.
NTIS
POLLUTION ABSTRACTS
SCISEARCH 1978-PRESENT
SCISEARCH 1974-77
SSIE CURRENT RESEARCH

SDC—ORBIT, SDC Search Service, Department No. 2230, Pasadena, CA 91051
AGRICOLA
BIOCODES
BIOSIS/BIO6973
CAS6771/CAS7276
CAS77
CHEMDEX
CONFERENCE
ENVIROLINE
LABORDOC
NTIS
POLLUTION
SSIE

Chemical Information System (CIS), Chemical Information Systems Inc., 7215 Yorke Road, Baltimore, MD 21212
Structure & Nomeclature Search System
Acute Toxicity (RTECS)
Clinical Toxicology of Commercial Products
Oil and Hazardous Materials Technical Assistance Data System

National Library of Medicine, Department of Health and Human Services, Public Health Service, National Institutes of Health, Bethesda, MD 20209
Toxicology Data Bank (TDB)
MEDLIN
TOXLINE
CANCERLIT
RTECS

[FR Doc. 83-31527 Filed 11-22-83; 8:45 am]
BILLING CODE 4510-26-M

federal register

Friday
November 25, 1983

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 1000]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 18, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
103–3: New well (1000 Ft rule)
104–4: New onshore reservoir
105–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED NOVEMBER 18, 1983

VOLUME 1000

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-AMERICAN PETROLEUM ENERGY CO INC				RECEIVED:	10/18/83	JA: CO			
8402755	83-443	0506706164		108		ARGENTA UTE #2	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	10/18/83	JA: CO			
8402681	83-231	0500107885		103		CHAMPLIN 248 AMOCO C #2	WATTENBERG	60.0	PANHANDLE EASTERN
8402682	83-226	0512310784		103		OK MAEVE GU #1	WATTENBERG	149.0	PANHANDLE EASTERN
8402683	83-260	0512310924		103		SANDLIN - WELD COUNTY #2	WATTENBERG	0.0	PANHANDLE EASTERN
8402684	83-227	0501306146		103		STATE OF COLORADO "AQ" #1	WATTENBERG	149.0	
-BARRETT ENERGY CO				RECEIVED:	10/18/83	JA: CO			
8402732	83-207	0512310721		107-TF		FT ST VRAIN #15	WATTENBERG	0.0	PANHANDLE EASTERN
-BELLWETHER EXPLORATION CO				RECEIVED:	10/18/83	JA: CO			
8402733	83-291	0512310658		107-TF		LOWELL ADAMS #1-22	BRACEWELL	54.0	NORTHERN NATURAL
-BP LTD 34				RECEIVED:	10/18/83	JA: CO			
8402730	83-218	0512310530		107-TF		JOHNSON #1	WATTENBERG SWSW SEC 3	618.8	PANHANDLE EASTERN
8402731	83-215	0512310529		107-TF		WEISS #1	WATTENBERG C NW SEC 3	821.1	PANHANDLE EASTERN
-CALVIN PETROLEUM CORPORATION				RECEIVED:	10/18/83	JA: CO			
8402734	83-119	0512310140		107-TF		HALEY #1	WATTENBURG EXTENSION	55.0	PANHANDLE EASTERN
8402735	83-245	0512310614		107-TF		RUHYAN #1 NW SESE 17-3N-68W	WATTENBURG EXTENSION	73.0	PANHANDLE EASTERN
8402736	83-193	0512300000		107-TF		STAMP #2	WATTENBURG EXTENSION	55.0	PANHANDLE EASTERN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	10/18/83	JA: CO			
8402685	83-197	0500108082		103		ANDERSON 31-11 #1	JAMBOREE	100.0	
8402686	83-198	0500108225		103		KALCEVIC FARMS 32-3 #2	CHIEFTAIN	45.0	
8402687	83-104	0512310472		103		REEVE 41-15 #1	HAMBERT	36.5	PANHANDLE EASTERN
-CODY NORDELL EXPLORATION INC				RECEIVED:	10/18/83	JA: CO			
8402688	83-116	0512300000		103		GUNNEL #1	WATTENBURG	0.0	COORS ENERGY CO
-COORS ENERGY CO				RECEIVED:	10/18/83	JA: CO			
8402737	83-192	0507708511		107-TF		NICHOLS 1-32	PLATEAU	66.8	NORTHERN NATURAL
-CORAL GULF EXPLORATION CORP				RECEIVED:	10/18/83	JA: CO			
8402668	83-122	0506906136		102-2		FAGAN FARMS #2	BERTHOUD	50.0	BERTHOUD GAS CO
-ENERGY OIL INC				RECEIVED:	10/18/83	JA: CO			
8402738	83-267	0512307416		107-TF		HANKINS #1	WATTENBERG	30.0	PANHANDLE EASTERN
8402739	83-266	0512310791		107-TF		HANSCOME #2	WATTENBERG	105.0	PANHANDLI EASTERN
-EXCEL ENERGY CORP				RECEIVED:	10/18/83	JA: CO			
8402740	83-204	0512310698		107-TF		VAIL #1	WATTENBERG	125.0	PANHANDLE EASTERN
-FAIRWAY GAS PROCESSORS LTD				RECEIVED:	10/18/83	JA: CO			
8402741	82-627	0500506436		107-TF		PRITCHETTE GREEN "C" #1	POLLEN	100.0	FAIRWAY GAS PROCE
-GREENSTREET LLOYD				RECEIVED:	10/18/83	JA: CO			
8402689	82-1135	0506706608		103		UTE COM A 1-E	IGNACIO BLANCO DAKOTA	135.0	EL PASO NATURAL G
-GRIFFIN OIL & GAS INC				RECEIVED:	10/18/83	JA: CO			
8402657	83-199	0500506726		102-4		STACEY STATE #1	SIDEWINDER	47.0	SUN EXPLORATION I
8402690	83-118	0500506636		103		TAMI STATE #1	SIDEWINDER	91.0	SUN EXPLORATION &
8402658	83-254	0500108218		102-4		UPRR-BESSIE #1	BANNER LAKES	36.0	KOCH HYDROCARBON
8402659	83-251	0500108195		102-4		UPRR-JULIE #1	BANNER LAKES	36.0	KOCH HYDROCARBON
-GUSHER OIL & GAS CO INC				RECEIVED:	10/18/83	JA: CO			
8402660	83-551	0500108148		102-4		BLICK #1	WILDCAT	90.0	DAMSON GAS PROCES
-H & C COLTON CO				RECEIVED:	10/18/83	JA: CO			
8402742	83-284	0512300000		107-TF		CAMENISCH - UPRR	WATTENBURG	90.0	PANHANDLE EASTERN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-H L WILLETT				RECEIVED:	10/18/83	JA: CO			
8402728	83-186	0512310587		103		LEFFLER #1	BRACEWELL	200.0	NORTHERN NATURAL
-HOMESTEAD OIL INCORPORATED				RECEIVED:	10/18/83	JA: CO			
8402751	83-173	0512309598		107-TF		MCWILLIAMS #1	HAMBERT	4.0	PANHANDLE EASTERN
-HRUBETZ OIL CO				RECEIVED:	10/18/83	JA: CO			
8402691	83-179	0500906368		103		HETRICK #1-29	UNNAMED	90.0	COLORADO INTERSTA
8402669	83-178	0509063660		102-2		STATE #1-17	UNNAMED	90.0	COLORADO INTERSTA
-INTERCONTINENTAL ENERGY CORP				RECEIVED:	10/18/83	JA: CO			
8402670	83-206	0500506503		102-2		RRR & S #1	CHALICE	36.0	NATURAL GAS PIPEL
8402743	83-172	0500506503		107-TF		RRR & S #1	CHALICE	36.0	NATURAL GAS PIPEL
-J-W OPERATING COMPANY				RECEIVED:	10/18/83	JA: CO			
8402671	83-270	0512109512		102-2		VORCE #2-28	FERAL	26.0	NATURAL GAS PIPEL
8402744	83-271	0512109512		107-TF		VORCE #2-28	FERAL	26.0	NATURAL GAS PIPEL
-K N ENERGY INC				RECEIVED:	10/18/83	JA: CO			
8402753	83-258	0512506328		108		MEADE 2.32	SCHRAMM	0.0	KN ENERGY INC
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	10/18/83	JA: CO			
8402676	83-235	0501306084		103		ARAPAHOE #1-36	WATTENBERG	19.1	PANHANDLE EASTERN
8402677	83-262	0501306127		103		ERIE #1-24	WATTENBERG	118.0	PANHANDLE EASTERN
8402678	83-288	0501306150		103		MARY MILLER #1-35	WILDCAT	0.0	PANHANDLE EASTERN
8402679	83-237	0501306128		103		WANEKA #1-1	WATTENBERG	118.6	PANHANDLE EASTERN
8402745	83-236	0501306128		107-TF		WANEKA #1-1 CSENW 1-1S-69W	WATTENBERG	118.6	PANHANDLE EASTERN
8402680	83-285	0501306089		103		YOUNG #1-23	WATTENBERG	119.5	PANHANDLE EASTERN
-MGF OIL CORP				RECEIVED:	10/18/83	JA: CO			
8402661	82-829	0500107926		102-4		ALICE #44-18	JAMBOREE	19.8	
8402662	82-1255	0512307397		102-4		MAE #41-7	JUPITER	182.5	
8402663	82-827	0500107826		102-4		VIRGINIA #41-2	JAMBOREE	54.0	DAMSON OIL CORP
-MIDLANDS GAS CORPORATION				RECEIVED:	10/18/83	JA: CO			
8402754	83-108	0512506382		108		BLACK BROS RANCH 1-28	BUCKBOARD	8.0	KN ENERGY INC
-MOUNTAIN PETROLEUM CORPORATION				RECEIVED:	10/18/83	JA: CO			
8402692	83-123	0512506807		103		SCHOBE #2-8	BEECHER ISLAND	28.0	
8402693	83-309	0512506904		103		WHOMBLE #2-31	BEECHER ISLAND	28.0	KN ENERGY INC
-NATOMAS NORTH AMERICA INC				RECEIVED:	10/18/83	JA: CO			
8402746	83-221	0506906563		107-TF		FRENCH #1-9U	IGNACIO BLANCO	11.0	EL PASO NATURAL G
-NIELSON ENTERPRISES INC				RECEIVED:	10/18/83	JA: CO			
8402694	83-120	0512310729		103		MAGNUSON #2	WATTENBERG	20.0	PANHANDLE EASTERN
-NORRIS OIL CO				RECEIVED:	10/18/83	JA: CO			
8402695	83-190	0507708418		103		HILL 29-3	BUZZARD	32.0	ROCKY MOUNTAIN NA
8402747	83-191	0507708418		107-TF		HILL 29-3	BUZZARD	32.0	ROCKY MOUNTAIN NA
8402696	83-252	0507708519		103		PALLADRO 15-2	PLATEAU	3.4	ROCKY MOUNTAIN NA
8402748	83-253	0507708519		107-TF		PALLADRO 15-2	PLATEAU	3.4	ROCKY MOUNTAIN NA
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	10/18/83	JA: CO			
8402664	83-219	0512310478		102-4		LUNDOCK #3	COUNTY LINE "D" SAND	1.9	PANTERA ENERGY CO
-REGAL PETROLEUM LTD				RECEIVED:	10/18/83	JA: CO			
8402672	83-185	0508707679		102-2		SREE #1	RIPPLE	10.0	
8402673		0508707718		102-2		REGAL STATE 4X	WILDCAT CREEK	36.0	KN ENERGY INC
8402674	83-184	0508707705		102-2		TULLY #1	HAPPY DOG	10.0	
-ROCK OIL CORP				RECEIVED:	10/18/83	JA: CO			
8402675	83-272	0508108182		102-2		COAN #1	KRAUTHEAD	15.0	DAMSON GAS PROCES
-ROCKY MOUNTAIN PRODUCTION CO				RECEIVED:	10/18/83	JA: CO			
8402665	83-232	0512310893		102-4		RMPCO (UPRR) ABBOTT LANDS	LAKESIDE	49.3	DAMSON GAS PROCES
8402666	83-247	0512310718		102-4		RMPCO (UPRR) BOEDEKER #1	BANNER LAKES	103.7	DAMSON GAS PROCES
8402667	83-233	0512310801		102-4		RMPCO (UPRR) HENDERSON #3	LAKESIDE	70.4	DAMSON GAS PROCES
-SAMSON OIL COMPANY				RECEIVED:	10/18/83	JA: CO			
8402697	83-222	0506106263		103		TALLMAN #1-27	CALVARY	0.0	COLORADO INTERSTA
-SAMSON RESOURCES COMPANY				RECEIVED:	10/18/83	JA: CO			
8402698	83-113	0506706688		103		FASSETT #1	IGNACIO BLANCO	68.4	NORTHWEST PIPELIN
-SANDLIN OIL CORP				RECEIVED:	10/18/83	JA: CO			
8402749	83-111	0512310924		107-TF		SANDLIN - WELD COUNTY #2	WATTENBERG	0.0	PANHANDLE EASTER
-SOHIO PETROLEUM CO				RECEIVED:	10/18/83	JA: CO			
8402699	83-128	0503906312		103		HAY #4-1	DEADEYE	7.3	SUN GAS CO
8402702	83-125	0503906304		103		HAY #4-15	DEADEYE	46.3	SUN GAS CO
8402700	83-127	0503906279		103		HAY #4-5	DEADEYE	56.6	SUN GAS CO
8402701	83-126	0503906308		103		HAY #4-9	DEADEYE	115.0	SUN GAS CO
8402703	83-131	0500506355		103		HILTON #34-13	DEADEYE	161.7	SUN GAS CO
8402704	83-147	0503900000		103		MARRS #10-4	DEADEYE	21.9	SUN GAS CO
8402706	83-139	0503906296		103		MORRIS #13-4	COMANCHE CREEK	63.9	SUN GAS CO
8402707	83-138	0503906280		103		MORRIS #13-6	COMANCHE CREEK	44.2	SUN GAS CO
8402711	83-136	0503906270		103		MORRIS #14-16	COMANCHE CREEK	14.6	SUN GAS CO
8402710	83-135	0503906297		103		MORRIS #14-8	COMANCHE CREEK	42.9	SUN GAS CO
8402708	83-259	0503906278		103		MORRIS 13-12	COMANCHE CREEK	23.0	SUN GAS CO
8402709	83-302	0503906256		103		MORRIS 13-14	COMANCHE CREEK	55.0	SUN GAS CO
8402713	83-134	0503906268		103		MORRIS 24-12	COMANCHE CREEK	5.5	SUN GAS CO
8402712	83-133	0503906265		103		MORRIS 24-4	COMANCHE CREEK	18.2	SUN GAS CO
8402705	83-140	0503906391		103		MORRIS 8-4	COMANCHE CREEK	36.5	SUN GAS CO
8402715	83-132	0503906262		103		SARTI 24-10	COMANCHE CREEK	8.1	SUN GAS CO
8402714	83-133	0503906261		103		SARTI 24-6	COMANCHE CREEK	184.3	SUN GAS CO
8402716	83-130	0503906305		103		UPRR AMOCO 31-12	SONGBIRD	9.8	SUN GAS CO
8402717	83-129	0503906234		103		UPRR AMOCO 31-14	SONGBIRD	28.1	SUN GAS CO
8402721	83-143	0503906290		103		WHITEHEAD 12-14	COMANCHE CREEK	13.5	SUN GAS CO
8402722	83-142	0503906293		103		WHITEHEAD 12-16	COMANCHE CREEK	31.8	SUN GAS CO
8402723	83-141	0503906238		103		WHITEHEAD 18-4	COMANCHE CREEK	47.4	SUN GAS CO
8402718	83-146	0503906277		103		WHITEHEAD 4-11	DEADEYE	51.1	SUN GAS CO
8402719	83-145	0503906260		103		WHITEHEAD 4-13	DEADEYE	17.6	SUN GAS CO
8402720	83-144	0503906257		103		WHITEHEAD 8-9	DEADEYE	65.9	SUN GAS CO
-ST MICHAEL EXPLORATION CO				RECEIVED:	10/18/83	JA: CO			
8402724	83-203	0508707710		103		JOHNSON #14-12	VALLERY	54.0	DAMSON GAS PROCES
-TENNECO OIL COMPANY				RECEIVED:	10/18/83	JA: CO			
8402750	83-229	0506706663		107-TF		PAYNE 1-8	IGNACIO BLANCO	40.0	
8402725	83-228	0506706663		103		PAYNE 1-8 8-32N-6W NESE	IGNACIO BLANCO	40.0	
-UNION TEXAS PETROLEUM				RECEIVED:	10/18/83	JA: CO			
8402752	83-283	0512108884		107-PE		JONES DUPREE #7	RUSH ILLADEL	234.0	NATURAL GAS PIPEL
-VAUGHN BROTHERS OIL CO				RECEIVED:	10/18/83	JA: CO			
8402726	83-210	0512310184		103		SCHMEECKLE 1-10	BLUEBELL	146.0	INDUSTRIAL GAS SE
8402727	83-211	0512310322		103		SCHMEECKLE 2-10	BLUEBELL	0.0	INDUSTRIAL GAS SE
-ZATAR INC				RECEIVED:	10/18/83	JA: CO			
8402729	83-205	0500108190		103		RANDALL 2-22	KRAUTHEAD	36.0	DAMSON GAS PROCES
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	10/17/83	JA: WV			
8402621		4708703743		103		DRODDY #1	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
-APPCO OIL & GAS CORP				RECEIVED:	10/17/83	JA: WV			
8402614		4708505873		107-DV		LANGAN #3	CLAY DIST	1465.0	CONSOLIDATED GAS
8402622		4708505873		103		LANGAN #3	CLAY DIST	1463.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8402606		4708505622		103		SMITH #3	GRANT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:		10/17/83 JA: WV			
8402604		4701900426		107-TF		IMPERIAL COLLIERY #1 - 086391	GAULEY MOUNTAIN	110.0	ROARING FORK GAS
8402602		4701900427		107-TF		IMPERIAL COLLIERY #2 - 086401	GAULEY MOUNTAIN	16.0	ROARING FORK GAS
8402603		4701900449		107-DV		POCAHONTAS LAND CO #35 - 090511	LOUP CREEK	1.0	COLUMBIA GAS TR
8402601		4701900449		102-Z		POCAHONTAS LAND CORP #35 - 090511	LOUP CREEK	1.0	COLUMBIA GAS TR
-CABOT OIL & GAS CORP				RECEIVED:		10/17/83 JA: WV			
8402612		4701900358		107-TF		KANAWHA GAULEY B-3 (INJUN)	FALLS	21.9	TENNESSEE GAS PIP
8402611		4701900358		107-TF		KANAWHA GAULEY B-3 (WEIR)	FALLS	21.9	TENNESSEE GAS PIP
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:		10/17/83 JA: WV			
8402648		4705900973		107-DV		MINGO BLOCK OIL & GAS 820727	WEST VIRGINIA FIELD A	43.6	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		10/17/83 JA: WV			
8402656		4703301501		108-PB		MARY M CORK #1380	SALEM DIST	0.0	GENERAL SYSTEM PU
-DEEP ROCK OIL & GAS CO				RECEIVED:		10/17/83 JA: WV			
8402615		4708506136		107-DV		LOWTHER #2	GRANT	100.0	CONSOLIDATED GAS
8402620		4708506136		103		LOWTHER #2	GRANT	100.0	CONSOLIDATED GAS
-ENSOURCE INC				RECEIVED:		10/17/83 JA: WV			
8402636		4709701896		108		L L MOSS 1-A	MIDDLE FORK RIVER	8.0	COLUMBIA GAS TRAN
8402637		4709702012		108		MOSS "B" #1	ELLAMORE	14.0	COLUMBIA GAS TRAN
8402638		4709702021		108		NEELEY #1	MIDDLE FORK RIVER	7.0	COLUMBIA GAS TRAN
8402640		4709702024		108		NEELEY #2	MIDDLE FORK RIVER	5.0	COLUMBIA GAS TRAN
8402639		4709702023		108		NEELEY #3	MIDDLE FORK RIVER	14.0	COLUMBIA GAS TR
8402641		4709702048		108		PREISSE #1	MIDDLE FORK RIVER	17.0	COLUMBIA GAS TRAN
8402642		4709702049		108		PREISSE-DENNISON #1	MIDDLE FORK RIVER	8.0	COLUMBIA GAS TRAN
-GENE STALNAKER INC				RECEIVED:		10/17/83 JA: WV			
8402631		4702103975		103		RIDDLE #8-71-1	DEKALB DISTRICT	0.0	CONSOLIDATED GAS
8402632		4708506176		103		WOLFE B-84-2	UNION DISTRICT	0.0	CONSOLIDATED GAS
-I S INC ILLINOIS CORP				RECEIVED:		10/17/83 JA: WV			
8402605		4708505974		103		KIRKPATRICK #2	UNION DISTRICT	0.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:		10/17/83 JA: WV			
8402608		4703302682		103		B-458	SARDIS	0.0	CONSOLIDATED GAS
8402607		4703302766		103		B-483	UNION	0.0	CONSOLIDATED GAS
8402619		4708506201		103		JACKSON #11	GRANT	1.4	CONSOLIDATED GAS
-J F DEEM				RECEIVED:		10/17/83 JA: WV			
8402610		4707300879		103		COTTRILL #1	ST MARYS	6.0	COLUMBIA GAS TRAN
-KEPCO INC				RECEIVED:		10/17/83 JA: WV			
8402655		4708505967		107-DV		HARPER #1 (WK-165)	CLAY DISTRICT	39.0	TENNESSEE GAS PIP
8402644		4708505966		107-DV		HARPER #2 (WK-164)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
8402645		4708505828		107-DV		HAYMOND #1 (WK-98)	CLAY DISTRICT	39.5	TENNESSEE GAS PIP
8402646		4708505632		107-DV		HAYMOND #2 (WK-70)	CLAY DISTRICT	50.0	TENNESSEE GAS PIP
8402654		4708505968		107-DV		HAYMOND #3 (WK-166)	CLAY DISTRICT	50.0	TENNESSEE GAS PIP
8402653		4708506049		107-DV		HAYMOND #4 (WK-178)	CLAY DISTRICT	40.0	TENNESSEE GAS PIP
8402652		4708506070		107-DV		HAYMOND #5 (WK-179)	CLAY DISTRICT	32.5	TENNESSEE GAS PIP
8402650		4708506090		107-DV		HAYMOND #6 (WK-207)	CLAY DISTRICT	37.5	TENNESSEE GAS PIP
8402647		4708505631		107-DV		ROBERTSON #1 WK-69	CLAY DISTRICT	27.0	TENNESSEE GAS PIP
8402651		4708506075		107-DV		ROBERTSON #2 (WK-206)	CLAY DISTRICT	37.5	TENNESSEE GAS PIP
-NRM PETROLEUM CORPORATION				RECEIVED:		10/17/83 JA: WV			
8402635		4709701841		108		MOSS #5	MIDDLE FORK RIVER	5.0	COLUMBIA GAS TRAN
8402634		4709701907		108		WILMAC TREE FARM #1	MIDDLE FORK RIVER	7.0	COLUMBIA GAS TRAN
-PEAKE OPERATING CO				RECEIVED:		10/17/83 JA: WV			
8402613		4710900859		108		EASTER #1-A	(OCEANA DISTRICT)	5.0	ROARING FORK GAS
8402643		4710900888		108		WELCHLANDS #15-AW	N/A (SLAB FORK DISTRI	5.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:		10/17/83 JA: WV			
8402633		4707301465		103		M L SIMONTON #1	LAFAYETTE	226.0	COLUMBIA GAS TRAN
-PRIOR JOHN				RECEIVED:		10/17/83 JA: WV			
8402649		4708506086		107-DV		SNYDER - MOSSOR #1	UNION	0.0	CONSOLIDATED GAS
-ROCKWELL PETROLEUM CORP				RECEIVED:		10/17/83 JA: WV			
8402626		4702103998		103		BUSH #1	TURKEY LICK RUN	23.0	CONSOLIDATED GAS
-ROSS-WHARTON GAS CO				RECEIVED:		10/17/83 JA: WV			
8402609		4704103128		103		BLAIR COTTRILL HEIRS #1	WESTON-JANE LEW	30.0	
-WACO OIL AND GAS CO INC				RECEIVED:		10/17/83 JA: WV			
8402624		4702103974		103		ARBUCKLE #3A	BEAR PEN RUN	27.0	CONSOLIDATED GAS
8402617		4702103932		107-DV		COLLINS #4A	COLLINS RUN	40.0	COLUMBIA GAS TRAN
8402627		4702103999		103		HUFF #1A	TURKEY LICK RUN	25.0	CONSOLIDATED GAS
8402616		4702103965		107-DV		MATHENY #1A	LEADING CREEK	24.0	COLUMBIA GAS TRAN
8402623		4702103943		103		MOORE #1A	BEARPEN RUN	22.0	CONSOLIDATED GAS
8402628		4702104000		103		NEAL #1A	DRY RUN	35.0	CONSOLIDATED GAS
8402629		4702104001		103		NEAL #1B	ROCK CAMP RUN	35.0	CONSOLIDATED GAS
8402625		4702103997		103		NEIL FLING #1	BULL FORK	30.0	CONSOLIDATED GAS
8402618		4702103921		107-DV		STEINBECK #2A	MUD LICK RUN	26.0	COLUMBIA GAS TRAN
8402630		4702104002		103		WILLIAMS #1A	ROCKCAMP RUN	22.0	CONSOLIDATED GAS

[FR Doc. 83-31615 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1001]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 18, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1001

ISSUED NOVEMBER 18, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ALAGASCO ENERGY CO INC				RECEIVED:	10/19/83	JA: AL			
8402844	9-8-843PD	0107520449		102-4		HANKINS 20-16	BRUSH CREEK	0.0	
8402843	9-8-833PD	0107520455		102-4		HANKINS 21-14	BRUSH CREEK	0.0	
8402842		0107520439		102-4		HANKINS 28-4	BRUSH CREEK	0.0	
-CARLESS RESOURCES INC				RECEIVED:	10/19/83	JA: AL			
8402845	9-8-832-PD	0105720265		102-4		LANINGHAM 2-15	STUDHORSE CREEK	84.0	SOUTHERN NATURAL
8402841	8-4-836 PD-A	0105720294		102-4		MAYFIELD 1-13	STUDHORSE CREEK	73.0	HOWELL PIPELINE C
-ENHANCED ENERGY RESOURCES				RECEIVED:	10/19/83	JA: AL			
8402856	10-13-838PD	0112520119		107-CS		SHOOK LEASE 31-13-1	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402857	10-13-8311PD	0112520118		107-CS		SHOOK LEASE 31-16-4	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402852	10-13-834PD	0112520115		107-CS		SHOOK LEASE 31-2-13	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402851	10-13-833PD	0112520123		107-CS		SHOOK LEASE 31-5-7	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402850	10-13-832PD	0112520126		107-CS		SHOOK LEASE 31-8-2	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402854	10-13-836PD	0112520120		107-CS		SHOOK LEASE 6-1-4	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402853	10-13-835PD	0112520124		107-CS		SHOOK LEASE 6-11-9	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
8402855	10-13-837PD	0112520113		107-CS		SHOOK LEASE 6-8-5	BROOKWOOD COAL DEGASI	0.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	10/19/83	JA: AL			
8402849	10-13-831PD	0105320189		107-DP		KOPPERS #18-6 #2	BIG ESCAMBIA CREEK	1825.0	CIBA-GEIGY CORP
-HUGHES & HUGHES				RECEIVED:	10/19/83	JA: AL			
8402847	9-8-8323PD	0107520444		102-4		ANDERSON 28-8	ARMSTRONG BRANCH	565.0	
8402861	10-13-8316PD	0107520483		102-4		NBC UNIT 2-10 #2	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402868	10-13-8315PD	0107520484		102-4		NBC UNIT 2-11 #1	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402867	10-13-8322PD	0107520495		102-4		NBC UNIT 2-11 #2	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402864	10-13-8319PD	0107520485		102-4		NBC UNIT 2-12 #1	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402868	10-13-8323PD	0107520493		102-4		NBC UNIT 2-3 #1	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402862	10-13-8317PD	0107520482		102-4		NBC UNIT 2-4 #1	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402866	10-13-8321PD	0107520496		102-4		NBC UNIT 3-9 #1	NORTH BLOWHORN CREEK	0.0	SOUTHERN NATURAL
8402865	10-13-8320PD	0107520488		102-4		NBC UNIT 34-15 #2	NORTH BLOWHORN CREEK	0.0	
8402863	10-13-8318PD	0107520477		102-4		NBC UNIT 34-16 #2	NORTH BLOWHORN CREEK	0.0	
8402859	10-13-8314PD	0107520492		102-4		NBC UNIT 34-6 #2	NORTH BLOWHORN CREEK	0.0	
8402858	10-13-8313PD	0107520476		102-4		NBC UNIT 34-7 #3	NORTH BLOWHORN CREEK	0.0	
8402846	9-8-8322PD	0107520464		102-4		SMITH 28-9 #1	ARMSTRONG BRANCH	313.0	
-MWJ PRODUCING COMPANY				RECEIVED:	10/19/83	JA: AL			
8402848	9-8-8326PD	0105720317		102-4		ROBERTS 26-13 #1	BETHEL CHURCH	36.5	
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	10/19/83	JA: KY			
8402922	506655	1611551159		103		A M LYON #1-RS - 095501	MARTHA	6.0	
8402923	506656	1611551159		107-DV		A M LYON #1-RS - 095501	MARTHA	6.0	
8402920	506495	1619548388		103		CHARLES FORD HEIRS #3 - 094361	EASTERN KENTUCKY GAS	24.0	COLUMBIA GAS TRAN
8402921	506496	1619548388		107-DV		CHARLES FORD HEIRS #3 - 094361	EASTERN KENTUCKY GAS	24.0	COLUMBIA GAS TRAN
8402941	506824	1619500000		108		COLONY COAL & COKE #5 - 003740	EASTERN KENTUCKY	15.0	COLUMBIA GAS TRAN
8402924	506659	1619550216		103		COLONY COAL & COKE #78-R - 094921	EASTERN KENTUCKY GAS	112.0	COLUMBIA GAS TRAN
8402925	506670	1619550216		107-DV		COLONY COAL & COKE #78-R - 094921	EASTERN KENTUCKY GAS	112.0	COLUMBIA GAS TRAN
8402937	506743	1619500769		108		D C POLLEY #1 - 008100	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8402938	506745	16127531 43		107-TF		D G HILLMAN #1 - 096571	WILDCAT	3.0	
8402939	506746	16127531 43		102-2		D G HILLMAN #1 - 096571	WILDCAT	3.0	
8402940	506823	1607100000		108		E B OSBORNE #1 - 002460	EASTERN KENTUCKY	16.0	COLUMBIA GAS TRAN
8402942	506850	1611953684		103		E J EVANS FEE #46 - 096601	EAST KENTUCKY	4.0	COLUMBIA GAS TRAN
8402943	506851	1611953684		107-DV		E J EVANS FEE #46 - 096601	EAST KENTUCKY	4.0	COLUMBIA GAS TRAN
8402933	506727	1611953422		103		EASTERN KENTUCKY #13 - 096841	EAST KENTUCKY	19.0	COLUMBIA GAS TRAN
8402934	506728	1611953422		107-DV		EASTERN KENTUCKY REALTY #13-096841	EAST KENTUCKY	19.0	COLUMBIA GAS TRAN
8402928	506688	1619551878		103		HATCHER LAND CO #14 - 096491	EASTERN KENTUCKY	168.0	COLUMBIA GAS TRAN
8402929	506689	1619551878		107-DV		HATCHER LAND CO #14 - 096491	EASTERN KENTUCKY	168.0	COLUMBIA GAS TRAN
8402945	506862	1619500174		108		J W CASSADY #2 - 005240	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8402944	506861	1619500222		108		J W CASSADY #3 - 005400	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8402918	506693	1619547998		103		JAMES HATCHER LAND CO #13 - 094201	EASTERN KENTUCKY GAS	13.0	COLUMBIA GAS TRAN
8402919	506694	1619547998		107-DV		JAMES HATCHER LAND CO #13 - 094201	EASTERN KENTUCKY GAS	13.0	COLUMBIA GAS TRAN
8402930	506721	1611552238		102-2		JOHN F CONLEY #2 - 096011	OIL SPRINGS	7.0	
8402931	506722	1611552238		102-3		JOHN F CONLEY #2 - 096011	OIL SPRINGS	8.0	
8402932	506723	1611552238		103		JOHN F CONLEY #2 - 096011	OIL SPRINGS	15.0	
8402926	506682	1619550707		103		JOHN FORD HEIRS #6 - 095181	EASTERN KENTUCKY GAS	35.0	COLUMBIA GAS TRAN
8402927	506683	1619550707		107-DV		JOHN FORD HEIRS #6 - 095181	EASTERN KENTUCKY GAS	35.0	COLUMBIA GAS TRAN
8402916	506647	1619500889		108		KY-W VA GAS CO #3 - 019190	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8402917	506648	1611900517		108		MILDRED DUKE MARTIN #2 - 006820	EASTERN KENTUCKY GAS	21.0	COLUMBIA GAS TRAN
8402935	506730	1619553625		103		REPUBLIC STEEL CORP #68 - 096991	BIG SANDY	14.0	COLUMBIA GAS TRAN
8402936	506731	1619553625		107-DV		REPUBLIC STEEL CORP #68 - 096991	BIG SANDY	14.0	COLUMBIA GAS TRAN
-ASHLAND EXPLORATION INC				RECEIVED:	10/20/83	JA: KY			
8402976	506653	1611501406		107-DV		BOGGS-SIMPSON UNIT #1 - 095851	MARTHA	2.0	
8402977	506654	1611501406		103		BOGGS-SIMPSON UNIT #1 - 095851	MARTHA	2.0	
8402972	506633	1619551326		103		COLONY COAL & COKE #76-R - 095021	EASTERN KY GAS	35.0	COLUMBIA GAS TRAN
8402973	506634	1619551326		107-DV		COLONY COAL & COKE #76-R - 095021	EASTERN KY GAS	35.0	COLUMBIA GAS TRAN
8402966	506532	1619549364		103		COLONY COAL & COKE #79-R - 094881	EASTERN KENTUCKY	40.0	COLUMBIA GAS TRAN
8402967	506533	1619549364		107-DV		COLONY COAL & COKE #79-R - 094881	EASTERN KENTUCKY	40.0	COLUMBIA GAS TRAN
8402968	506543	1619549757		103		COLONY COAL & COKE CO #77 - 095031	EASTERN KENTUCKY	220.0	COLUMBIA GAS TRAN
8402969	506544	1619549757		107-DV		COLONY COAL & COKE CO #77 - 095031	EASTERN KENTUCKY	220.0	COLUMBIA GAS TRAN
8402962	506510	1611546179		102-2		JOHN F CONLEY #1 - 093211	OIL SPRINGS	64.0	
8402963	506511	1611546179		102-3		JOHN F CONLEY #1 - 093211	OIL SPRINGS	64.0	
8402974	506651	1619550706		103		JOHN FORD HEIRS #7 - 095191	EASTERN KY GAS	49.0	COLUMBIA GAS TRAN
8402975	506652	1619550706		107-DV		JOHN FORD HEIRS #7 - 095191	EASTERN KY GAS	49.0	COLUMBIA GAS TRAN
8402970	506624	1619547564		107-DV		KY-WV GAS CO #4 - 093921	EASTERN KY GAS	40.0	COLUMBIA GAS TRAN
8402971	506625	1619547564		103		KY-WV GAS CO #4 - 093921	EASTERN KY GAS	40.0	COLUMBIA GAS TRAN
8402964	506520	1619548660		103		REPUBLIC STEEL CORP #66 - 094011	EASTERN KENTUCKY GAS	35.0	COLUMBIA GAS TRAN
8402965	506521	1619548660		107-DV		REPUBLIC STEEL CORP #66 - 094011	EASTERN KENTUCKY GAS	35.0	COLUMBIA GAS TRAN
-BDW VALLEY PETROLEUM INC				RECEIVED:	10/19/83	JA: KY			
8402912	505219	1613329359		107-DV		HARDEN CAMPBELL #150		0.0	COLUMBIA GAS TRAN
8402915	505222	1619330269		107-DV		KENNETH LOUDY #157		0.0	COLUMBIA GAS TRAN
8402910	505217	1619325122		107-DV		KENTUCKY RIVER COAL #102	LEATHERWOOD	0.0	COLUMBIA GAS TRAN
8402907	505214	1619325195		107-DV		KENTUCKY RIVER COAL #103	LEATHERWOOD	0.0	COLUMBIA GAS TRAN
8402906	505213	1619325320		107-DV		KENTUCKY RIVER COAL #104	LEATHERWOOD	0.0	COLUMBIA GAS TRAN
8402913	505220	1613325570		107-DV		KENTUCKY RIVER COAL #106		0.0	COLUMBIA GAS TRAN
8402905	505212	1619325571		107-DV		KENTUCKY RIVER COAL #107	LEATHERWOOD	0.0	COLUMBIA GAS TRAN
8402909	505216	1613326861		107-DV		KENTUCKY RIVER COAL #117		0.0	COLUMBIA GAS TRAN
8402914	505221	1613327026		107-DV		KRCC #115		0.0	COLUMBIA GAS TRAN
8402904	505211	1613326864		107-DV		KRCC #116		0.0	COLUMBIA GAS TRAN
8402903	505210	1613327245		107-DV		KRCC #120		0.0	COLUMBIA GAS TRAN
8402911	505218	1619329508		107-DV		KRCC #146		0.0	COLUMBIA GAS TRAN
8402908	505215	1619330494		107-DV		KRCC #156		0.0	COLUMBIA GAS TRAN
-EQUITABLE LIFE ASSURANCE SOCIETY				RECEIVED:	10/19/83	JA: KY			
8402899	505206	1608546905		107-DV		EQUITABLE - #1 WILLIS HEIRS	UNNAMED	27.0	
8402898	505205	1608546383		107-DV		EQUITABLE - #1 WINSTON-DAVIS	SHREWSBERRY GAS FIELD	12.8	
-FRANCIS EMMA JEAN				RECEIVED:	10/19/83	JA: KY			
8402901	505208	1611900000		108		R L CONLEY #1	APPALACHIAN	10.9	KENTUCKY WEST VIR
8402900	505207	1619500000		108		R T MAY #1	APPALACHIAN	19.2	KENTUCKY WEST VIR
-HUGHES GYPSY W				RECEIVED:	10/20/83	JA: KY			
8402957	506786	1607100000		108		STANLEY & LAYNE #2	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
8402958	506787	1607100000		108		STANLEY & LAYNE #4	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
8402959	506788	1607100000		108		STANLEY & LAYNE #6	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
8402960	506789	1607100000		108		STANLEY & LAYNE #7	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
8402961	506790	1607100000		108		STANLEY & LAYNE #8	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
8402956	506785	1607100000		108		STANLEY & LAYNE #9	BETSY LAYNE	18.3	COLUMBIA GAS TRAN
-KEPCO INC				RECEIVED:	10/19/83	JA: KY			
8402902	505209	1611900000		107-DV		CHARLES B SLONE #KL467	KENTUCKY EAST	67.5	
-MENG CHARLES H				RECEIVED:	10/19/83	JA: KY			
8402946	506729	1615900000		107-DV		MENG #1 CASSADY HEIRS	BIG SANDY GAS FIELD	0.0	
-PEAKE OPERATING CO				RECEIVED:	10/20/83	JA: KY			
8402952	506702	1619552229		107-DV		HAMILTON #1-B	(CARTER CO-ORD 10-L-8	5.0	
8402953	506911	1619552229		103		HAMILTON #1-13	(CARTER CO-ORD 10-L-8	5.0	
-PLATEAU RESOURCE DEVELOPMENT CORP				RECEIVED:	10/20/83	JA: KY			
8402955	506422	1615900000		107-DV		HOWARD CLINE PR 12	EASTERN KENTUCKY	3.6	COLUMBIA GAS TRAN
8402954	506421	1615900000		107-DV		MABEL S AGASSIS PR-14	EASTERN KENTUCKY	0.0	COLUMBIA GAS TRAN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-NORTH MICHIGAN LAND & OIL CORP				RECEIVED:	10/20/83	JA: MI			
8402840		2113700000		107-DV		WOLFE 1-33	CHESTER FIELD T30N-R2	25.0	CONSUMER POWER CO
MONTANA BOARD OF OIL & GAS CONSERVATION									
-COASTAL OIL & GAS CORP				RECEIVED:	10/19/83	JA: MT			
8402870	1-83-12	2508321655		102-2		COGC/MILESTONE 35-23-55 BN #2J	FOXLAKE	30.0	PHILLIPS PETROLEU
-MIDLANDS GAS CORPORATION				RECEIVED:	10/19/83	JA: MT			
8402871	1-83-13	2507121723		102-2		2160 1-21 BAVER	WILDCAT	77.8	KN ENERGY INC
8402872	2-83-38	2507121086		108		3612-1 MIAMI-FEDERAL 671-36	WILDCAT	7.0	KN ENERGY INC
-MIDLANDS GAS CORPORATION				RECEIVED:	10/20/83	JA: MT			
8402951	2-83-17	2507121792		108		STATE OF MONTANA 2 1621	BOWDOIN	8.0	KN ENERGY INC
8402947	5-83-75	2507121157		108		2152-1	WILDCAT (BOWDOIN)	5.0	K N ENERGY INC
-MONTANA PACIFIC OIL & GAS CO				RECEIVED:	10/19/83	JA: MT			
8402869	7-83-104	2510122442		102-4		NORTH MORTON 24- T34N- R2W	KEVIN SUNBURST	40.0	OIL INTERNATIONAL
-SUNBURST EXPLORATION INC				RECEIVED:	10/20/83	JA: MT			
8402950	2-83-31	2510122366		102-2		DUNKIRK STATE #1	DUNKIRK	0.0	MONTANA POWER CO
8402949	2-83-32	2510122095		102-2		KALBFLEISCH #1	DUNKIRK	0.0	MONTANA POWER CO
8402948	2-83-33	2510122123		102-2		LARSON #1	DUNKIRK	0.0	MONTANA POWER CO
WEST VIRGINIA DEPARTMENT OF MINES									
-AZTEC MINERALS INC				RECEIVED:	10/18/83	JA: WV			
8402757		4710700735		108		ANDERSON #1	WILLIAMS	10.0	GAS TRANSPORT INC
8402760		4710700744		108		KENNEDY #1	WILLIAMS	20.0	GAS TRANSPORT INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8402756		4710700733		108		MYERS #1	WILLIAMS	15.0	GAS TRANSPORT INC
8402790		4710700743		108		PARKS #1	WILLIAMS	9.0	GAS TRANSPORT INC
8402759		4710700745		108		PARKS #2	WILLIAMS	10.0	GAS TRANSPORT INC
8402758		4710700746		108		ROBERTS #1	WILLIAMS	13.0	GAS TRANSPORT INC
-BRAXTON OIL AND GAS CORP		RECEIVED: 10/19/83 JA: WV							
8402889		4709702517		103		BRAKE #1	BANKS DISTRICT	60.0	COLUMBIA GAS TR
8402876		4709701748		108		EDITH #1	BURNSVILLE 7.5	10.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 10/18/83 JA: WV							
8402764		4703300757		108		A C THRASH 11628	UNION	20.0	GENERAL SYSTEM P
8402766		4703301231		108		A G SWIGER 12469	EAGLE	17.0	GENERAL SYSTEM
8402771		4703301932		108		A M MCCARTY #1 12568	EAGLE	21.0	GENERAL SYSTEM PU
8402761		4703301042		108		B W HARBERT 12283	EAGLE	10.0	GENERAL SYSTEM PU
8402765		4701900210		108		CANNELTON INDUSTRIES B-1 11663	FALLS	15.0	GENERAL SYSTEM PU
8402789		4700100538		108		CHLORIS BENSON 11291	ELK	0.0	GENERAL SYSTEM PU
8402769		4704700832		108		CONSOLIDATED COAL CO 9866 12659	ADKIN	22.0	GENERAL SYSTEM PU
8402768		4704700834		108		CONSOLIDATED COAL CO 9868 12657	ELKHORN	21.0	GENERAL SYSTEM PU
8402770		4704700052		108		CROZER LAND ASSOCIATION 9371	BROWNS CREEK	7.0	GENERAL SYSTEM PU
8402767		4703301116		108		DENNIS C BATES 12397	EAGLE	16.0	GENERAL SYSTEM PU
8402762		4703301640		108		L H COFFMAN 12281	EAGLE	15.0	GENERAL SYSTEM PU
8402772		4710900568		108		LOUP CREEK COLLIERY CO 9446	OCEANA	15.0	GENERAL SYSTEM PU
8402839		4703302852		103		NATHAN GOFF ESTATE 12797	COAL	11.0	GENERAL SYSTEM PU
8402763		4703301029		108		R R COLERIDER 12232	COAL	21.0	GENERAL SYSTEM PU
8402837		4701703117		103		RUBY FARR MAXWELL #3 12789	WEST UNION	8.0	GENERAL SYSTEM PU
-D G HANEY INC		RECEIVED: 10/18/83 JA: WV							
8402774		4704102967		102-3		VILLERS #12	FREEMANS CREEK	40.0	CONSOLIDATED GAS
8402773		4704103134		102-3		VILLERS #22	FREEMANS CREEK	30.0	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC		RECEIVED: 10/19/83 JA: WV							
8402897		4703302870		103		H SHINN #1 DM-2	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8402892		4703302871		103		H SHINN #2 KZ-29	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8402891		4703302608		103		M LOWE #4 KZ-27	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8402890		4703302534		103		MARY REED #2 KZ-28	CLAY DISTRICT	25.0	CONSOLIDATED GAS
-FOX DRILLING CO INC		RECEIVED: 10/18/83 JA: WV							
8402836		4700101536		103		HYMES HEIRS #1	BELINGTON	10.0	COLUMBIA GAS TRAN
-INTERSTATE DRILLING INC		RECEIVED: 10/18/83 JA: WV							
8402828		4702103956		107-DV		COPELAND 103 #2	LYNCAMP RUN	10.0	CONSOLIDATED GAS
8402829		4704103268		103		O R POSEY #1	ASPINALL - FINSTER	10.0	CONSOLIDATED GAS
-KEPCO INC		RECEIVED: 10/19/83 JA: WV							
8402882		4708505967		103		HARPER #1 (WK-165)	CLAY DISTRICT	39.0	TENNESSEE GAS PIP
8402881		4708505966		103		HARPER #2 (WK-164)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
8402880		4708505828		103		HAYMOND #1 (WK-98)	CLAY DISTRICT	39.5	TENNESSEE GAS PIP
8402879		4708505632		103		HAYMOND #2 (WK-70)	CLAY DISTRICT	59.0	TENNESSEE GAS PIP
8402883		4708505968		103		HAYMOND #3 (WK-166)	CLAY DISTRICT	50.0	TENNESSEE GAS PIP
8402884		4708506049		103		HAYMOND #4 (WK-178)	CLAY DISTRICT	40.0	TENNESSEE GAS PIP
8402885		4708506070		103		HAYMOND #5 (WK-179)	CLAY DISTRICT	32.5	TENNESSEE GAS PIP
8402888		4708506090		103		HAYMOND #6 (WK-207)	CLAY DISTRICT	37.5	TENNESSEE GAS PIP
8402878		4708505631		103		ROBERTSON #1 (WK-69)	CLAY DISTRICT	22.7	TENNESSEE GAS PIP
8402886		4708506075		103		ROBERTSON #2 (WK-206)	CLAY DISTRICT	37.5	TENNESSEE GAS PIP
8402887		4704103251		103		RUSSEL #1 (WK-82)	COLLINS SETTLEMENT	31.5	TENNESSEE GAS PIP
-L & M PETROLEUM INC		RECEIVED: 10/18/83 JA: WV							
8402830		4707321448		103		CARPENTER/HART #1	JEFFERSON	10.0	CONSOLIDATED GAS
8402832		4707321572		103		CARPENTER/HART #3	JEFFERSON	10.0	CONSOLIDATED GAS
8402831		4707321562		103		MARJORIE DAVIS #1	JEFFERSON	10.0	CONSOLIDATED GAS
-PANTHER FUEL CO		RECEIVED: 10/19/83 JA: WV							
8402875		4708506003		107-DV		MARSH - VALENTINE #3	GRANT DISTRICT	75.0	
-PENNZOIL COMPANY		RECEIVED: 10/18/83 JA: WV							
8402812		4703902462		108		BLACK BAND FUEL CO #3	EMMONS	13.7	CONSOLIDATED GAS
8402807		4704500966		108		YAWKEY-FREEMAN #5	YAWKEY-FREEMAN	3.6	CONSOLIDATED GAS
8402816		4704302558		103		YAWKEY-FREEMAN 118	YAWKEY-FREEMAN	50.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP		RECEIVED: 10/18/83 JA: WV							
8402799		4700101621		108		A CORDER #1	CLEMTOWN	33.0	CONSOLIDATED GAS
8402794		4700100898		108		A PAUGH #1	ELK	18.0	CONSOLIDATED GAS
8402793		4700100929		108		A PAUGH #2	ELK	53.0	CONSOLIDATED GAS
8402785		4703302287		108		ANNA GLOVER #1	FLAG RUN	26.0	CONSOLIDATED GAS
8402782		4701702590		108		CLYDE FRASHURE #2	WOLFPEN RUN	25.0	CONSOLIDATED GAS
8402781		4700101186		108		D H PATSEY #1	CLEMTOWN	23.0	CONSOLIDATED GAS
8402801		4700101126		108		DONALD MURPHY #1	PLEASANT	86.5	CONSOLIDATED GA
8402815		4708506129		107-DV		DONNELLY #1	GOOSE CREEK POOL	135.0	CONSOLIDATED GAS
8402826		4708506129		103		DONNELLY #1	GOOSE CREEK POOL	135.0	CONSOLIDATED GAS
8402786		4701702578		108		GARLAND FORD #2	SMITHTON-FLINT-SEDALI	34.0	COLUMBIA GAS TRAN
8402779		4701702579		108		GARLAND FORD #3	SMITHTON-FLINT-SEDALI	30.0	COLUMBIA GAS TRAN
8402818		4708505238		103		GLEN KERNS #1	CISKO	113.0	CONSOLIDATED GAS
8402827		4708506159		103		GRIFFIN PRODUCING E#2	GRIFFIN POOL	129.0	CONSOLIDATED GAS
8402839		4708506159		107-DV		GRIFFIN PRODUCING E#2	GRIFFIN POOL	129.0	CONSOLIDATED GAS
8402823		4708505848		103		GRIFFIN PRODUCING G#1 (#111218-2)	GRIFFIN	77.0	CONSOLIDATED GAS
8402833		4708505848		107-DV		GRIFFIN PRODUCING G#1 (#111218-2)	GRIFFIN	77.0	CONSOLIDATED GAS
8402795		4700101099		108		HADDIX CHESSER LEACH #1	CLEMTOWN	57.0	CONSOLIDATED GAS
8402776		4704102916		108		JOSEPH WORKMAN #1-B	ASPINALL-FINSTER	11.4	CONSOLIDATED GAS
8402775		4704102917		108		JOSEPH WORKMAN #2	ASPINALL-FINSTER	18.0	CONSOLIDATED GAS
8402788		4701702534		108		L S MCGEE #1	STRAIGHT-FORK-BLUESTO	7.8	COLUMBIA GAS TRAN
8402778		4701702585		108		LEONA BROADWATER #1	STRAIGHT FORK - BLUES	48.0	COLUMBIA GAS TRAN
8402784		4701702586		108		LEONA BROADWATER #2	STRAIGHT FORK-BLUESTO	8.5	COLUMBIA GAS TRAN
8402802		4700101123		108		M THOMPSON #1	CLEMTOWN	6.0	CONSOLIDATED GAS
8402821		4708505269		103		MATILDA WEST #1	GRANT	1679.0	CONSOLIDATED GAS
8402824		4708505628		103		MAXINE & FOSTER SMITH #1	GRANT	68.0	CONSOLIDATED GAS
8402835		4708505628		107-DV		MAXINE & FOSTER SMITH #1	GRANT	68.0	CONSOLIDATED GAS
8402820		4708505255		103		MAZE #1	CISKO POOL	98.0	CONSOLIDATED GAS
8402787		4701702535		108		OPAL GRIBBLE #1	SOUTHWEST	7.2	COLUMBIA GAS TRAN
8402783		4701702530		108		OPAL GRIBBLE #2	STRAIGHT-FORK-BLUESTO	25.0	COLUMBIA GAS TRAN
8402817		4708505237		103		RALPH KUHN #1	CISKO	92.0	CONSOLIDATED GAS
8402819		4708505252		103		RALPH MAZE #4	GRANT	15.0	CONSOLIDATED GAS
8402796		4700101054		108		SAYERS #1	TAYLOR DRAIN	51.0	CONSOLIDATED GAS
8402803		4700101041		108		SAYERS #2	CLEMTOWN	21.0	CONSOLIDATED GAS
8402797		4700101045		108		SAYERS #3	CLEMTOWN	17.6	CONSOLIDATED GAS
8402792		4700101042		108		SAYERS #4	CLEMTOWN	8.5	CONSOLIDATED GAS
8402798		4700101025		108		SAYERS #5	CLEMTOWN	49.0	CONSOLIDATED GAS
8402804		4700101032		108		SAYERS #6	CLEMTOWN	12.8	CONSOLIDATED GAS
8402822		4708505773		103		SUE DAVIS #1	GOOSE CREEK	32.0	CONSOLIDATED GAS
8402834		4708505773		107-DV		SUE DAVIS #1	GOOSE CREEK	32.0	CONSOLIDATED GAS
8402791		4708505863		107-DV		SUE DAVIS A#2	GOOSE CREEK POOL	46.0	CONSOLIDATED GAS
8402825		4708505863		103		SUE DAVIS A#2	GOOSE CREEK POOL	46.0	CONSOLIDATED GAS
8402777		4700101179		108		V BOYLEN #1	PLEASANT	11.7	CONSOLIDATED GAS
8402780		4700101190		108		VERA BOYLEN #2	PLEASANT	37.7	CONSOLIDATED GAS
8402800		4700101127		108		VERGAL MAYLE #1	CLEMTOWN	58.0	CONSOLIDATED GAS
-PIEDMONT PETROLEUM INC		RECEIVED: 10/19/83 JA: WV							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8402893		4708506182		107-DV		JBJ #1		15.0	OHIO GAS MARKETIN
8402895		4708506116		107-DV		SEESE MONT #1		14.0	OHIO GAS MARKETIN
8402894		4708506117		107-DV		SEESE-MONTGOMERY #2		12.0	OHIO GAS MARKETIN
-PRIOR JOHN				RECEIVED:	10/19/83	JA: WV			
8402877		4708506086		103		SNYDER-MOSSOR #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-SPARTAN GAS COMPANY				RECEIVED:	10/19/83	JA: WV			
8402874		4709901792		107-DV		WAYNE COUNTY LAND & MINERAL 8-5-291	LINCOLN	7.0	COLUMBIA GAS TRAN
8402873		4709901793		107-DV		WAYNE COUNTY LAND & MINERAL 9-5-292	LINCOLN	7.0	COLUMBIA GAS TRAN
-WEST VIRGINIA JOINT VENTURE #2				RECEIVED:	10/18/83	JA: WV			
8402814		4701702427		108		BRITTON & DOUGLAS #9	CENTRAL DISTRICT	0.0	CARNEGIE NATURAL
8402810		4701702441		108		C E ROSS #14	CENTRAL DISTRICT	0.0	CARNEGIE NATURAL
8402809		4701702439		108		F M BRITTON #12	CENTRAL DISTRICT	0.0	CARNEGIE NATURAL
8402813		4701702426		108		F M BRITTON #8	CENTRAL DISTRICT	0.0	CARNEGIE NATURAL
8402806		4701702871		108		LAURA WHITE HEIRS #20	CENTRAL DISTRICT	3.2	CONSOLIDATED GAS
8402808		4701702840		108		LEROY INGRAM #16	CENTRAL DISTRICT	8.7	CONSOLIDATED GAS
8402805		4701702841		108		LERDY INGRAM #17	CENTRAL DISTRICT	8.7	CONSOLIDATED GAS
8402811		4701702834		108		OLIVE ELLIFRITT HEIRS #18	CENTRAL DISTRICT	10.9	CONSOLIDATED GAS
-WHITESTONE CORP				RECEIVED:	10/19/83	JA: WV			
8402896		4708506021		103		DOUGLAS HEIRS #18	GLENDALE	1.0	CONSOLIDATED GAS

[FR Doc. 83-31616 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1002]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 18, 1983.

The following notices of determination were received from the indicated jurisidctional agencies by the Federal Energy Regulatory Comission 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1002
ISSUED NOVEMBER 18, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** MONTANA BOARD OF OIL & GAS CONSERVATION **********									
-HAWKINS-RICHTER-YOUNG LTD				RECEIVED:	10/21/83	JA: MT			
8403167	2-83-37	2510121768		108		PORTER 1-1 T34N R3W SWSWSW	KEVIN-SUNBURST	9.0	ALOE VENTURES LTD
-MIDLANDS GAS CORPORATION				RECEIVED:	10/21/83	JA: MT			
8403164	2-83-36	2507121526		108		WESTERGAARD 3471-1-34	WILDCAT	22.0	KN ENERGY INC
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	10/21/83	JA: MT			
8403168	2-83-39	2508521332		102-2		TIMINENKO #1	RED BANK	18.0	DOME PETROLEUM CO
-SUNBURST EXPLORATION INC				RECEIVED:	10/21/83	JA: MT			
8403165	2-83-35	2510122159		102-2		ROEMMICH #1	DUNKIRK	0.0	MONTANA POWER CO
8403166	2-83-34	2510122248		102-2		STATE #1	DUNKIRK	0.0	MONTANA POWER CO
********** OHIO DEPARTMENT OF NATURAL RESOURCES **********									
-ALLEN M ANDERSON				RECEIVED:	10/19/83	JA: OH			
8402979A		3416727514		103		A L LAMP #4	WARREN	10.0	
84029798		3416727514	D	107-TF		A L LAMP #4	WARREN	10.0	
8402978A		3416727508		103		ROGER HANSON #2	WARREN	10.0	
8402978B		3416727508	D	107-TF		ROGER HANSON #2	WARREN	10.0	
-APPALACHIAN EXPLORATION INC				RECEIVED:	10/19/83	JA: OH			
8402980		3410323166		107-TF		C SHAFFER #3	WADSWORTH	18.3	
8402982		3415321464		107-TF		MALCOMB UNIT #1	COPLEY	54.8	YANKEE RESOURCES
8402983		3415321469		107-TF		STACHLER UNIT #1	COPLEY	54.8	
8402981		3410323346		107-TF		WANCHA #3	WADSWORTH	27.4	
-ATWOOD RESOURCES INC				RECEIVED:	10/19/83	JA: OH			
8402985		3403125157		103	107-TF	KLEPATZKI-COOL UNIT #1	CLARK	15.0	
8402984		3403125094		103	107-TF	OMER BECHTOL #4	MILLCREEK	15.0	
-BELDEN & BLAKE & CO 82				RECEIVED:	10/19/83	JA: OH			
8402987		3410323449		103	107-TF	MEADOWS ENTERPRISES #1 - 341329	GRANGER	36.5	
8402986		3409921546		103	107-TF	R & J RHODES COMM #1- 341307	GOSHEN	36.5	
-BERMAN J SHAFER				RECEIVED:	10/19/83	JA: OH			
8402990		3415321472		107-TF		HAMLIN UNIT #1	BOSTON	200.0	EAST OHIO GAS CO
8402988		3415321470		107-TF		REED UNIT #1	NORTHFIELD CENTER	1.2	EAST OHIO GAS CO
8402989		3415321471		107-TF		REED UNIT #2	NORTHFIELD CENTER	100.0	EAST OHIO GAS CO
-BILL BLAIR INCORPORATED				RECEIVED:	10/19/83	JA: OH			
8402991		3402920956		103	107-TF	ECKERT #1	HOMEWORTH	15.0	EAST OHIO GAS CO
8402992		3402920958		103	107-TF	LAUENER #1	HOMEWORTH	12.0	EAST OHIO GAS CO
8402993		3402920970		103	107-TF	VALENTINE #1	HOMEWORTH	18.0	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED:	10/19/83	JA: OH			
8403076		3405520531		107-TF		EQUESTRIAN UNIT #1-820	BURTON	10.0	
8403075		3400722262		107-TF		L DALIN #1-714	SAYBROOK	10.0	
-CNG DEVELOPMENT CO				RECEIVED:	10/19/83	JA: OH			
8402995		3412123046		103	107-TF	F & M BUTCHER #2 CNGD #146	CENTER	37.0	
8402994		3411523139		103	107-TF	F R TILDEN #1 CNGD #147	MANCHESTER	4.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	10/19/83	JA: OH			
8402996		3411122586		107-DV		CURTIS BENNETT #1	WASHINGTON	13.0	
-DAVID A WALDRON & ASSOC INC				RECEIVED:	10/19/83	JA: OH			
8402997		3413323082		107-TF		FRIEDL UNIT #1	ROOTSTOWN	18.0	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DISCOVERY OIL LTD				RECEIVED: 10/19/83		JA: OH			
8402998		3410322894		107-TF		IRWIN #3	SEVILLE	20.0	
-DORSET CO INC				RECEIVED: 10/19/83		JA: OH			
8402999		3400722258		107-TF		MCCONNEL #6	GUILFORD	25.0	LIBBY-OWEN FORD C
-ENERGY DEVELOPMENT CORP				RECEIVED: 10/19/83		JA: OH			
8403000		3400720204		107-RT		KLEMENTS #1	RICHMOND	17.0	COLUMBIA GAS TRAN
8403001		3405522251		103	107-TF	KRUK UNIT WELL #1		20.0	
-GASEARCH INC				RECEIVED: 10/19/83		JA: OH			
8403002		3415522298		103	107-TF	SCHUSTER #1	VIENNA	25.0	EAST OHIO GAS CO
8403003		3415522291		103	107-TF	SMELTZER UNIT #1	VIENNA	25.0	EAST OHIO GAS CO
-GENERAL ELECTRIC CO				RECEIVED: 10/19/83		JA: OH			
8403004		3400722244		103	107-TF	KRAKER #1	CHERRY VALLEY	20.0	EAST OHIO GAS CO
-GREEN GAS COMPANY				RECEIVED: 10/19/83		JA: OH			
8403005		3412123043		107-TF		R LARRICK #2	BUFFALO	8.0	EAST OHIO GAS CO
-HOPCO RESOURCES INC				RECEIVED: 10/19/83		JA: OH			
8403006		3411925066		108		BONEY #1		7.0	COLUMBIA GAS TRAN
8403007		3411925069		108		BONEY #2		7.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED: 10/19/83		JA: OH			
8403008		3412725992		103	107-TF	PHEBE STICKDORN #1	SALT LICK	10.0	COLUMBIA GAS TRAN
-JAMES DRILLING CORP				RECEIVED: 10/19/83		JA: OH			
8403009		3400721926		103	107-TF	LORETTA ENGEL WELL #1	DORSET	11.0	
-JERRY MOORE INC				RECEIVED: 10/19/83		JA: OH			
8403012		3403125018		107-TF		J H & J W PEDDICORD #6257	KEENE	3.0	COLUMBIA GAS TRAN
8403010		3403124953		107-TF		LARRY ENDSLEY #6255	COSHOCTON	6.0	COLUMBIA GAS TRAN
8403011		3403125009		107-TF		LISTER R ENDSLEY #6256	KEENE	3.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED: 10/19/83		JA: OH			
8403013		3415320987		103	107-TF	CROWN POINT #3	BATH	35.0	
-KINGSLY ENTERPRISES INC				RECEIVED: 10/19/83		JA: OH			
8403014		3415521566		103	107-TF	HORVAT #4	BLOOMFIELD	30.0	
-LAKE REGION OIL INC				RECEIVED: 10/19/83		JA: OH			
8403016		3407524049		103	107-TF	ELI YODER #1	MECHANIC	10.0	COLUMBIA GAS TRAN
8403015		3402920932		103	107-TF	KARL WENDLAND #1	BUTLER	10.0	YANKEE RESOURCES
8403017		3407524071		103	107-TF	MOSE RABER #1	CLARK	10.0	YANKEE RESOURCES
8403018		3407524073		103	107-TF	WILLIS D YODER #1	CLARK	10.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED: 10/19/83		JA: OH			
8403023		3411924425		108		BORDER #1		9.0	
8403019		3407322864		103	107-TF	CHERRY #3	WASHINGTON	12.0	
8403021		3411924290		108		KINCELY #1		9.0	
8403020		3411923995		108		PARRILL #1		9.0	
8403022		3411924399		108		PARRILL #2		9.0	
-LOMAK PETROLEUM INC				RECEIVED: 10/19/83		JA: OH			
8403026		3413323031		107-TF		G WINCHELL #3	FREEDOM	15.0	YANKEE RESOURCES
8403025		3413321789		107-TF		G WINCHELL #4	FREEDOM	12.0	YANKEE RESOURCES
8403024		3405520548		107-TF		W LAWRENCE #1	BURTON	30.0	YANKEE RESOURCES
-M A CAMILLY INC				RECEIVED: 10/19/83		JA: OH			
8403027		3400722154		107-TF		PINTO #1	NEW LYME	30.0	YANKEE RESOURCES
-M B OPERATING CO INC				RECEIVED: 10/19/83		JA: OH			
8403032		3415122685		108		BUCHER U #1-A		0.0	REPUBLIC STEEL CO
8403052		3415723522		108		C PARROT #1-A		8.0	REPUBLIC STEEL CO
8403043		3415123257		108		DEAL U #1-A		0.0	REPUBLIC STEEL CO
8403038		3415122810		108		E & M KUVLESKY #1		0.5	REPUBLIC STEEL CO
8403039		3415122815		108		FLINTKOTE CO U #9		0.5	REPUBLIC STEEL CO
8403046		3415722831		108		G & G BURKET #1		2.0	REPUBLIC STEEL CO
8403042		3415122984		108		G THOMAS U #1		4.0	REPUBLIC STEEL CO
8403037		3415122795		108		H FIERSTOS #1		4.5	REPUBLIC STEEL CO
8403035		3415122727		108		J & B ECKERT #1		6.5	REPUBLIC STEEL CO
8403040		3415122830		108		J & M BRAINERD U #1		12.3	REPUBLIC STEEL CO
8403048		3415722979		108		J & M SCHAAR #1		9.5	REPUBLIC STEEL CO
8403033		3415122707		108		J & S TILLAPAW #1		10.3	REPUBLIC STEEL CO
8403044		3415722502		108		K & G PARROT #1		13.0	REPUBLIC STEEL CO
8403036		3415122782		108		L & A ROHN #1		6.8	REPUBLIC STEEL CO
8403031		3415122671		108		M WEISGARBER #1		11.0	REPUBLIC STEEL CO
8403050		3415723000		108		MULLETT #1		0.0	REPUBLIC STEEL CO
8403051		3415723115		108		P & M LE GLISE U #1		8.5	REPUBLIC STEEL CO
8403047		3415722841		108		R & D HODGDON #1		8.5	REPUBLIC STEEL CO
8403034		3415122723		108		R & H REIDY #1		8.8	REPUBLIC STEEL CO
8403053		3415122637		108		R & I HARTLINE #1		9.5	REPUBLIC STEEL CO
8403041		3415122832		108		R DOWNEY #1		17.8	REPUBLIC STEEL CO
8403045		3415722812		108		SEPTER ETAL U #1		11.5	REPUBLIC STEEL CO
8403049		3415722999		108		U S WEAVER U #1		0.0	REPUBLIC STEEL CO
8403030		3415122645		108		W & A SMITH #1		3.0	REPUBLIC STEEL CO
-MADDEN VENTURES				RECEIVED: 10/19/83		JA: OH			
8403028		3416727323		107-DV		HUFFMAN - MADDEN #1	LAWRENCE	50.0	RIVER GAS CO
8403029		3416727323		107-TF		HUFFMAN-MADDEN #1	LAWRENCE	50.0	RIVER GAS CO
-MERIDIAN OIL & GAS ENT INC				RECEIVED: 10/19/83		JA: OH			
8403056		3400722282		103	107-TF	EARL W TIPPLE #1	DORSET	11.0	
8403055		3400722281		103	107-TF	JULIE E HOENICK WELL #1	DORSET	11.0	
8403054		3400722279		103	107-TF	MARIETTA FITTS WELL #1	ANDOVER	11.0	
-NUCORP ENERGY COMPANY				RECEIVED: 10/19/83		JA: OH			
8403057		3400721163		103	107-TF	STASKO #1	SHEFFIELD	5.0	OHIO GAS CO
-OLYMPIC RESOURCES CO				RECEIVED: 10/19/83		JA: OH			
8403058		3416923494		107-TF		BRAZIS #1	CONGRESS	18.1	COLUMBIA GAS TRAN
8403059		3416923495		107-TF		FLINN #1	CONGRESS	15.5	COLUMBIA GAS TRAN
-OS AIR INC				RECEIVED: 10/19/83		JA: OH			
8403062		3408520414		103	107-TF	MERKEL UNIT #1	MENTOR	30.0	
8403060		3408520329		103	107-TF	OSAIR UNIT #2	MENTOR	34.0	
8403061		3408520371		103	107-TF	SHULTZ UNIT #2	MENTOR	40.0	
-OXFORD OIL CO				RECEIVED: 10/19/83		JA: OH			
8403081		3411924085		108		MARY CHAFFIN #1		15.0	NATIONAL GAS & OI
8403078		3411922834		108		MARY GEYER #1		12.0	COLUMBIA GAS TRAN
8403079		3411923378		108		ROBERT CHANEY #1		4.0	COLUMBIA GAS TRAN
8403080		3411923546		108		ROBERT CHANEY #2		4.0	COLUMBIA GAS TRAN
8403077		3407524056		103	107-TF	ROBT OAKLEAF UNIT #1	KILLBUCK	10.0	
-PEDGECO INC				RECEIVED: 10/19/83		JA: OH			
8403063		3415321367		107-TF		FULTON #1	BATH	20.0	
-PDI ENERGY INC				RECEIVED: 10/19/83		JA: OH			
8403066		3400722110		103	107-TF	FALZONE UNIT #CG-2	ROME	42.0	
8403064		3400722088		103	107-TF	GOLUK #CG-1	WINDSOR	36.0	
8403065		3400722103		103	107-TF	POYAR #CG-1	ORWELL	35.0	
8403067		3400722115		103	107-TF	RUTHERFORD #CG-1	ORWELL	37.0	
8403068		3415321332		103	107-TF	V COHN #1	STOW	41.0	
-RSC ENERGY CORP				RECEIVED: 10/19/83		JA: OH			
8403069		3411926358		103	107-TF	CONSOLIDATION COAL - CR #47	WASHINGTON	4.5	REPUBLIC STEEL CO
8403070		3411926359		103	107-TF	CONSOLIDATION COAL - CR #48	WASHINGTON	12.7	REPUBLIC STEEL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SPARTA ENERGY CORP				RECEIVED: 10/19/83	JA: OH				
8403071		3400721531		103	107-TF	A BUELL #1	DORSET	20.0	OHIO GAS CO
8403072		3400721864		103	107-TF	A BUELL #2	DORSET	15.0	OHIO GAS CO
-STOCKER&SITLER INC				RECEIVED: 10/19/83	JA: OH				
8403073		3415723529		103	107-TF	WENGER UNIT #2	DOVER	18.0	REPUBLIC STEEL CO
-THE BENATTY CORPORATION				RECEIVED: 10/19/83	JA: OH				
8403074		3411926626		103	107-TF	N WOOD #1	MEIGS	25.0	EAST OHIO GAS CO
-VIKING RESOURCES CORP				RECEIVED: 10/19/83	JA: OH				
8403084		3408520459		103	107-TF	BARCLAY/MEZAROS UNIT #2	PERRY	30.0	
8403083		3408520406		103	107-TF	BROADWATER #2	MADISON	30.0	
8403087		3415321448		103	107-TF	CITY OF BARBERTON-LAMONICA UNIT #1	COPLEY	30.0	
8403088		3415321451		103	107-TF	CITY OF BARBERTON-LAMONICA UNIT #4	COPLEY	30.0	
8403089		3416923594		103	107-TF	FITZGERALD UNIT #2	CHIPPEWA	30.0	
8403086		3415321387		103	107-TF	HUBER-YOUNG UNIT #7	COPLEY	30.0	
8403085		3408520463		103	107-TF	KLYN #8	PERRY	30.0	
8403090		3416923660		103	107-TF	LIEBERTH UNIT #5	CHIPPEWA	30.0	
8403082		3408520377		103	107-TF	LOSELY UNIT #7	PERRY	30.0	
-WILLIAM M TIPKA				RECEIVED: 10/19/83	JA: OH				
8403091		3415723798		107-TF		EVERHART #1	SALEM	6.0	COLUMBIA GAS TRAN
-WORTHINGTON OIL COMPANY INC				RECEIVED: 10/19/83	JA: OH				
8403092		3403122617		108		UNGUREAN #1		0.0	COSHOCTON PIPE CO

WYOMING OIL & GAS CONSERVATION COMMISSION

-AMERICAN NAT GAS PROD CO				RECEIVED: 10/20/83	JA: WY				
8403134	NG 79-83	4900720655		102-2		CRESTON #14-25	CRESTON NOSE	35.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED: 10/20/83	JA: WY				
8403105	NG 91-83	4904320446		102-2		AMOCO CHEVRON ST #1-PHOSPHORIA	RED CANYON-PHOSPHORIA	368.0	
8403140	NG 31-83	4904120117		107-DP		AMOCO-CHEVRON-GULF WI UNIT #2	WHITNEY CANYON - BIG	4000.0	NATURAL GAS PIPEL
8403098	NG 41-83	4904120421		102-2		BRADBURY "B" #1	YELLOW CREEK DEEP-PHO	3.8	
8403096	NG 39-83	4904120196		107-RT		CHAMPLIN 186 AMOCO "E" #1-FRONTIER	BRUFF-FRONTIER	45.0	NORTHWEST CENTRAL
8403145	NG 53-83	4903721338		107-TF		CHAMPLIN 206 AMOCO "C" #1-FRONTIER	BRUFF - FRONTIER	139.0	NORTHWEST CENTRAL
8403155	NG 130-83	4903721627		107-TF		CHAMPLIN 285 AMOCO "I" #1-FRONTIER	BRUFF - FRONTIER	107.6	NORTHWEST CENTRAL
8403119	NG 48-83	4904120195		102-2		CHAMPLIN 358 AMOCO "B" #1-FRONTIER	BRUFF-FRONTIER	5402.0	NORTHWEST CENTRAL
8403121	NG 50-83	4904120413		102-2		CHAMPLIN 375 AMOCO "C" #1-PHOSPHOR	YELLOW CREEK DEEP - P	136.9	
8403118	NG 54-83	4904120413		102-2		CHAMPLIN 375 AMOCO "C" #1-WEBER	YELLOW CREEK DEEP - W	721.2	
8403112	NG 84-83	4904120482		102-2		CHAMPLIN 404 AMOCO "C" #1-NUGGET	ANSCHUTZ RANCH EAST -	208.0	MOUNTAIN FUEL SUP
8403143	NG 51-83	4903720953		102-2		CHAMPLIN 449 AMOCO "A" #1 (LEWIS)	ALKALI CREEK - LEWIS	25.0	NORTHWEST CENTRAL
8403097	NG 40-83	4904120469		107-DP		CHAMPLIN 505 AMOCO "B" #1 (BIGHORN)	WEST CARTER CREEK-BIG	7.2	
8403141	NG 34-83	4903721356		107-TF		SEVEN MILE GULCH UNIT #7 (FRONTIER)	SEVEN MILE GULCH - FR	10.0	NORTHWEST CENTRAL
8403126	NG 55-83	4904120487		102-2		SULPHER SPRINGS UNIT #1A	YELLOW CREEK DEEP - P	228.1	
8403127	NG 56-83	4904120416		102-2		URROZ "B" #1	YELLOW CREEK DEEP - P	1129.7	MOUNTAIN FUEL SUP
8403120	NG 49-83	4902320368		107-TF		WHISKEY BUTTES UNIT #40 (FRONTIER)	WHISKEY BUTTES - FRON	92.0	NORTHWEST CENTRAL
8403144	NG 52-83	4902320502		107-TF		WILSON RANCH UNIT #21 (FRONTIER)	WILSON RANCH - FRONTI	126.0	NORTHWEST CENTRAL
-BANDERA ENERGY CO				RECEIVED: 10/20/83	JA: WY				
8403158	NG 65-83	4900500000		103		STATE A #2	LAZY "B"	73.0	
-BELCO PETROLEUM CORPORATION				RECEIVED: 10/20/83	JA: WY				
8403104	NG-94-83	4900905569		108		SHAWNEE #9	FLAT TOP	0.0	NORTHWEST PIPELIN
-CELSIUS ENERGY CO				RECEIVED: 10/20/83	JA: WY				
8403133	NG 77-83	4903722186		103		SOUTH BAXTER UNIT WELL #17	SOUTH BAXTER	0.0	MOUNTAIN FUEL SUP
-CHEVRON U S A INC				RECEIVED: 10/20/83	JA: WY				
8403124	NG 61-83	4904120313		102-4		PRU 13-3B	CLEAR CREEK	1200.0	
-CHINOOK RESOURCES INC				RECEIVED: 10/20/83	JA: WY				
8403159	NG 126-83	4900922243		102-4		DORCAS 32-25	SCOTT FIELD	36.5	CHINOOK CONSTRUCT
8403153	NG 132-83	4900922241		102-4		WILLIE 34-31	SCOTT FIELD	0.0	CHINOOK CONSTRUCT
-CIG EXPLORATION INC				RECEIVED: 10/20/83	JA: WY				
8403106	NG 88-83	4901320941		102-2		LONG BUTTE #3	LONG BUTTE - CODY	385.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED: 10/20/83	JA: WY				
8403129	NG 58-83	4900524925		103		HARTZOG DRAW TRACT #118 WELL#5362	HARTZOG DRAW UNIT	1.8	PANHANDLE EASTERN
8403122	NG 59-83	4900524698		103		HARTZOG DRAW TRACT #106 WELL #5144	HARTZOG DRAW UNIT	1.5	PANHANDLE EASTERN
8403102	NG 46-83	4900524123		103		HARTZOG DRAW TRACT #119C WELL #4164	HARTZOG DRAW UNIT	5.5	PANHANDLE EASTERN
8403128	NG 57-83	4903520698		103		STATE "J" #1	BIRD CANYON	90.0	
8403095	NG 38-83	4900526698		102-3		TATE WIKER "A" #1	SCHOOL CREEK	5.0	
-COASTAL OIL & GAS CORP				RECEIVED: 10/20/83	JA: WY				
8403107	NG 87-83	4901321228		102-2		LONG BUTTE #10	LONG BUTTE - MESAVERD	554.0	COLORADO INTERSTA
-DAVIS OIL COMPANY				RECEIVED: 10/20/83	JA: WY				
8403160	NG 127-83	4900527843		102-2		ANDY UNIT #12	WILDCAT	176.8	BIG HORN FRACTION
8403162	NG 129-83	4900527055		102-2		ANDY UNIT #14	WILDCAT	280.0	BIG HORN FRACTION
8403161	NG 128-83	4900527047		102-2		CHRISTINCK STATE #2	WILDCAT	240.0	PHILLIPS PETROLEU
8403135	NG 72-83	4900922221		102-2		CONCAMP STATE #2	WILDCAT	320.0	PHILLIP PETROLEUM
8403131	NG 73-83	4900526726		102-2		FELIX UNIT #2	WILDCAT	268.6	BIG HORN FRACTION
8403113	NG 85-83	4900526910		102-2		FELIX UNIT #5	WILDCAT	220.0	BIG HORN FRACTION
8403157	NG 64-83	4900526696		102-2		FLOYD BROS #1	WILDCAT	240.0	PHILLIPS PETROLEU
8403101	NG 65-83	4900526828		102-2		RENTUER #1	WILDCAT	340.0	
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 10/20/83	JA: WY				
8403123	NG 60-83	4900916163		103		IRWIN FEE #14-28	POISON DRAW	5.0	PHILLIPS PETROLEU
8403130	NG 66-83	4900922098		103		IRWIN FEE #34-28	POISON DRAW	3.0	PHILLIPS PETROLEU
-EMC INC				RECEIVED: 10/20/83	JA: WY				
8403138	NG 321-82	4900922006		102-3		REED-ENGEL #1	FLAT TOP	329.0	KN ENERGY INC
-EXETER EXPLORATION COMPANY				RECEIVED: 10/20/83	JA: WY				
8403117	NG 69-83	4900922218		102-2		SCOTT-STATE #7-1	SCOTT	43.0	CHINOOK CONSTRUCT
-GULF OIL CORPORATION				RECEIVED: 10/20/83	JA: WY				
8403094	NG 37-83	4904120524		102-2		BROKEN CIRCLE 2-35-4C	GLASSCOCK HOLLOW (TWI	570.0	
-HOME PETROLEUM CORPORATION				RECEIVED: 10/20/83	JA: WY				
8403115	NG 76-83	4900922213		102-2		NORTH POWELL STATE #1-36	MOYER DRAW	34.2	PHILLIPS PETROLEU
-INTEGRITY OIL & GAS COMPANY				RECEIVED: 10/20/83	JA: WY				
8403152	NG 209-81	4900921712		102-4		IRWIN #21-28	SCOTT FIELD	10.2	PHILLIPS PETROLEU
-J-B PRODUCTION CO				RECEIVED: 10/20/83	JA: WY				
8403139	NG 91-80	4903300000		102-2		SPRINGER #5	MEADE CREEK	28.0	MONTANA-DAKOTA UT
8403103	NG 92-80	4903300000		102-2		SPRINGER #6	MEADE CREEK	40.0	MONTANA-DAKOTA UT
8403111	NG 93-80	4903300000		102-2		SPRINGER #7	MEADE CREEK	28.0	MONTANA-DAKOTA UT
-KENNETH LUFF INC				RECEIVED: 10/20/83	JA: WY				
8403109	NG-82-83	4903721804		103		AMOCO CHAMPLIN #3-17	CROOKED CANYON	730.0	STAUFFER CHEMICAL
8403108	NG 83-83	4903722024		103		CHAMPLIN 398 AMOCO "B" #1	CROOKED CANYON	187.0	STAUFFER CHEMICAL
8403163	NG 81-83	4903721799		103		LEUCITE #21-A	CROOKED CANYON	56.0	STAUFFER CHEMICAL
-MARATHON OIL COMPANY				RECEIVED: 10/20/83	JA: WY				
8403151	NG 248-82	4900720406		107-TF		CRESTON III UNIT #4	CRESTON III UNIT	50.0	NORTHWEST PIPELIN
-MILESTONE PETROLEUM INC				RECEIVED: 10/20/83	JA: WY				
8403137	NG 80-83	4900526884		103		BIRDSALL #43X-8	HOUSE CREEK - SUSSEX	50.0	PHILLIPS PETROLEU
8403114	NG 67-83	4900526875		103		BIRDSALL 22X-5	HOUSE CREEK - SUSSEX	35.0	PHILLIPS PETROLEU
-PETRO-LEWIS CORPORATION				RECEIVED: 10/20/83	JA: WY				
8403150	NG 233-82	4900700000		102-4		UPRR #2	HATFIELD DOME	182.5	NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 10/20/83	JA: WY				
8403136	NG 47-83	4900526677		102-2		FORD B #1	SCHOOL CREEK	14.2	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403093	NG 30-83	4900922186		102-2		W GIBSON DRAW H #1	SCHOOL CREEK	7.3	PANHANDLE EASTERN
-SOUTHLAND ROYALTY CO				RECEIVED:	10/20/83	JA: WY			
8403110	NG 74-83	4900920805		108		BAUGHN #1-19	WELL DRAW	4.3	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	10/20/83	JA: WY			
8403132	NG 71-83	4900922128		102-2		ADCOCK 3-2	SCOTT	50.0	
8403156	NG 63-83	4901121898		102-2		STATE 1-25	SCOTT	71.0	PHILLIPS PETROLEU
8403125	NG 62-82	4900922047		102-2		STATE 1-26	SCOTT	14.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	10/20/83	JA: WY			
8403116	NG 68-83	4903722171		103		TABLE ROCK UNIT #61	TABLE ROCK	91.9	COLORADO INTERSTA
-TRUE OIL COMPANY				RECEIVED:	10/20/83	JA: WY			
8403099	NG 43-83	4902320508		107-TF		GOODSTEIN STATE #13-16	EMIGRANT SPRINGS	0.0	NORTHWEST PIPELIN
-WESTERN PRODUCTION CO				RECEIVED:	10/20/83	JA: WY			
8403154	NG 133-82	4902720439		102-4		DIXON #1-20	BOGGY CREEK	64.8	M G P C INC
8403146	NG 307-82	4902720546		102-4		DIXON 1-25	BOGGY CREEK	1.9	M G P C INC
8403147	NG 306-82	4902720583		102-4		DIXON 2-20	BOGGY CREEK	20.1	M G P C INC
8403148	NG 308-82	4902720524		102-4		DIXON 3-20	BOGGY CREEK	6.5	M G P C INC
8403149	NG 305-82	4902720599		102-4		DIXON 4-20	BOGGY CREEK	6.5	M G P C INC
-WOODS PETROLEUM CORPORATION				RECEIVED:	10/20/83	JA: WY			
8403100	NG 44-83	4900526553		102-4		PINE TREE UNIT #28-59	PINE TREE	22.0	WESTERN GAS PROCE
8403142	NG 36-83	4900526755		102-4		PINE TREE UNIT #9-62	PINE TREE	13.0	WESTERN GAS PROCE
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
**********									
-CHEVRON U S A INC				RECEIVED:	10/21/83	JA: CO 1			
8403173	CD-0168-83	0510308319		103		A C MCLAUGHLIN 73X	RANGELY	24.5	NORTHWEST PIPELIN
-MURCHISON BROTHERS				RECEIVED:	10/21/83	JA: CO 1			
8403172	CD-0170-83	0506706676		103		14-20-151-10	IGNACIO-BLANCO	449.0	WESTERN SLOPE GAS
8403170	CD-0172-83	0506706682		103		14-20-151-21	IGNACIO-BLANCO	249.4	WESTERN SLOPE GAS
8403171	CD-0171-83	0506706682		103		14-20-151-21	IGNACIO-BLANCO	374.7	WESTERN SLOPE GAS
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, TULSA,OK									
**********									
-TXO PRODUCTION CORP				RECEIVED:	10/20/83	JA: OK 6			
8403169	OK-T-4-83	3504321760		103		FRANS-USA #1	NW MOBSCOT	0.0	DELHI GAS PIPELIN

[FR Doc. 83-31617 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1003]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 18, 1983.

The following 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).

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**.

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS VOLUME 1003

ISSUED NOVEMBER 18, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ADA OIL EXPLORATION CORP				RECEIVED:	10/21/83	JA: TX			
8403256	F-03-071205	4228700000		102-2		JOHN NEWMAN #13	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8403249	F-03-070577	4205100000		102-2		JOHN NEWMAN #7	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403414	F-09-073672	4209732273		102-4	103	BURRELL #3	DELAWARE BEND NORTH (	110.0	LONE STAR GAS CO
-AEGEAN OIL CORP				RECEIVED:	10/21/83	JA: TX			
8403301	F-03-072863	4228731392		102-2		ALTON CAMPBELL #1	DIME BOX	103.0	ORECA GAS CORP
-ALPAR RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403234	F-10-069499	4235731325		102-4		DAVIS 1-106	ALPAR (ST LOUIS)	189.0	DIAMOND SHAMROCK
8403327	F-10-073185	4235731414		102-4		PEARSON 6-109	ALPAR (HUNTON)	24.0	PHILLIPS PETROLEU
-AMERICAN INTERNATIONAL ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403297	F-02-072780	4212331298		102-4		BLUNTZER #1	WILDCAT-PROPOSED MISS	172.0	TEXAS EASTERN TRA
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	10/21/83	JA: TX			
8403299	F-09-072836	4218130966		102-4	103	MARILYN #1	A J SEARIGHT SURVEY A	0.0	LONE STAR GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	10/21/83	JA: TX			
8403287	F-08-072710	4213534144		103		DAVID FASKEN "CF" #1	FASKEN (PENN)	63.0	AMOCO PRODUCTION
8403398	F-8A-073635	4221933840		103		EAST RKM UNIT #83	SLAUGHTER	3.4	EL PASO NATURAL G
8403393	F-8A-073630	4221933846		103		EAST RKM UNIT #84	SLAUGHTER	20.0	EL PASO NATURAL G
8403395	F-8A-073632	4221933886		103		ELLWOOD "A" #148	SMYER	3.0	AMOCO PRODUCTION
8403362	F-8A-073534	4221933886		103		ELLWOOD "A" #153	SMYER	12.0	AMOCO PRODUCTION
8403394	F-8A-073631	4221933885		103		ELLWOOD "A" #154	SMYER	4.0	AMOCO PRODUCTION
8403361	F-08-073533	4200333500		103		J E PARKER "H" #18	PARKER (PENNSYLVANIAN	6.9	PHILLIPS PETROLEU
8403363	F-08-073535	4200333498		103		J E PARKER "Y" #3	PARKER (PENNSYLVANIA)	0.7	PHILLIPS PETROLEU
8403372	F-03-073572	4203931674		102-4		JAMES L DUCROZ GAS UNIT #1	COW TRAP (6300)	365.0	AMOCO GAS CO
8403397	F-8A-073634	4221933874		103		W G FRAZIER UNIT #126	SLAUGHTER	94.0	EL PASO NATURAL G
8403396	F-8A-073633	4221933876		103		W G FRAZIER UNIT #127	SLAUGHTER	1.1	EL PASO NATURAL G
-ANDERSON PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403177	F-7C-056390	4210533829		103	107-TF	JOE FRIEND ESTATE 3-28	ALDWELL RANCH (CANYON	200.0	OZONA PIPELINE CO
-APEX PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403245	F-7B-07036	4208333436		102-4		JOHN E WOLF #21		0.0	EL PASO HYDROCARB
-ARCO OIL AND GAS COMPANY				RECEIVED:	10/21/83	JA: TX			
8403235	F-10-069554	4206500000		103		ARCO FEE 203 #1	PANHANDLE CARSON COUN	36.5	
8403176	F-10-048265	4239335198		108-ER		WILLIAM R COWAN TRACT "A" #2	QUINDUNO (ALBANY DOLO	36.5	NATURAL GAS PIPEL
-ARKLA EXPLORATION COMPANY				RECEIVED:	10/21/83	JA: TX			
8403214	F-06-068433	4236531505		102-2	107-TF	CLARK #1	CARTHAGE (COTTON VALL	700.0	ARKANSAS LOUISIAN
-ARMSTRONG PETROLEUM CORP				RECEIVED:	10/21/83	JA: TX			
8403208	F-7B-068087	4244733338		102-4		J T DAVIS #3	JAYTEE (CADDO)	0.0	H S T GA-HERING C
-ASTIN CORP				RECEIVED:	10/21/83	JA: TX			
8403220	F-7B-068917	4225332475		103		DEAVERS #2	NOODLEKIRK (ELLENBURG	30.0	TEXAS UTILITIES F
-AUSTIN OIL & MINERAL				RECEIVED:	10/21/83	JA: TX			
8403252	F-03-070946	4228700000		102-4		R SPACEK #1	DIMEBOX (NAVARRO)	90.0	PHILLIPS PETROLEU
8403229	F-03-069320	4228700000		102-4		V HERVEY #1	DIME BOX (NAVARRO)	10.6	PHILLIPS PETROLEU
-BEACH EXPLORATION INC				RECEIVED:	10/21/83	JA: TX			
8403224	F-08-069250	4217331382		103		HOUSTON A #2	GORDON STREET (WOLFCA	12.2	PHILLIPS PETROLEU
-BEARCO				RECEIVED:	10/21/83	JA: TX			
8403267	F-7B-071992	4244334130		103		MARTHA J SHELTON #10A (09445)	THROCKMORTON COUNTY R	10.0	THROCKMORTON GAS

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403266	F-7B-071991	4244733414		103		MARTHA J SHELTON #11A (09445)	THROCKMORTON COUNTY R	10.0	THROCKMORTON GAS
-BILL FORNEY INC				RECEIVED:	10/21/83	JA: TX			
8403289	F-03-072727	4248132465		102-4		ANIELA PITTS #1-T (RRC #N/A)	BONUS SE (EAST BERNAR	730.0	VENTURE PIPELINE
-BTA OIL PRODUCERS				RECEIVED:	10/21/83	JA: TX			
8403271	F-8A-072181	4211531831		103		WELCH S E (SPRABERRY) UNIT #5-2	WELCH S E (SPRABERRY)	4.8	PHILLIPS PETROLEU
-C & K PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403315	F-08-073027	4241331330		103		FOSTER 34-#5	CONGER (PENN)	0.0	VALERO TRANSMISSI
-C R GALLAGHER JR				RECEIVED:	10/21/83	JA: TX			
8403225	F-7B-069275	4213331453		102-4		WEST #1	WILDCAT	70.0	LONE STAR GAS CO
-CASHCO OIL CO				RECEIVED:	10/21/83	JA: TX			
8403191	F-03-064223	4218530327		102-4		T M P A #1	MARTINS PRAIRIE (SUB	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	10/21/83	JA: TX			
8403296	F-02-072757	4246900000		103		MCFADDIN "A" #5	MCFADDIN	0.0	CHAMPLIN PETROLEU
-CHARLES PITTS CO				RECEIVED:	10/21/83	JA: TX			
8403211	F-7B-068237	4204932365		102-4		D KIRKLAND #1	PITTS	200.0	EL PASO HYDROCARB
-CHEVRON U S A INC				RECEIVED:	10/21/83	JA: TX			
8403390	F-8A-073627	4241532388		103		SACROC UNIT #199-6	KELLY - SNYDER	62.0	EL PASO NATURAL G
8403436	F-8A-073710	4241532391		103		SACROC UNIT #209-2	KELLY - SNYDER	74.0	EL PASO NATURAL G
8403437	F-8A-073711	4241532450		103		SACROC UNIT #271-5	KELLY - SNYDER	213.0	EL PASO NATURAL G
8403440	F-8A-073714	4241532377		103		SACROC UNIT #36-12	KELLY - SNYDER	28.0	EL PASO NATURAL G
8403439	F-8A-073713	4241532389		103		SACROC UNIT #49-13	KELLY - SNYDER	32.0	EL PASO NATURAL G
8403438	F-8A-073712	4241532404		103		SACROC UNIT #51-5	KELLY - SNYDER	128.0	EL PASO NATURAL G
8403441	F-8A-073715	4241532854		103		SACROC UNIT #55-7	KELLY - SNYDER	134.0	EL PASO NATURAL G
8403442	F-8A-073716	4241532419		103		SACROC UNIT #59-5	KELLY - SNYDER	31.0	EL PASO NATURAL G
8403392	F-8A-073629	4241532403		103		SACROC UNIT #81-3	KELLY-SNYDER	36.0	EL PASO NATURAL G
8403391	F-8A-073628	4241532405		103		SACROC UNIT #91-10	KELLY-SNYDER	159.0	EL PASO NATURAL G
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	10/21/83	JA: TX			
8403300	F-09-072848	4223735103		102-4		ROYCE #1	HUNTER (CONGL)	0.0	CITIES SERVICE CO
-COATES ENERGY TRUST				RECEIVED:	10/21/83	JA: TX			
8403270	F-04-072137	4242731771		102-4		1ST NATL BK OF MISSION #10	JAY SIMMONS (5670' SA	73.0	VALERO INTERSTATE
-CONOCO INC				RECEIVED:	10/21/83	JA: TX			
8403203	F-04-067595	4247933532		102-4	103	ANGELINA SANCHEZ #1	PICOSO (WILCOX 11,300	891.0	HOUSTON PIPELINE
8403201	F-04-067088	4250531618		102-4	107-TF	BMT - L E BRUNI #3	LAS OVEJAS (LOBO 6)	200.0	HOUSTON PIPELINE
8403182	F-10-061646	4206500000		108		BURNETT 53A	WEST PANHANDLE	9.0	NORTHWEST CENTRAL
8403311	F-10-073005	4206500000		108		FUQUA W H #8	WEST PANHANDLE	0.0	NORTHWEST CENTRAL
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	10/21/83	JA: TX			
8403415	F-04-073673	4270330243		102-4		STATE TRACT 691-L NE/4 #1	BLOCK 691-L (MIOCENE	0.0	HOUSTON PIPELINE
8403417	F-04-073675	4260330203		102-4		STATE TRACT 818-S WELL #1-L	CLEAR NORTH (MIOCENE	0.0	HOUSTON PIPELINE
8403418	F-04-073676	4260330203		102-4		STATE TRACT 818-S WELL #1-U	CLEAR NORTH (MIOCENE	0.0	HOUSTON PIPELINE
8403416	F-04-073674	4260330208		102-4		STATE TRACT 826-S WELL #1A-U	CLEAR NORTH (MIOCENE	0.0	HOUSTON PIPELINE
-CRB OIL & GAS INC				RECEIVED:	10/21/83	JA: TX			
8403193	F-01-065098	4250731829		102-4		LEE RANCH C041D	LEE RANCH (SERPENTINE	150.0	NORTHERN NATURAL
8403194	F-01-065104	4250731829		102-4		LEE RANCH C041H	LEE RANCH (ESCONDIDO)	130.0	NORTHERN NATURAL
-CRYSTAL OIL & LAND CO				RECEIVED:	10/21/83	JA: TX			
8403285	F-06-072610	4206730422		102-4		STILES #1	RODESSA PETTIT (6320)	21.5	BRECKENRIDGE GASO
-DELTA OIL & GAS CO				RECEIVED:	10/21/83	JA: TX			
8403370	F-7B-073565	4236300000		108		ROGERS ROGERS & KING "A" #085838	R R & K (2900)	0.0	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403407	F-10-073656	4234100000		108		ANDERSON - REEVES #1	TEXAS HUGOTON	0.0	NORTHERN NATURAL
8403304	F-10-072872	4229530915		107-TF		JOHN PEIL #2	BRADFORD	0.0	PANHANDLE EASTERN
8403305	F-10-072873	4229530806		107-TF		LYDIA BRADFORD "A" #2	BRADFORD	0.0	PANHANDLE EASTERN
8403303	F-10-072871	4229530787		107-TF		MARIE KOCH #2	BRADFORD	0.0	PANHANDLE EASTERN
-DISCORBIS OIL CO				RECEIVED:	10/21/83	JA: TX			
8403302	F-04-072868	4213136277		102-1		WM E CARL WELL #5-A	MONTEMAYOR (5500')	46.0	VALLEY GAS TRANSM
-DORAN ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403179	F-04-058106	4242731666		102-4		G P WARDNER # E-2	EL TANQUE (1600) FIEL	73.0	VALLEY INTERSTATE
-DOUGLAS PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403209	F-01-068104	4231131825		102-4		E A BUCHANAN #3	(APPLIED FOR) DOUGLAS	126.0	TEXAS EASTERN TRA
-ENTERPRISE ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403314	F-7B-073016	4236700000		103		HEAVEN #1	MEEKER (CONGLOMERATE	150.0	TEXAS UTILITIES F
-EXXON CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403288	F-03-072716	4207131429		103		A D MIDDLETON A/C 1 #99	ANAHUAC	300.0	CITY OF ANAHUAC
8403233	F-03-069471	4207131395		103		BROUSSARD-HEBERT A/C #40	ANAHUAC (MIOCENE 23 S	400.0	ARMCO STEEL CORP
8403332	F-06-073245	4248131697		102-4		C A BRIGHTWELL OIL UNIT 1 #1	OVERTON NE	100.0	ARMCO STEEL CORP
8403298	F-06-072788	4245930566		102-4	107-TF	GENEVA STEVENS GAS UNIT 1 #2	GLADEWATER	183.0	ARMCO STEEL CORP
8403335	F-10-073252	4219500000		108		HANSFORD GAS UNIT 20 #1	HANSFORD	7.0	NORTHERN NATURAL
8403337	F-08-073330	4210332071		108		J B TUBB A/C 2 #193	SAND HILLS (JUDKINS)	5.0	EL PASO NATURAL G
8403316	F-08-073031	4210333138		103		J B TUBB B 31	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
8403238	F-03-069898	4216730927		103		MACO STEWART A A/C 1 #41	DICKINSON DEEP (FRIO)	19.0	HOUSTON PIPELINE
8403450	F-04-073753	4204731237		102-4		RJ KLEBERG JR TR VIBORAS112-D106534	VIBORAS (MASSIVE SECO	767.0	ARMCO STEEL CORP
8403222	F-8A-069230	4216532559		103		ROBERTSON CLEARFORK UNIT #3503	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8403175	F-10-035286	4248330745		107-DP		SIMMONS GAS UNIT #1	WHEELER N (MORROW)	350.0	EL PASO NATURAL G
-EZEKIEL ENERGY INC				RECEIVED:	10/21/83	JA: TX			
8403419	F-10-073681	4206500000		103		LUTHER #1-7 (ID# 05463)	PANHANDLE CARSON	40.0	KERR-MCGEE CORP
-FARGO ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403244	F-03-070272	4214931525		102-2		ALVIN #1	GIDDINGS (AUSTIN CHAL	183.0	PHILLIPS PETROLEU
8403243	F-03-070271	4214931547		102-2		REID #1	GIDDINGS (AUSTIN CHAL	183.0	PHILLIPS PETROLEU
8403262	F-03-071610	4214931579		102-2		RIETZ C #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
-FIREROCK CO				RECEIVED:	10/21/83	JA: TX			
8403219	F-7B-068899	4205900000		102-4		L D WESTERMAN #1	LI'L AUDREY (COMYN)	0.0	EL PASO HYDROCARB
-FIRST ENERGY GROUP				RECEIVED:	10/21/83	JA: TX			
8403357	F-02-073516	4223931348		103		J S PORCHE EST #5 RRC #085350	CARMICHAEL (2500')	70.0	HOUSTON PIPELINE
-FOREE CO				RECEIVED:	10/21/83	JA: TX			
8403343	F-7B-073378	4204900000		102-4		R A KING #1	GROSVENOR SW (MARBLE	43.0	ODESSA NATURAL CO
-FREMONT ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403330	F-04-073210	4247900000		108		BENAVIDES #4 077926	MESQUITE (ESCONDIDO)	7.7	LONE STAR GAS CO
8403329	F-04-073209	4247900000		108		BENAVIDES #5 067260	MESQUITE (ESCONDIDO)	12.0	LONE STAR GAS CO
8403328	F-04-073203	4247900000		108		BENAVIDES-CNR #22 093417	MESQUITE (ESCONDIDO)	6.6	LONE STAR GAS CO
-GEORGE D WEATHERSTON				RECEIVED:	10/21/83	JA: TX			
8403265	F-04-071914	4204731251		102-4		STATE MARSHALL WELL #1	KELSEY DEEP (ZONE 19A	180.0	TRUNKLINE GAS CO
-GETTY OIL COMPANY				RECEIVED:	10/21/83	JA: TX			
8403279	F-7C-072444	4238332560		103		J F NUNN 'E' #2	CALVIN (DEAN)	67.0	EL PASO NATURAL G
-GHR ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403198	F-04-066772	4247933489		102-4	107-TF	MARTIN-VOLZ FEE #2	MARTIN-VOLZ (LOBO)	250.0	NATURAL GAS PIPEL
-GULF OIL CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403408	F-08-073663	4238930285		108		BARBER W T -A- #12	WAHA NORTH (DELAWARE	3.0	TRANSWESTERN PIPE
8403409	F-08-073664	4238900368		108		BARBER W T -A- #8	WAHA NORTH (DELAWARE	4.0	TRANSWESTERN PIPE
8403410	F-08-073665	4238910121		108		BARBER W T #4	WAHA NORTH (DELAWARE	5.0	TRANSWESTERN PIPE
8403382	F-08-073617	4213534010		103		GOLDSMITH C A ETAL #1370	GOLDSMITH (DEVONIAN)	189.0	PHILLIPS PETROLEU
8403381	F-08-073616	4213534150		103		GOLDSMITH C A ETAL #1374	GOLDSMITH (5600)	3.0	PHILLIPS PETROLEU
8403411	F-08-073666	4238931040		108		HORRY L #10	WORSHAM (CHERRY CANYO	15.0	TRANSWESTERN PIPE
8403389	F-08-073625	4247532822		103		HUTCHINGS STOCK ASSN #1239	WARD-ESTES NORTH	5.0	CABOT CORP
8403388	F-08-073624	4247532846		103		HUTCHINGS STOCK ASSN #1242	WARD-ESTES NORTH	9.6	CABOT CORP
8403387	F-08-073622	4247532842		103		HUTCHINGS STOCK ASSN #1251	WARD-ESTES NORTH	3.1	CABOT CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403386	F-08-073621	42475332824		103		HUTCHINGS STOCK ASSN #1260	WARD-ESTES NORTH	51.2	CABOT CORP
8403385	F-08-073620	42475332825		103		HUTCHINGS STOCK ASSN #1261	WARD-ESTES NORTH	7.0	CABOT CORP
8403384	F-08-073619	42475332826		103		HUTCHINGS STOCK ASSN #1263	WARD-ESTES NORTH	7.4	CABOT CORP
8403383	F-08-073618	42475332813		103		HUTCHINGS STOCK ASSN #1265	WARD-ESTES NORTH	9.9	CABOT CORP
8403413	F-08-073668	42389001B9		108		RANDOLPH A T ETAL-STATE #3	SABRE (DELAWARE)	2.0	CONOCO INC
8403412	F-08-073667	42389001B0		108		RANDOLPH A T ETAL-STATE #4	SABRE (DELAWARE)	2.0	CONOCO INC
8403401	F-08-073647	42003330B0		103		TRIPLE-N (GRAYBURG) CONS #D-3-X	TRIPLE-N (GRAYBURG)	0.0	PHILLIPS PETROLEU
-H L R INC				RECEIVED:	10/21/83	JA: TX			
8403325	F-7B-073143	42049000B0		103		J W PHILLIPS #9	J S LEWIS (MARBLE FAL	0.0	SIOUX PIPELINE CO
-H-M OIL CO				RECEIVED:	10/21/83	JA: TX			
8403278	F-02-072629	42391313B3		103		ELSIE SCHUBERT #1	BONNIE VIEW (470)	0.0	FLORIDA GAS TRANS
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	10/21/83	JA: TX			
8403281	F-06-072509	42401316B7		102-3	107-TF	BESSIE TODD ESTATE GAS UNIT WELL #1	HENDERSON NORTH (COTT	350.0	B & A PIPE LINE C
-HILL PRODUCTION CO-WISCONSIN				RECEIVED:	10/21/83	JA: TX			
8403221	F-03-068960	42041309B3		102-2		HARRIS-PRESNAL #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HLH PETROLEUM CORP				RECEIVED:	10/21/83	JA: TX			
8403380	F-7B-073615	42253314B0		103		W D SWANN #5 (15076)	SWAN (SADDLE CREEK)	5.0	PALO DURO PIPELIN
8403379	F-7B-073614	42253319B9		103		W D SWANN #8 (18109)	JONES COUNTY REGULAR	0.0	PALO DURO PIPELIN
-HNG OIL COMPANY				RECEIVED:	10/21/83	JA: TX			
8403306	F-04-072935	42355316I9		102-4		CHAPMAN HEIRS "A" #1321	ARNOLD DAVID (9180' S	70.0	HOUSTON PIPE LINE
8403209	F-04-067072	42479000B0		102-4	107-TF	HIRSCH ESTATE #8572	BIG COWBOY (LOBO)	190.0	HOUSTON PIPE LINE
8403202	F-04-067304	42479000B0		102-4	107-TF	HIRSCH ESTATE "2188" #1	JUANITA (LOBO UPPER)	100.0	HOUSTON PIPE LINE
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403207	F-7C-067861	42451308I1		102-4		HOBLIT JACOBS #7	ALLEN HILL (STRAWN A)	0.0	LONE STAR GAS CO
8403206	F-7C-067860	42451309I2		102-4		HOBLIT JACOBS #8	ALLEN HILL	0.0	LONE STAR GAS CO
-HUFO PRODUCTION CORP				RECEIVED:	10/21/83	JA: TX			
8403228	F-10-069306	42341000B0		103		JOHNSON "A" #6	PANHANDLE (MOORE COUN	0.0	PANHANDLE EASTERN
-ISLE RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403263	F-06-071756	42067000B0		102-4		BUCKLAND & THOMPSON #1-A	ISLE (HILL)	233.6	TEXAS EASTERN TRA
-J M HUBER CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403400	F-10-073646	42233000B0		108		PURE #2	WEST PANHANDLE	4.7	COLORADO INTERSTA
-JACKSON EXPLORATION INC				RECEIVED:	10/21/83	JA: TX			
8403181	F-7C-061044	42105335B6		107-TF		PERNER #31-1	DUDLEY EAST (DEVONIAN	60.0	LINK SYSTEMS INC
8403180	F-7C-061043	42105335B6		107-TF		PERNER #31-2	DUDLEY EAST (DEVONIAN	60.0	LINK SYSTEMS INC
-KERRY OIL & GAS INC				RECEIVED:	10/21/83	JA: TX			
8403448	F-08-073746	42135342I0		103		W E COWDEN #6	HARPER (SAN ANDRES)	18.0	PHILLIPS PETROLEU
8403376	F-08-073608	42135341I9		103		W E COWDEN "B" #2	HARPER (SAN ANDRES)	16.0	PHILLIPS PETROLEU
-L TEXAS PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403187	F-03-063011	42481000B0		102-4	103	MAHALITC ET AL #1	WEST EL CAMPO (5090)	0.0	
-LADD PETROLEUM CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403282	F-7C-072516	42105344B8		103	107-TF	MILLSPAUGH #14-3	OZONA (CANYON SAND)	230.0	AMERICAN PIPELINE
8403359	F-7C-073523	42105344I1		103	107-TF	S G MILLSPAUGH #2-6	MILLSPAUGH #2-6	336.7	AMERICAN PIPELINE
-LAYTON ENTERPRISES INC				RECEIVED:	10/21/83	JA: TX			
8403402	F-8A-073648	42079314I6		103		REED WRIGHT #A-2	LEVELLAND	8.9	CITIES SERVICE CO
8403406	F-8A-073652	42079316I6		103		REED WRIGHT #A-5	LEVELLAND	8.9	CITIES SERVICE CO
8403403	F-8A-073649	42079316I3		103		REED WRIGHT #A-6	LEVELLAND	8.9	CITIES SERVICE CO
8403404	F-8A-073650	42079316I7		103		REED WRIGHT #C-4	LEVELLAND	8.9	CITIES SERVICE CO
8403405	F-8A-073651	42079316I6		103		REED WRIGHT #C-6	LEVELLAND	8.9	CITIES SERVICE CO
-LINDEMANN JAMES D				RECEIVED:	10/21/83	JA: TX			
8403255	F-09-071136	42237000B0		102-4		S PEAVY #2	JENNIFER CADDO	200.0	LONE STAR GAS CO
-LUCKY FOUR CO				RECEIVED:	10/21/83	JA: TX			
8403338	F-7B-073349	42049335B4		103		D L SHEFFIELD #1 (19567)	BROWN COUNTY REGULAR	3.0	EL PASO HYDROCARB
-LYRIC ENERGY INC				RECEIVED:	10/21/83	JA: TX			
8403350	F-10-073482	42341309I7		103		HAILE #1	PANHANDLE MOORE	0.0	PHILLIPS PETROLEU
8403349	F-10-073481	42341309I0		103		HAILE #2	PANHANDLE MOORE	0.0	PHILLIPS PETROLEU
-M T ALLSOP				RECEIVED:	10/21/83	JA: TX			
8403212	F-7B-068409	42083000B0		108		FELIX SMITH #1 RRC #018244	SANTA ANNA (MARBLE FA	6.0	LONE STAR GAS CO
-MARALO INC				RECEIVED:	10/21/83	JA: TX			
8403312	F-08-073006	42003335B6		103		SOUTHLAND ROYALTY "D" #2	DEEP ROCK (PENN)	20.0	PHILLIPS PETROLEU
-MARSHALL EXPLORATION INC				RECEIVED:	10/21/83	JA: TX			
8403317	F-06-073036	42365315B0		102-4	103	DAUGHERTY #1	BELLE BOWER (RODESSA	360.0	CITY OF MILTON FL
8403286	F-03-072640	42313304I0		102-4	103	J B HEATH #1	MADISONVILLE S (DEXTE	180.0	MAR/CON ENERGY
8403291	F-03-072740	42313304I5		102-4	103	M Y VICK #3	MADISONVILLE NE (GEOR	360.0	LONE STAR GAS CO
8403269	F-03-072024	42313304I0		102-4	103	MOSS-MALONE #4	MADISONVILLE (WOODBIN	320.0	LONE STAR GAS CO
-MARTIN OIL & GAS CO				RECEIVED:	10/21/83	JA: TX			
8403340	F-03-073356	42149315I0		102-2		HULSEY #1	GIDDINGS AUSTIN CHALK	0.0	PHILLIPS PETROLEU
8403341	F-03-073357	42149315I7		102-2		LUCK #1	GIDDINGS AUSTIN CHALK	0.0	PHILLIPS PETROLEU
-MCMURREY PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403231	F-05-069434	42467305I4		102-4	103	HETTIE LONG "A" #2 RRC LEASE #02518	FRUITVALE EAST	0.0	INTRASTATE GATHER
-MILES PRODUCTION CO.				RECEIVED:	10/21/83	JA: TX			
8403347	F-09-073438	42237346I2		103		THOMPSON UNIT #2 106069	PERRIN EAST (3500' ST	54.0	CORONADO TRANSMIS
-MITCHELL ENERGY CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403295	F-09-072747	42497000B0		108		BERNICE PEEK #3 095572	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8403237	F-09-069782	42497325I4		103		CHAMBERS GAS UNIT #2	BOONSVILLE (BEND CONG	357.2	NATURAL GAS PIPEL
8403336	F-09-073324	42497325B8		103		D J HUGHES #21	BOONSVILLE (BEND CONG	137.9	NATURAL GAS PIPEL
8403348	F-09-073441	42497325I9		103		E L DUKE #4	MORRIS (CONSOLIDATED	122.3	NATURAL GAS PIPEL
8403189	F-09-063797	42237000B0		108-ER		FERRELL-RICHARDS #2	JACKSBORO SE	0.0	SOUTHWESTERN GAS
8403335	F-09-073276	42497322I7		103		J G THETFORD #3	BOONSVILLE (CONSOLIDA	148.5	NATURAL GAS PIPEL
8403360	F-09-073529	42497000B0		108		J J LARGENT #3 094394	MORRIS (CONS CONGL)	0.0	NATURAL GAS PIPEL
8403284	F-09-072603	42497325I2		103		J W SMITH "C" #1	MORRIS (CONSOLIDATED	164.6	NATURAL GAS PIPEL
8403183	F-03-061881	42373000B0		108-ER		LOUISE BONNETTI #1	HORTENSE	0.0	HOUSTON PIPELINE
8403292	F-8A-072741	42033307I		103		MILLER 354 "A" #1	LUCY M. E. (STRAWN-B)	0.0	
8403178	F-09-056606	42497000B0		108-ER		T P BROWN #2	BOONSVILLE	0.0	NATURAL GAS PIPEL
8403294	F-09-072744	42497000B0		108		TARRANT COUNTY WATER BD #5 028825	BOONSVILLE/BEND CONGL	0.0	NATURAL GAS PIPEL
8403293	F-09-072742	42497000B0		108		TARRANT COUNTY WATER BOARD #6 17160	CAP YATES (CONSOL CON	0.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	10/21/83	JA: TX			
8403188	F-04-063307	42479334I9		102-4	107-TF	SOUTH CALLAGHAN RANCH #6	BECCERO CREEK (WILCOX	188.0	
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:	10/21/83	JA: TX			
8403250	F-05-070756	42289304I1		102-4		LEON PLANTATION #1	HOLT (RODESSA)	328.5	TEXAS UTILITIES F
-MORAN EXPLORATION INC				RECEIVED:	10/21/83	JA: TX			
8403367	F-7C-073561	42383302I6		108		ROCKER B BTRY A WELL #2 RRC 06123	SPRABERRY (TREND AREA	6.8	NORTHERN NATURAL
8403369	F-7C-073563	42235302I8		108		ROCKER B BTRY O WELL #1 RRC 06235	SPRABERRY (TREND AREA	4.0	NORTHERN NATURAL
8403366	F-7C-073560	42383301I7		108		ROCKER B BTRY B WELL #57 RRC 05991	SPRABERRY (TREND AREA	7.3	NORTHERN NATURAL
8403368	F-7C-073562	42383301I5		108		ROCKER B BTRY B WELL #59 RRC 05991	SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
8403365	F-7C-073559	42383320I7		108		UNIVERSITY 35 "A" WELL #1	SPRABERRY (TREND AREA	4.1	PHILLIPS PETROLEU
-MORROW RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403261	F-7C-071528	42451312I7		102-2	103	BROWN "D" #6	K W B (STRAWN)	0.0	LONE STAR GAS CO
-MOSBACHER PRODUCTION CO				RECEIVED:	10/21/83	JA: TX			
8403276	F-03-072326	42457303I7		102-4		WM RICE INSTITUTE #3	HICKSBAUGH 88630) - P	37.0	ARCO OIL & GAS CO
-MV STEWART/EAGLE PETROLEUM				RECEIVED:	10/21/83	JA: TX			
8403204	F-02-067773	42469000B0		102-4		ROLAND WAGNER #1	WOODWAY (FRIO UPPER)	0.0	
-NATURAL RESOURCES CORP OF TX				RECEIVED:	10/21/83	JA: TX			
8403399	F-03-073645	42089000B0		107-TF		WINTERMAN NO 2 050040	EAST RAMSEY	0.0	AMOCO PRODUCTION
-NORKRIS PETROLEUM CO				RECEIVED:	10/21/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403272	F-7B-072191	4209331077		102-4		HORKRIS-WILSON #1	RACHELS (MARBLE FALLS	15.0	SIOUX PIPELINE
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403192	F-03-064730	4204130825		102-2		PERKINS YAGER UT 4 WELL 1-16144	BRYAN (WOODBINE)	116.0	FERGUSON-BRAZOS G
-O I L ENERGY INC				RECEIVED:	10/21/83	JA: TX			
8403216	F-7C-068763	4245131133		103		PERRY "J" #11	S S R (CANYON UPPER)	0.0	EL PASO HYDROCARB
8403184	F-7C-062088	4245131080		103		PERRY 14 M	S S R (CANYON UPPER)	96.0	
-PENCE ROYALTY CO				RECEIVED:	10/21/83	JA: TX			
8403213	F-09-068414	4250300000		103		C PROTHRO #23-2	SAVED (CONGLOMERATE U	0.0	LONE STAR GAS CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:	10/21/83	JA: TX			
8403345	F-02-073400	4246900000		108		A M MCFADDIN #A-47	MCFADDIN N (5990')	14.0	UNITED GAS PIPE L
8403377	F-04-073612	4221500000		108		ADERHOLD UNIT #1-U	SAN CARLOS (FB-93)	12.0	TRUNKLINE GAS CO
8403344	F-04-073599	4235500000		108		B B SIMMONDS #19	AGUA DULCE (SPONBERG	3.0	UNITED GAS PIPE L
8403378	F-04-073613	4221500000		108		KAWAHATA UNIT #2-L	HIDALGO (ELKINS)	13.0	VAL GAS CO
-PETROCHALK CORP				RECEIVED:	10/21/83	JA: TX			
8403264	F-01-071794	4217731335		102-2		TRAEGER #3	CHRISTIAN (6800)	0.0	TIPPERARY CORP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	10/21/83	JA: TX			
8403389	F-7C-072979	4241300052		108		(19094) WILLIAMS F #1 (19094)	OTTO STRAWN	17.0	ARCO OIL & GAS CO
8403310	F-7C-072980	4241300056		108		(19095) WILLIAMS F #2	OTTO STRAWN	17.0	ARCO OIL & GAS CO
8403447	F-8A-073745	4203330895		103		(61062) WEST JO MILL UNIT WELL #705	JO MILL (SPRABERRY)	12.0	GETTY OIL CO
8403358	F-8A-073517	4203330891		103		(61062) WEST JO MILL UNIT #5-06	JO-MILL SPRABERRY	12.0	GETTY OIL CO
-PLAINS RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403275	F-10-072302	4235731353		103		CLEMENT FARMS #1-79	HANSFORD (MORROW UPPE	0.0	ENDEVCO INC
-PLATEAU EXPLORATION & PRODUCTION CO				RECEIVED:	10/21/83	JA: TX			
8403373	F-10-073588	4235731345		103		ROGERS #2-408 05163	DUTCHER-CLEVELAND	50.0	DIAMOND SHAMROCK
-PREMCO PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403197	F-7B-065886	4242933516		102-4		LESTER CLARK #2	REID-MCLENNAN (MISS)	4.0	PETROLEUM CORP OF
-QUANAH DRILLING & EXPLORATION INC				RECEIVED:	10/21/83	JA: TX			
8403258	F-7B-071268	4236732471		102-4		BONE #1	MARMAC (MARBLE FALLS)	51.0	TEXAS UTILITIES F
-QUINTANA PETROLEUM CORP				RECEIVED:	10/21/83	JA: TX			
8403227	F-02-069296	4239131613		103		THOMAS O'CONNOR "C" 85-U	TOM O'CONNOR (4950')	150.0	UNITED TEXAS TRAN
-R A W ENERGY CORP				RECEIVED:	10/21/83	JA: TX			
8403277	F-7B-072583	4236700000		102-4		MCNALLY #2	B R A (STRAWN)	200.0	SOUTHWESTERN GAS
-RAINBOW RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403205	F-06-067804	4240100000		102-3 103		WILLIE ANN LINER GAS UNIT #1	HENDERSON NORTH (COTT	365.0	LONE STAR GAS CO
8403205	F-06-067804	4240100000		107-TF		WILLIE ANN LINER GAS UNIT #1	HENDERSON NORTH (COTT	365.0	LONE STAR GAS CO
-RANKIN OIL CO				RECEIVED:	10/21/83	JA: TX			
8403346	F-7C-073637	4208130738		108		CALLA MAE "C" #2	ARLEDGE (PENN SAND)	3.0	SUN OIL CO
8403375	F-7C-073596	4208130735		103		CALLA MAE "D" #1	ARLEDGE (PENN SAND)	9.0	SUN OIL CO
8403374	F-08-073595	4200332590		103		SAVAGE STATE #4	SHAFER LAKE	1.0	PHILLIPS PETROLEU
-RED-TEX PETROLEUM INC				RECEIVED:	10/21/83	JA: TX			
8403236	F-7B-069705	4208300000		102-4		WHITTINGTON #1	GLEN COVE S (PALO PIN	10.0	UNION TEXAS PETRO
-RICHEY & CO INC				RECEIVED:	10/21/83	JA: TX			
8403331	F-7B-073223	4213335081		102-4		B HARRISON B #1	JMJ (MARBLE FALLS)	37.0	EL PASO HYDROCARB
-RIDGE OIL CO				RECEIVED:	10/21/83	JA: TX			
8403242	F-7B-070243	4213334897		102-4 103		CHRISTMAS #2	RANGER (BLACK LIME WE	22.3	COMPRESSOR RENTAL
8403257	F-7B-071212	4213334918		102-4 103		HAGAMAN (SOUTH) #3	RANGER NW (MARBLE FAL	44.6	COMPRESSOR RENTAL
8403248	F-7B-069914	4213334883		102-4 103		HAMON #1	RANGER (MISSISSIPPIAN	184.0	COMPRESSOR RENTAL
8403324	F-7B-073129	4213334884		102-4 103		HIGGINBOTHAM #1	REBECCA (MARBLE FALLS	58.4	COMPRESSOR RENTAL
8403239	F-7B-069908	4213334881		102-4 103		R T S "A" #1	RANGER (3550 CONGL)	30.6	COMPRESSOR RENTAL
-RIO BRAVO OIL CO INC				RECEIVED:	10/21/83	JA: TX			
8403313	F-02-073010	4212331313		102-4		G MUELLER	KAWITT (ROEDER) FIELD	30.0	INTRASTATE GATHER
-ROBERT S SPILLER				RFCEIVED:	10/21/83	JA: TX			
8403247	F-04-070507	4242731737		103		G F SAENZ #1	SULLIVAN CITY (VICKSB	200.0	VALERO TRANSMISSI
-ROCKWOOD RESOURCES INC				RECEIVED:	10/21/83	JA: TX			
8403199	F-04-066803	4235532086		102-4		ELLIOTT #1	BISHOP EAST (7540)	0.0	HOUSTON PIPE LINE
-SEQUOIA OIL & GAS INC				RECEIVED:	10/21/83	JA: TX			
8403232	F-09-069469	4223734273		102-4		MULLINAX #3 (ID NO 103089)	MULLINAX (3600 STRAWN	0.0	NORTHWEST CENTRAL
-SOUTHEASTERN RESOURCES CORP				RECEIVED:	10/21/83	JA: TX			
8403421	F-7B-073687	4204932556		108		BUCY "A" #11 092533	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403422	F-7B-073688	4204932554		108		BUCY "A" #15 093442	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403423	F-7B-073689	4204930736		108		BUCY "B" #1 068726	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403425	F-7B-073695	4204932084		108		BUCY "D" #2 (085105)	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403434	F-7B-073704	4204932602		108		GREENWOOD #5 106341	PALO DAVIS (DUFFER)	15.0	SIOUX PIPELINE CO
8403435	F-7B-073705	4204932520		108		GREENWOOD #6 106342	PALO DAVIS (DUFFER)	15.0	SIOUX PIPELINE CO
8403428	F-7B-073698	4204930597		108		HUBBARD #1 065331	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403432	F-7B-073702	4204930617		108		HUBBARD #2 065332	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403433	F-7B-073703	4204932629		108		MADISON "C" #4 093441	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403429	F-7B-073699	4204903978		108		MCCLANAHAN #2 069570	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403431	F-7B-073701	4204931495		108		STOVER "A" #1 072857	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403424	F-7B-073690	4204930658		108		STOVER "A" #2 065416	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403426	F-7B-073696	4204932196		108		THOMPSON #4 089772	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403427	F-7B-073697	4204932567		108		THOMPSON #9 (101991)	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
8403430	F-7B-073708	4204930870		108		YOUNG #3 085104	BROWN CO REGULAR (MAR	15.0	SIOUX PIPELINE CO
-SOUTHERN ROYALTY INC				RECEIVED:	10/21/83	JA: TX			
8403280	F-04-072486	4240900000		102-4		SCHNEIDER #1	MATHIS EAST (BALME)	300.0	HOUSTON PIPE LINE
-SPENCER PETROLEUM CO				RECEIVED:	10/21/83	JA: TX			
8403210	F-7B-068155	4208331431		103		BROWN ESTATE #1	COLEMAN COUNTY REGULA	1000.0	VALERO TRANSMISSI
-STAHL PETROLEUM CO				RECEIVED:	10/21/83	JA: TX			
8403290	F-10-072731	4217930667		103		WEBB C-1	EAST PANHANDLE	0.0	PHILLIPS PETROLEU
-SUBURBAN PROPANE EXPLORATION CO INC				RECEIVED:	10/21/83	JA: TX			
8403248	F-7C-070559	4210534428		103	107-TF	MCMULLAN 6 #1	DAVIDSON RANCH/PENN 7	0.0	NORTHERN NATURAL
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	10/21/83	JA: TX			
8403174	F-08-034485	4213533540		103		GRAYBURG GAS UNIT -V- #2	GOLDSMITH EAST (GRAYB	0.0	PIONEER NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	10/21/83	JA: TX			
8403355	F-01-073506	4212732424		103		BIG WELLS (SAN MIGUEL) #4618	BIG WELLS	26.0	HOUSTON PIPE LINE
8403354	F-01-073505	4212732426		103		BIG WELLS (SAN MIGUEL) #4904	BIG WELLS	6.0	HOUSTON PIPE LINE
8403334	F-04-073272	4242700000		108		D-3-D SAND UNIT #3-21	SUN NORTH	12.0	TRANSCONTINENTAL
8403356	F-7B-073507	4242900000		108		EAST ELIASVILLE UNIT #59	STEPHENS COUNTY REGUL	7.0	BRECKENRIDGE GASO
8403260	F-01-071414	4249331245		103		J W BAIN JR "A" #1	GLEN RUMMEL	0.0	
8403353	F-08-073501	4200300000		108		O B HOLT GRBG #2-16	COWDEN NORTH	0.8	AMOCO PRODUCTION
8403364	F-08-073545	4200300000		108		O B HOLT GRBG #3-5	COWDEN NORTH	0.4	AMOCO PRODUCTION
8403273	F-7B-072279	4213334789		103		ROBERSTON CSL #12	ROBERSTON	75.0	SOUTHWESTERN GAS
8403274	F-04-072283	4224900000		108		SEELIGSON UNIT #1-150	SEELIGSON	16.0	TENNESSEE GAS PIP
8403322	F-04-073899	4224700000		103		T T EAST #2C	EAST	128.0	VALERO INTERSTATE
8403321	F-04-073098	4224700000		103		T T EAST #27	EAST	128.0	VALERO INTERSTATE
-SUPERIOR OIL CO				RECEIVED:	10/21/83	JA: TX			
8403241	F-08-070187	4237134115		102-4 103		UNIVERSITY "19-1" WELL #2	TUNIS CREEK (DEVONIAN	48.0	DELHI GAS PIPELIN
-TAMARACK PETROLEUM CO INC				RECEIVED:	10/21/83	JA: TX			
8403445	F-08-073743	4217331385		103		HUBBARD "A" #1 (RRC #27977)	SPRAYBERRY (TREND ARE	250.0	PHILLIPS PETROLEU
8403444	F-08-073742	4217331386		103		HUBBARD "A" #2 (RRC #27977)	SPRABERRY (TREND AREA	167.0	PHILLIPS PETROLEU
8403446	F-08-073744	4217331387		103		JIMERSON "B" #1 (RRC #28017)	SPRABERRY (TREND AREA	80.0	PHILLIPS PETROLEU
-TDC ENGINEERING INC				RECEIVED:	10/21/83	JA: TX			
8403326	F-04-073188	4247933612		102-4	107-TF	R ORTIZ #1 ID #106532	ORTIZ (LOBO)	1200.0	UNITED TEXAS TRAN
-TEXACAL DRILLING CO				RECEIVED:	10/21/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403449	F-7B-073747	4204932818		102-4		PITTS BROS #1 (17703)	GROSVENOR SW (DUFFER)	8.0	EL PASO HYDROCARB
-TEXACO INC				RECEIVED:	10/21/83	JA: TX			
8403308	F-8A-072954	4221933648		103		W T COBLE "A" NCT-1 #41	LEVELLAND	8.4	AMOCO PRODUCTION
8403307	F-8A-072950	4216532599		103		WHARTON UNIT #133	HARRIS	5.1	PHILLIPS PETROLEU
-THOMAS D COFFMAN INC				RECEIVED:	10/21/83	JA: TX			
8403223	F-06-069245	4240330217		102-2		TEMPLE-EASTEX "259-A" #15	HEMPHILL (SPARTA 1100	73.0	ESPERANZA TRANS C
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	10/21/83	JA: TX			
8403185	F-7C-062884	4210500000		102-4	107-TF	UNIVERSITY 32-15 #2	UNIVERSITY 31 (STRAWN	0.0	PRODUCER'S GAS CO
8403186	F-7C-062973	4210534156		102-4	107-TF	UNIVERSITY 33-6 #1	UNIVERSITY 31 (STRAWN	225.0	PHILLIPS PETROLEU
-THRIFTY ENERGY				RECEIVED:	10/21/83	JA: TX			
8403339	F-7B-073350	4204932601		103		LEO GEORGE #1	BROWN COUNTY REGULAR	3.0	EL PASO HYDROCARB
-TSPI INC				RECEIVED:	10/21/83	JA: TX			
8403259	F-10-071413	4223331579		103		JIMMY II #1	PANHANDLE HUTCHINSON	100.0	PANHANDLE PRODUCI
-TXO PRODUCTION CORP				RECEIVED:	10/21/83	JA: TX			
8403218	F-04-068773	4229700000		103		BELL G U 2	TABASCO (S)	0.0	VALERO INTERSTATE
8403226	F-02-069276	4223900000		102-4		GLOOR GAS UNIT A-1	MORALES (4620')	0.0	DELHI GAS PIPELIN
8403217	F-02-068772	4229700000		102-4		MCCLELLAND C-4	OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
8403283	F-8A-072580	4203330838		103		MILLER "U" #3	MYRTLE (PENN)	100.0	SUN OIL CO
8403196	F-04-065876	4221500000		102-4		PAINTER 7	MERCEDES (1-P-2)	0.0	ARCO OIL & GAS CO
-UNICOM PRODUCING CO				RECEIVED:	10/21/83	JA: TX			
8403230	F-08-069336	4231732618		103		KING #2	SULPHUR DRAW (DEAN -	8.0	GETTY OIL CO
-UNION TEXAS PETROLEUM				RECEIVED:	10/21/83	JA: TX			
8403251	F-8A-070780	4207931647		103		NORTHWEST SLAUGHTER UNIT #81	SLAUGHTER	3.0	AMOCO PRODUCTION
8403190	F-7C-063833	4223531978		103		SUGG 5 #2	ANDREW A (CANYON) (RE	57.0	FARMLAND INDUSTRI
8403254	F-7C-071131	4246100000		108		WEIR #3	AMACKER-TIPPETT SOUTH	7.0	PHILLIPS PETROLEU
-VERNON E FAULCONER INC				RECEIVED:	10/21/83	JA: TX			
8403371	F-06-073567	4240100000		108		BURTON GAS UNIT 1 049429	OAK HILL (TRAVIS PEAK	20.0	LONE STAR GAS CO
8403195	F-06-065474	4236500000		108-ER		MARSH ESTATE 1 #029377	BETHANY (PETTIT)	73.0	UNITED GAS PIPELI
-W B D OIL & GAS CO				RECEIVED:	10/21/83	JA: TX			
8403420	F-10-073682	4234131028		103		LETHEN #5 (ID# 03915)	PANHANDLE MOORE	60.0	PHILLIPS PETROLEU
-W L COTTON				RECEIVED:	10/21/83	JA: TX			
8403323	F-04-073128	4240931740		102-4		ANGELITA DEEP GAS UNIT #1	ANGELITA E (6950)	365.0	HOUSTON PIPE LINE
-W R EDWARDS JR				RECEIVED:	10/21/83	JA: TX			
8403352	F-10-073490	4234100000		103		LYNCH #3	PANHANDLE MOORE	130.0	DIAMOND SHAMROCK
8403351	F-10-073489	4234100000		103		LYNCH #4	PANHANDLE MOORE	130.0	DIAMOND SHAMROCK
-WALLACE CO INC				RECEIVED:	10/21/83	JA: TX			
8403319	F-7B-073083	4213331518		103		A L COZART #1 (85211)	NIMROD (CADDO LIME NE	290.0	SOUTHWESTERN GAS
8403318	F-7B-073082	4213334492		103		A L COZART #2	NIMROD (CADDO LIME NE	9.0	SOUTHWESTERN GAS
8403320	F-7B-073084	4213332589		103		BROWN ESTATE #1 (95589)	FOSTER (MARBLE FALLS)	700.0	SOUTHWESTERN GAS
-WCS PETROLEUM CO				RECEIVED:	10/21/83	JA: TX			
8403268	F-03-071996	4228731395		102-2		WOOD #1-A	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WILSHIRE OIL CO OF TEXAS				RECEIVED:	10/21/83	JA: TX			
8403342	F-7C-073358	4246132012		103		LIVESTOCK "B" #1	HELUMA SE (DEVONIAN)	1.2	PHILLIPS PETROLEU
-WINCHESTER OIL CO				RECEIVED:	10/21/83	JA: TX			
8403215	F-06-068731	4220330982		103	107-TF	MARRAMORE #1	WASKOM (COTTON VALLEY	0.0	TEXAS EASTERN TRA
-WOLSEY OIL INC				RECEIVED:	10/21/83	JA: TX			
8403246	F-09-070495	4223700000		108		R L MORRIS RRC #14893	WEILER (MARBLE FALLS)	0.0	CITIES SERVICE CO
8403253	F-09-071060	4223700000		108		R L MORRIS RRC #14893	WEILER (MARBLE FALLS)	0.0	CITIES SERVICE CO
-WOODS PETROLEUM CORPORATION				RECEIVED:	10/21/83	JA: TX			
8403443	F-8A-073739	4207931707		102-4		RJR RANCH #805	BONANZA (SAN ANDRES)	30.0	WARREN PETROLEUM

[FR Doc. 83-31618 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1004]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 21, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
I SSUED NOVEMBER 21, 1983
VOLUME 1004

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ALKAH PETROLEUM INC				RECEIVED:	10/24/83	JA: KS			
8403632	K-83-0195	1501720089		102-2		STAUFFER #1-35	ELM DALE	11.5	NORTHWEST CENTRAL
8403631	K-83-0194	1501720122		102-2		STAUFFER #4-35	ELM DALE	2.5	NORTHWEST CENTRAL
-AMOCO PRODUCTION CO				RECEIVED:	10/24/83	JA: KS			
8403579	K-82-0272	1507520281		103		J A ENGLERT GAS UNIT #1	PANOMA	50.0	COLORADO INTERSTA
-ANADARKO PRODUCTION COMPANY				RECEIVED:	10/24/83	JA: KS			
8403576	K-83-0344	1517500000		108		BAUGHMAN A-2	EVALYN	13.0	CIMARRON-QUINQUE
8403587	K-83-0345	1517520331		108		BAUGHMAN B-1	SHUCK	8.0	CIMARRON-QUINQUE
8403540	K-83-0423	1517500000		108		BLACKMER #1	THREE STAR	12.0	CIMARRON-QUINQUE
8403546	K-83-0417	1517500000		108		BOLES 1-4	WIDEAWAKE	3.0	CIMARRON-QUINQUE
8403581	K-82-0848	1518920235		108		DOWDALL A #1	EVALYN	18.0	CIMARRON-QUINQUE
8403611	K-83-0170	1517520655		102-4		HITCH G #12	SHUCK	195.0	CIMARRON-QUINQUE
8403541	K-83-0422	1517520680		102-4		HITCH I-4	SHUCK	69.0	CIMARRON-QUINQUE
8403545	K-83-0418	1512920473		108		INTERSTATE #14	INTERSTATE RED CAVE	21.0	PANHANDLE EASTERN
8403542	K-83-0421	1517500000		108		LIBERAL 1-32	HUGOTON	21.0	CIMARRON-QUINQUE
8403543	K-83-0420	1506700000		108		PATTERSON A-3	PANOMA	5.0	PANHANDLE EASTERN
8403544	K-83-0419	1517520009		108		RICE A-1	EVALYN	4.5	CIMARRON-QUINQUE
-ATTICA GAS VENTURE CORP				RECEIVED:	10/24/83	JA: KS			
8403612	K-83-0162	1507720820		102-4		LICHLYTER/BROWN #1	SULLIVAN	0.0	PEOPLES NATURAL G
-BENSON MINERAL GROUP				RECEIVED:	10/24/83	JA: KS			
8403554	K-83-0343	1504721081		103		BEVAN #1-27	TROUSDALE NE	11.0	PANHANDLE EASTERN
8403616	K-83-0017	1514520993		103		BRYANT 1-9	BURDETT	58.4	NORTHERN NATURAL
-BLAIK OIL COMPANY				RECEIVED:	10/24/83	JA: KS			
8403625	K-83-0428	1503300000		107-PE		BETZER UNIT #1	WILMORE	36.0	KANSAS GAS SUPPLY
-BOLLINGER OIL CO				RECEIVED:	10/24/83	JA: KS			
8403533	K-83-0431	1512522825		102-2		CARR #10	NEOSHO	6.5	SYCAMORE GAS GATH
8403534	K-83-0432	1512522874		102-2		CARR #12	NEOSHO	6.5	SYCAMORE GAS GATH
8403531	K-83-0434	1512522755		102-2		CARR #4	NEOSHO	6.5	SYCAMORE GAS GATH
8403532	K-83-0433	1512522826		102-2		CARR #6	NEOSHO	6.5	SYCAMORE GAS GATH
-BOWERS DRILLING CO INC				RECEIVED:	10/24/83	JA: KS			
8403575	K-83-0342	1500721428		103		MAC #1	BLOOM	60.0	KANSAS POWER & LI
8403574	K-83-0341	1500721524		103		WHEELOCK #1	BLOOM	60.0	KANSAS POWER & LI
-BURK ROYALTY CO				RECEIVED:	10/24/83	JA: KS			
8403535	K-83-0375	1505500000		108		M S SMITH #1	HUGOTON	17.0	NORTHERN NATURAL
-BYRON E HUMMON JR				RECEIVED:	10/24/83	JA: KS			
8403606	K-82-0955	1502520555		103		COMBRINK #1	HARPER RANCH NORTH	185.0	NORTHERN NATURAL
-CAVANESS DAVID T				RECEIVED:	10/24/83	JA: KS			
8403536	K-83-0355	1512526075		102-2		ABRAHAM #1	COFFEYVILLE CHERRYVAL	41.4	NORTHWEST CENTRAL
-COASTAL OIL & GAS CORP				RECEIVED:	10/24/83	JA: KS			
8403561	K-83-0399	1512900000		108		DREYER 1-33	GREENWOOD	9.0	COLORADO INTERSTA
8403559	K-83-0397	1512900000		108		SAUNDERS 1-22	GREENWOOD	7.0	COLORADO INTERSTA
8403560	K-83-0398	1512900000		108		STOOPS 1-18	GREENWOOD	12.0	COLORADO INTERSTA
8403558	K-83-0396	1512900000		108		WELLIVER 1-20	GREENWOOD	11.0	COLORADO INTERSTA
8403557	K-83-0395	1512900000		108		WILLIAMS 1-28	GREENWOOD	8.0	COLORADO INTERSTA
-DOME PETROLEUM CORP				RECEIVED:	10/24/83	JA: KS			
8403628	K-83-0006	1500720677		108		MCDANIEL #1	N HARBAUGH	4.7	PANHANDLE EASTERN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403627	K-83-0009	1502510016		108		MCMINIMY #1	HARPER RANCH N FIELD	14.7	NORTHERN NATURAL
8403626	K-83-0010	1517500000		108		SALLEY LIGHT #1	CONDIT	2.7	ANADARKO PRODUCTI
-EDMISTON OIL CO INC				RECEIVED:	10/24/83	JA: KS			
8403617	K-83-0438A	1500700000		108		MCGUIRE #1	RHOADES NE	12.2	NORTHWEST CENTRAL
8403569	K-83-0388	1500721293		103		MORTON 'B' - #1	STRANATHAN	36.0	KANSAS GAS SUPPLY
-ENERGY EXPLORATION INC				RECEIVED:	10/24/83	JA: KS			
8403555	K-83-0321	1509720909		103		TAYLOR #1	NORTHEAST GREENSBURG	30.0	KANSAS POWER & LI
-ESSEX EXPLORATION INC				RECEIVED:	10/24/83	JA: KS			
8403589	K-83-0339	1511920595		103		O'BRIAN - BARBY #1-32	MCKINNEY	0.0	PEOPLES NATURAL G
-F G HOLL				RECEIVED:	10/24/83	JA: KS			
8403580	K-82-0757	1515121117		103		ROLF #1-33	HARDING WEST	75.0	CENTRAL STATES GA
-GATOR OIL CO				RECEIVED:	10/24/83	JA: KS			
8403539	K-83-0223	1512522015		108		MCCONNELL EAST A-8	JEFFERSON-SYCAMORE	1.0	UNION GAS SYSTEMS
8403633	K-83-0224	1512521961		108		MCCONNELL EAST B-2	JEFFERSON-SYCAMORE	1.0	UNION GAS SYSTEMS
8403634	K-83-0225	1512521962		108		MCCONNELL EAST B-3	JEFFERSON-SYCAMORE	1.0	UNION GAS SYSTEMS
8403635	K-83-0226	1512521963		108		MCCONNELL EAST B-4	JEFFERSON-SYCAMORE	1.0	UNION GAS SYSTEMS
-GETTY OIL COMPANY				RECEIVED:	10/24/83	JA: KS			
8403623	K-83-0430	1511920606		103		P Q MOHLER #4	MOHLER	10.0	PANHANDLE EASTERN
-GULF OIL EXPLORATION & PRODUCTION C				RECEIVED:	10/24/83	JA: KS			
8403593	K-79-1259	1500700619		108-PB		FORSYTH B #1	MEDICINE LODGE	0.0	NORTHWEST CENTRAL
8403592	K-80-0342	1500701002		108-PB		INSLEE A #1	RHODES/MISS	0.0	NORTHWEST CENTRAL
8403591	K-80-0334	1500797003		108-PB		VERNON G COLEMAN	RHODES	0.0	NORTHWEST CENTRAL
-H ALLAN HARMS PETROLEUM CO INC				RECEIVED:	10/24/83	JA: KS			
8403556	K-83-0393	1518521752		103		FOX B-2	CRISSMAN	0.0	CENTRAL STATES GA
-HAMPTON JOHN & FINNEY JACK				RECEIVED:	10/24/83	JA: KS			
8403630	K-82-1364	1512521319		102-2		FINNEY #1	WILDCAT	0.0	PELICAN PIPELINE
8403629	K-82-1365	1512500000		102-2		FINNEY #3 (NO) APL NO	SALT FORK	0.0	PELICAN PIPELINE
-HELD BY PRODUCTION INC				RECEIVED:	10/24/83	JA: KS			
8403624	K-83-0429	1503320590		103		UNRUH #1	WILDCAT	150.0	KANSAS GAS SUPPLY
-IMPERIAL OIL COMPANY				RECEIVED:	10/24/83	JA: KS			
8403604	K-83-0354	1515121229		102-2		DORGAN #1-8	A&W EXT	123.0	PEOPLES NATURAL G
8403528	K-83-0374	1515121157		102-2		SEYFERT #1-10	CULLISON WEST	54.8	GARFIELD GAS GATH
-K N ENERGY INC				RECEIVED:	10/24/83	JA: KS			
8403586	K-83-0219	1507500000		108		MOYLE 1	HUGOTON	20.0	K N ENERGY INC
-KANSAS PETROLEUM INC				RECEIVED:	10/24/83	JA: KS			
8403614	K-83-0127	1500700000		108		LONKER #1-A	BOGGS	5.4	NORTHWEST CENTRAL
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	10/24/83	JA: KS			
8403537	K-83-0353	1503320586		102-2		NEILSON-UPTON #1-32	BIRD SOUTH	142.0	MICHIGAN WISCONSI
-M C E TRUST GROUP				RECEIVED:	10/24/83	JA: KS			
8403618	K-83-0442	1509921865		102-2		BLANKENSHIP #3	CHERRYVALE-COFFEYVILL	30.0	SALEM PIPELINE CO
-MCCOY PETROLEUM CORP				RECEIVED:	10/24/83	JA: KS			
8403600	K-83-0360	1507720813		103		BURGESS 'A' #1	SPIVEY-GRABS	0.0	CITIES SERVICE G
8403599	K-83-0361	1507720840		103		BURGESS 'B' #1	SPIVEY-GRABS	8.0	CITIES SERVICE OI
8403598	K-83-0362	1507720874		103		BURGESS 'B' #2	SPIVEY-GRABS	10.0	CITIES SERVICE OI
8403620	K-83-0438	1507770904		103		BURGESS 'C' #1	SPIVEY-GRABS	5.0	CITIES SERVICE OI
8403597	K-83-0363	1507720851		103		GATES 'D' #1	WHARTON	7.0	PEOPLES NATURAL G
8403603	K-83-0357	1507720883		103		GRABS #1	SPIVEY-GRABS	35.0	KANSAS POWER & LI
8403602	K-83-0358	1507720884		103		GRABS #2	SPIVEY-GRABS	8.0	KANSAS POWER &LIG
8403601	K-83-0359	1507720898		103		GRABS #3	SPIVEY-GRABS	8.0	KANSAS POWER & LI
8403596	K-83-0364	1507720873		103		HONN 'B' #1	SPIVEY-GRABS FIELD	5.0	PEOPLES NATURAL G
8403619	K-83-0437A	1507720903		103		HONN 'B' #2	SPIVEY-GRABS	15.0	PEOPLES NATURAL G
-MCGINNESS OIL COMPANY				RECEIVED:	10/24/83	JA: KS			
8403588	K-83-0402	1500721579		103		GRAVES B-1	HARDTNER	0.0	KANSAS GAS SUPPLY
-MOBIL OIL CORP				RECEIVED:	10/24/83	JA: KS			
8403549	K-83-0413	1518920610		103		CLARA BELL UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHWEST CENTRAL
8403571	K-83-0390	1518920633		103		DORTH-EHRHARD UNIT #1 WELL	PANOMA COUNCIL GROVE	20.3	NORTHERN NATURAL
8403565	K-83-0384	1518920628		103		FLOWER #1 UNIT #3 WELL	PANOMA COUNCIL GROVE	24.9	NORTHERN NATURAL
8403548	K-83-0414	1518920618		103		H E SHULER UNIT #3	PANOMA COUNCIL GROVE	36.0	NORTHWEST CENTRAL
8403594	K-83-0382	1518920635		103		HEADRICK-QUIGLEY UNIT #1	PANOMA COUNCIL GROVE	25.0	NORTHERN NATURAL
8403595	K-83-0381	1518920631		103		JESTER-REPUBLIC UNIT #1	PANOMA COUNCIL GROVE	25.0	NORTHERN NATURAL
8403613	K-83-0145	1518920607		103		JUANITA F PHILLIPS UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHWEST CENTRAL
8403547	K-83-0415	1518920617		103		LIGHTCAP #3 UNIT #4	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8403564	K-83-0383	1518920634		103		RAYDURE-WILEY UNIT #1	PANOMA COUNCIL GROVE	50.5	NORTHERN NATURAL
8403570	K-83-0389	1518920627		103		SKINNER #1 UNIT #2	PANOMA COUNCIL GROVE	24.9	NORTHERN NATURAL
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	10/24/83	JA: KS			
8403622	K-83-0435	1505520523		103		BROWN ND 25 FARM WELL #26	PANOMA COUNCIL GROVE	47.4	NORTHERN NATURAL
8403605	K-82-1294	1518920596		103		CHAFFIN #1-C UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8403621	K-83-0436	1518920630		103		LIGHTCAP #4 UNIT #5	PANOMA COUNCIL GROVE	24.9	NORTHERN NATURAL
-OIL LIFT INC				RECEIVED:	10/24/83	JA: KS			
8403567	K-83-0386	1509921867		102-2		BARNDOLLAR #9 (API#15-099-21 867)	VALEDA	7.3	REH INDUSTRIES '
8403568	K-83-0387	1512525845		102-2		DECOW #1 (API#15-125-25 845)	JEFFERSON SYCAMORE	4.8	PELICAN PIPELINE
8403562	K-83-0401	1512525844		102-2		GLENN SMITH #1 (API #15-125-25 844)	JEFFERSON SYCAMORE	7.3	PELICAN PIPELINE
-OIL PRODUCERS OF KANSAS INC				RECEIVED:	10/24/83	JA: KS			
8403584	K-82-0859	1504700000		108		CRADALL #1	WIL	4.3	PANHANDLE EASTERN
-OIL PROPERTIES CO INC				RECEIVED:	10/24/83	JA: KS			
8403529	K-83-0853	1509720380		108		BARNES "A" #1	QUAKER SOUTH	2.4	K N ENERGY INC
8403609	K-82-0857	1509520751		108		COX #1		6.8	PEOPLES NATURAL G
8403583	K-82-0858	1515520621		108		GILROY #1	ARLINGTON SOUTHWEST	7.0	PANHANDLE EASTERN
8403610	K-82-0860	1504720481		108		MARTIN #1		14.8	PANHANDLE EASTERN
8403608	K-82-0862	1509720474		108		TAYLOR 'A' #1		15.7	PANHANDLE EASTERN
8403607	K-82-0864	1509720386		108		WEAVER-PATRICK #1	GREENSBURG	12.4	PANHANDLE EASTERN
8403582	K-82-0856	1504720196		108		WELSCH #1	ARLINGTON	2.4	PANHANDLE EASTERN
-PICKRELL DRILLING COMPANY				RECEIVED:	10/24/83	JA: KS			
8403615	K-83-0128	1507720866		103		BRUMMER 'B' #4	SPIVEY GRABS	45.0	KANSAS POWER & LI
8403590	K-83-0119	1509521306		103		KEIMIG #2	SPIVEY GRABS	45.0	KANSAS POWER & LI
8403572	K-83-0283	1502520590		102-2		OSHLO 'A' #1	WILDCAT	133.0	KANSAS POWER & LI
-ROBERT F WHITE				RECEIVED:	10/24/83	JA: KS			
8403530	K-83-0403	1511521003		103		SHIELDS - ALBRECHT #1	WILDCAT	18.0	NORTHWEST CENTRAL
-ROBINSON OIL CO				RECEIVED:	10/24/83	JA: KS			
8403566	K-83-0385	1500721472		103		VICKERY "A" #1	ANTRIM	137.0	PEOPLES NATURAL G
-SUNWEST EXPLORATION INC				RECEIVED:	10/24/83	JA: KS			
8403636	K-83-0233	1500721541		103		CHESTER DEJUN #1-36	LITTLE SANDY CREEK PO	0.0	GETTY OIL CO
-TEXACO INC				RECEIVED:	10/24/83	JA: KS			
8403573	K-83-0294	1505500000		108		DAVIS GAS UNIT #1	HUGOTON	12.6	NORTHERN NATURAL
8403550	K-83-0409	1505500000		108		KISNER "A" UNIT #1	HUGOTON	12.3	NORTHERN NATURAL
-TXO PRODUCTION CORP				RECEIVED:	10/24/83	JA: KS			
8403578	K-83-0352	1515121262		102-4		BORTZ #1	SULLIVAN	180.0	
8403577	K-83-0350	1507720886		102-4		FINDLEY 'B' #2	SULLIVAN	250.0	DELHI CORP
-VOTH OIL CO				RECEIVED:	10/24/83	JA: KS			
8403585	K-83-0408	1509521271		103		BLANK #1	HEDRICK WEST	150.0	KANSAS GAS SUPPLY
-W R MURFIN D/B/A MURFIN DRILLING CO				RECEIVED:	10/24/83	JA: KS			
8403563	K-83-0404	1502520685		102-2		PATTON #2-3	NORCAN EAST	61.0	KANSAS POWER & LI
8403553	K-83-0405	1502520668		102-2		PATTON 1-3	NORCAN EAST	21.0	KANSAS POWER & LI
8403552	K-83-0406	1509720887		103		RICH #1-29	GREENSBURG NE	151.0	REPUBLIC NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403538	K-83-0425	1502520621		102-2		TEDFORD #1-10	NORCAN EAST	187.0	KANSAS POWER & LI
-WELLS ENERGY CORP				RECEIVED:	10/24/83	JA: KS			
8403551	K-83-0407	1502520387		103		BROADIE #1	SITKA	36.5	NORTHERN NATURAL
LOUISIANA OFFICE OF CONSERVATION									
-UNION TEXAS PETROLEUM				RECEIVED:	10/24/83	JA: LA			
8403582	81-2813	1706120273		107-TF		GRAY RA SUH DOWLING 20 #1	TERRYVILLE	547.5	SUGAR BOWL GAS CO
MONTANA BOARD OF OIL & GAS CONSERVATION									
-DUARD ROSSMILLER				RECEIVED:	10/24/83	JA: MT			
8403483	2-83-44	2510121618		108		BERTHELOTE 5-28	EAGLE SPRINGS GAS	13.0	MINERS COULEE GAS
8403482	2-83-43	2510121584		108		STATE 3-32	EAGLE SPRINGS GAS	9.0	MINERS COULEE GAS
8403480	2-83-40	2510121769		108		STROOCK 3-9	EAGLE SPRINGS GAS	11.0	MINERS COULEE GAS
8403481	2-83-42	2510121619		108		STROOCK 5-33	EAGLE SPRINGS GAS	5.0	MINERS COULEE GAS
NORTH DAKOTA INDUSTRIAL COMMISSION									
-CENTURY OIL & GAS CORP				RECEIVED:	10/24/83	JA: ND			
8403498	842	3301300985		103		SCHULTZ #14-4	FLAXTON	90.0	CITIES SERVICE OI
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	10/24/83	JA: ND			
8403486	855	3305301692		102-2		ELK #28-1	INDIAN HILL	0.0	PHILLIPS PETROLEU
8403487	856	3305301670		102-2		NOR-CORP #29-1	INDIAN HILLS	0.0	PHILLIPS PETROLEU
-DEPCO INC				RECEIVED:	10/24/83	JA: ND			
8403489	851	3310500000		102-4		MCGINNITY #24-6	TEMPLE	0.0	AMERADA HESS CORP
-HARDY SALT CO				RECEIVED:	10/24/83	JA: ND			
8403495	845	3310500777		102-4		HARDY #4	CATWALK	3.0	PHILLIPS PETROLEU
8403496	844	3310500812		102-4		HARDY-BPOE #1	CATWALK	5.5	PHILLIPS PETROLEU
8403492	848	3310500936		102-4		HARDY-BRAKKEN #1	CATWALK	5.0	PHILLIPS PETROLEU
8403493	847	3310501026		102-4		HARDY-BRAKKEN #2	CATWALK	6.5	PHILLIPS PETROLEU
8403494	846	3310500809		102-4		HARDY-DELANEY #2	CATWALK	300.0	PHILLIPS PETROLEU
8403491	849	3310500810		102-4		HARDY-LEE #1	CATWALK	4.5	PHILLIPS PETROLEU
8403490	850	3310500927		102-4		HARDY-NELSON #1	CATWALK	200.0	PHILLIPS PETROLEU
-MONSANTO COMPANY				RECEIVED:	10/24/83	JA: ND			
8403500	840	3301300872		103		CHREST #2	NORTHEAST FOOTHILLS	2.0	CITIES SERVICE CO
8403501	839	3301300814		103		CHRISTENSON #2	NORTHEAST FOOTHILLS	6.0	CITIES SERVICE CO
-MOSBACHER PRODUCTION CO				RECEIVED:	10/24/83	JA: ND			
8403488	852	3310500988		102-2		CHARLES BOWEN #21-1	TRENTON/DUPEROW	45.0	PHILLIPS PETROLEU
8403485	854	3302300170		102-2		HAROLD W HAUGEN #25-1	DANEVILLE (RED RIVER)	32.0	PHILLIPS PETROLEU
-SUPERIOR OIL CO				RECEIVED:	10/24/83	JA: ND			
8403484	853	3305301645		102-2		BARROWS "A" WELL #1	ELK	35.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	10/24/83	JA: ND			
8403499	841	3305301706		102-3		SILURIAN UNIT #20-1X	CHARLSON	852.0	BRIDGELINE GAS DI
-TOM BROWN INC				RECEIVED:	10/24/83	JA: ND			
8403497	843	3305301665		102-2		BRATCHER 10-12	RAGGED BUTTE	32.0	PHILLIPS PETROLEU
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-MICHAEL WYCOKI				RECEIVED:	10/24/83	JA: NY			
8403475	5564	3102914896		107-TF		MICHAEL WYCOKI #1	ELMA	6.0	NATIONAL FUEL GAS
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	10/24/83	JA: NY			
8403477	5533	3100918193		103	107-TF	HARRIS #1 6272 (JO)	WILDCAT	30.0	
-TRAHAN PETROLEUM INC				RECEIVED:	10/24/83	JA: NY			
8403476	5608	3101318413		107-TF		PRICE #1 #31-013-18413	ELLINGTON	36.0	COLUMBIA GAS TRAN
8403478	5610	3101318461		107-TF		WOYTON #1 #31-013-18461	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	10/24/83	JA: NY			
8403479	4947	3101318011		107-TF		B WILLSON UNIT #3	GERRY	20.0	COLUMBIA GAS TRAN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ANGERMAN ASSOCIATES INC				RECEIVED:	10/21/83	JA: PA			
8403451	19160	3700522680		108		ETHEL & KAREN STEIRER #1-ARM-22680	W PENNA UPPER DEVONIA	8.0	INDUSTRIAL ENERGY
8403452	19161	3700522631		108		SARA E WHELAN ET AL #2 - ARM-22631	W PENNA UPPER DEVONIA	8.0	INDUSTRIAL ENERGY
-CNG DEVELOPMENT CO				RECEIVED:	10/21/83	JA: PA			
8403467	21169	3702120214		103		AARON C LEAMER #1 CNGD #98	SUSQUEHANNA TOWNSHIP	6.0	
8403468	21170	3706327527		103		ELVA F FLEMING #2 CNGD #93	MONTGOMERY TOWNSHIP	187.0	
8403470	21178	3706327502		103		FRANK P TRIMBLE #1 CNGD #92	MONTGOMERY TOWNSHIP	55.0	
8403466	21168	3703321598		103		PAUL FULTON JR #3 CNGD #80	BURNSIDE TOWNSHIP	110.0	
-FORTUNE OIL & GAS INC				RECEIVED:	10/21/83	JA: PA			
8403471	21183	3708339918		103		PF-6	WARRANT 5570	3.8	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	10/21/83	JA: PA			
8403473	21188	3703320816		108		C SUNDERLAND #1 (31A)	BELL	0.0	CONSOLIDATED GAS
8403453	21049	3706327476		103		MARTHA MILLS #3	YOUNG	0.0	PEOPLES NATURAL G
-KEPCO INC				RECEIVED:	10/21/83	JA: PA			
8403472	21184	3705921780		102-4		MARGARET E SHOUP #3 (PK-57)	RUFF CREEK	10.0	NEW JERSEY NATURA
-MERIDIAN EXPLORATION CORP				RECEIVED:	10/21/83	JA: PA			
8403462	21132	3703921958		102-2		ANDRUS #686-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403463	21133	3703921958		107-TF		ANDRUS #686-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403454	20179	3703921813		102-2		BURDICK #629-1	EDINBORO	30.0	COLUMBIA GAS TRAN
8403455	20180	3703921813		107-TF		BURDICK #629-1	EDINBORO	30.0	COLUMBIA GAS TRAN
8403460	21130	3703921965		102-2		BYRNE #689-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403461	21131	3703921965		107-TF		BYRNE #689-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403458	21128	3703921964		102-2		MCQUEEN #697-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403459	21129	3703921964		107-TF		MCQUEEN #697-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8403456	21126	3703921966		102-2		WILCOX #700-1	EDINBORO NORTH	30.0	COLUMBIA GAS TR
8403457	21127	3703921966		107-TF		WILCOX 700-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	10/21/83	JA: PA			
8403474	21138	3706327570		103		EDNA G ANDERSON ET VIR #1	WASHINGTON	35.0	
-RUSSELL C A				RECEIVED:	10/21/83	JA: PA			
8403464	21150	3700522203		108		JAMES F MCFARLAND #2	COWANSHANNOCK	0.0	PEOPLES NATURAL G
8403465	21151	3706324407		108		MARY WAGNER #1	WASHINGTON	0.0	PEOPLES NATURAL G
-S T JOINT VENTURE 82-C				RECEIVED:	10/21/83	JA: PA			
8403469	21177	3703321523		103		KRESS #1	PENN	25.0	CONSOLIDATED GAS
TENNESSEE OIL & GAS BOARD									
-DELOY MILLER				RECEIVED:	10/24/83	JA: TN			
8403514		4112921205		102-2		HIWASSEE #7	DAN BRANCH	25.0	GASOLINES OF TENN
8403509		4115120404		102-2		KOPPERS #4	HURRICANE RIDGE	100.0	INTRASTATE ENERGY
8403515		4104921033		102-2		PLATEAU PROPERTIES (LEWALLEN) #5	SHIRLEY	646.0	INTRASTATE ENERGY
8403513		4104920461		102-2		RAY #2	HURRICANE CREEK	15.0	EAST TENNESSEE NA
8403511		4104920481		102-2		WALKER HEIRS #10A	HURRICANE CREEK	20.0	EAST TENNESSEE NA
8403510		4104920480		102-2		WALKER HEIRS #9A	HURRICANE CREEK	15.0	EAST TENNESSEE NA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403512		4104920934		102-2		WHITEHEAD CROUCH #1A (PS)	STOCKTON	70.0	FENTRESS GAS TRAN
-EAST TENNESSEE CONSULTANTS INC				RECEIVED:	10/24/83	JA: TN			
8403520		4112921334		102-2		G C PEMBERTON #A-1	BURRVILLE	45.8	
8403521		4112921335		102-2		G C PEMBERTON #A-2	BURRVILLE	46.8	
8403522		4112921342		102-2		G C PEMBERTON #A-3	BURRVILLE	60.1	
8403523		4112921349		102-2		G C PEMBERTON #A-4	BURRVILLE	50.6	
8403519		4112921352		102-2		G C PEMBERTON #A-5	BURRVILLE	159.7	
-JARVIS DRILLING INC				RECEIVED:	10/24/83	JA: TN			
8403517		4104920722		102-2		COOK HRS-STOCKTON HRS #1	HURRICANE RIDGE	34.6	INTRASTATE ENERGY
8403516		4115120529		102-2		KOPPERS #8	HURRICANE RIDGE	30.0	INTRASTATE ENERGY
-JOHNSON ENERGY INC				RECEIVED:	10/24/83	JA: TN			
8403518		4103520148		102-2		MARVIN ROSE #1	DORTON	5.0	
-NATIONS RESOURCE OF ENERGY INC				RECEIVED:	10/24/83	JA: TN			
8403508		4112920309		102-2		VIRGIL POTTER #1	HEBBERSTSBURG	1.0	
-PETROLEUM ENERGY OF TENNESSEE CO				RECEIVED:	10/24/83	JA: TN			
8403507		4104920164		102-2		BAXTER WILSON #3 PERMIT #1505	BANNER SPRINGS AREA	6.5	
8403505		4104920509		102-2		BAXTER WILSON #4 - PERMIT #3119	BANNER SPRINGS AREA	6.5	
8403506		4104920512		102-2		BAXTER WILSON #5 - PERMIT #3137	BANNER SPRINGS AREA	6.5	
-RED FEATHER GAS & OIL INC				RECEIVED:	10/24/83	JA: TN			
8403504		4104921016		102-2		VIRGIL C HULL #1	GREATER CISCO AREA	51.0	INTRASTATE ENERGY
**********									
UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-FRANK B ADAMS				RECEIVED:	10/24/83	JA: UT			
8403503	K-104-6	4301930808		108		FRANK B ADAMS & M DIZDAR #2 JOUFLAS	BURRVILLE	15.0	NORTHWEST PIPELIN
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-JAMES F SCOTT				RECEIVED:	10/24/83	JA: WV			
8403527		4701703127		103		STONEYBROOK S-430	GREENBRIER	0.2	CONSOLIDATED GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	10/24/83	JA: WV			
8403525		4709702380		103		LOUDIN #2	EVERGREEN	0.0	COLUMBIA GAS TRAN
8403524		4709702366		103		SMALLRIDGE AR1	QUEENS	0.0	COLUMBIA GAS TRAN
-ROYAL RESOURCES CORP				RECEIVED:	10/24/83	JA: WV			
8403526		4700701501		108		SQUIRES #3	SALT LICK DISTRICT	6.4	EQUITABLE GAS CO

[FR 83-31019 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1005]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 21, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1,000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight 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.

NOTICE OF DETERMINATIONS — VOLUME 1005

ISSUED NOVEMBER 21, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-DUARD ROSSMILLER				RECEIVED: 10/26/83		JA: MT			
8403758	2-83-41	2510121717		108		SANDERSON 2-31	EAGLE SPRINGS GAS	4.0	MINERS COULEE GAS
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AKRON/OIL CORP				RECEIVED: 10/25/83		JA: OH			
8403644		3403124945		103		DUNHAM #2	MONROE	10.0	
8403645		3412725984		107-TF		WHORLE #1	SALT LICK	5.0	
-ARROW OIL & GAS INC				RECEIVED: 10/25/83		JA: OH			
8403646		3411926404		103	107-TF	BOWMAN HEIRS #1	BLUEROCK	15.0	NATIONAL GAS & P
-B & B OIL CO				RECEIVED: 10/25/83		JA: OH			
8403647		3416923481		107-TF		ARTHUR & JANET MALBACH #1	MILTON	30.0	COLUMBIA GAS TRAN
-B & L DRILLING CO				RECEIVED: 10/25/83		JA: OH			
8403648		3407524042		103		BAKER #1A	KILLBUCK	182.0	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO #1				RECEIVED: 10/25/83		JA: OH			
8403650		3415123898		103		K & H ZELLERS #7 - 341334	MARLBORO	36.5	
-BELDEN & BLAKE & CO #2				RECEIVED: 10/25/83		JA: OH			
8403649		3401921651		103	107-TF	L & M WEYANDT - 3-341333	BROWN	36.5	
-BRADEN DEVELOPMENT COMPANY				RECEIVED: 10/25/83		JA: OH			
8403651		3416720915		107-DV		ISAAC PUGH #1	LUDLOW	10.0	COLUMBIA GAS TRAN
-CA D' ORA INC				RECEIVED: 10/25/83		JA: OH			
8403653		3416727394		103		ADA O'LINN #1	WARREN	7.0	
8403652		3416726903		103		EARL ARNOLD #1	WATERTOWN	6.5	
-CAVALIER OIL CORP				RECEIVED: 10/25/83		JA: OH			
8403655		3411129308		107-DV		CAVALIER MORRISON #4	BETHEL	18.0	COLUMBIA GAS TRAN
-CLARENCE K TUSSEL JR				RECEIVED: 10/25/83		JA: OH			
8403657		3400722248		103	107-TF	R. BROWN #1	MONROE	35.0	
8403656		3400722236		103	107-TF	SWAMPY ACRES #1	PIERPORT	30.0	
-CLINTON OIL CO				RECEIVED: 10/25/83		JA: OH			
8403732		3400722266		107-TF		D RAY 1-698	SAYBROOK	10.0	
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED: 10/25/83		JA: OH			
8403659		3405524790		103	107-TF	DEMUTH #1	CLARIDON	14.0	EAST OHIO GAS CO
8403660		3405525100		103	107-TF	HOPE #1	CLARIDON	17.0	EAST OHIO GAS CO
8403658		3405520438		103	107-TF	KORDAN UNIT #1	CLARIDON	15.0	EAST OHIO GAS CO
8403661		3405525110		103	107-TF	WARD #1	CLARIDON	18.0	EAST OHIO GAS CO
-DOME PRODUCING				RECEIVED: 10/25/83		JA: OH			
8403662		3405520508		107-TF		KAY DEVELOPMENT #1 (BAINBRIDGE)	BAINBRIDGE	32.0	P O I ENERGY INC
-ENERGY DEVELOPMENT CORP				RECEIVED: 10/25/83		JA: OH			
8403663		3400722269		103	107-TF	MASCARIN WELL #2	NEW LYME	16.0	
8403665		3405520241		107-RT		MC GANNON WELL #1	HUNTSBURG	19.0	COLUMBIA GAS TRAN
8403664		3405520176		107-RT		MILLER WELL #7	TROY	16.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED: 10/25/83		JA: OH			
8403668		3400922858		103	107-TF	PEABODY COAL #10D	DOVER	18.2	
8403667		3400922849		103	107-TF	PEABODY COAL #14D	DOVER	18.2	
8403666		3400922845		103	107-TF	PEABODY COAL #4D	DOVER	18.2	
-GENE STALNAKER INC				RECEIVED: 10/25/83		JA: OH			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403670		3416727072		107-DV		F. ROUSH #1	LITTLE HOCKING	22.5	COLUMBIA GAS TRAN
8403669		3416727073		107-DV		GREEN #1	DUNHAM	23.0	COLUMBIA GAS TRAN
				RECEIVED:	10/25/83	JA: OH			
-GREEN GAS COMPANY									
8403671		3412123032		107-TF		BIGLEY #3	SHARON	20.0	EAST OHIO GAS CO
8403672		3412123033		107-TF		FISH #2	BUFFALO	12.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-GREENLAND PARTNERSHIP 83-1									
8403640		3412725944		107-TF		CAMERON #8	MONDAY CREEK	15.0	
				RECEIVED:	10/25/83	JA: OH			
-GREENLAND PARTNERSHIP-83-2									
8403639		3412725942		107-TF		CAMERON #10	MONDAY CREEK	15.0	
8403638		3412725910		107-TF		DISHON #1	SALT LICK	15.0	
8403642		3412726013		107-TF		JONES COAL CO #2	COAL	15.0	
8403643		3412726014		107-TF		JONES COAL COMPANY #1	COAL	15.0	
8403641		3412725966		107-TF		SCHORR #2	MONDAY CREEK	15.0	
				RECEIVED:	10/25/83	JA: OH			
-GREENLAND PETROLEUM CO									
8403637		3412123051		103		SMITH #1	JACKSON	100.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-HOOVER PRODUCING & OPERATING									
8403673		3408924776		103		O. WRIGHT #2	PERRY	10.9	NATIONAL GAS & OI
				RECEIVED:	10/25/83	JA: OH			
-J D DRILLING CO									
8403674		3410522732		107-DV		MARSHALL & DEBORAH ROUSH #1	LETART	8.0	COLUMBIA GAS TRAN
				RECEIVED:	10/25/83	JA: OH			
-J O B INC									
8403675		3416126179		107-DV		LARRY K CHORPENING #2 PW-133	RENO	0.0	RIVER GAS CO
				RECEIVED:	10/25/83	JA: OH			
-JANCO WELL OPERATIONS LTD 83-2									
8403677		3415522380		107-TF		JONATHAN FORD UNIT #1	MESOPOTAMIA	50.0	COLUMBIA GAS TRAN
8403676		3415522366		107-TF		MAJORIE JONES #2	MESOPOTAMIA	50.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-JERRY MOORE INC									
8403681		3403125132		107-TF		ANDY L HERSHBERGER #6268	NEW BEDFORD	6.0	COLUMBIA GAS TRAN
8403678		3403125067		107-TF		CHARLES D REIGLE #5640	BEDFORD	2.0	COLUMBIA GAS TRAN
8403679		3403125121		107-TF		ERNEST SCHMID #6028	KEENE	6.0	COLUMBIA GAS TRAN
8403682		3407523835		107-TF		GALEN H BURGER #6221	BALTIC	4.0	COLUMBIA GAS TRAN
8403680		3403125119		107-TF		JAMES O STEURER #6251	BEDFORD	2.0	COLUMBIA GAS TRA
				RECEIVED:	10/25/83	JA: OH			
-K S T OIL & GAS CO INC									
8403687		3415321375		103	107-TF	CHEK-FLETCHER #1	HUDSON	50.0	
8403683		3413323098		103	107-TF	CHVOSTA 2A	AURORA	40.0	
8403686		3415321349		103	107-TF	HAIDNICK #1	NORTHAMPTON	30.0	
8403685		3415321286		103	107-TF	PETERSON #1	TWINSBURG	40.0	
8403688		3415321376		103	107-TF	STUART #1	BATH	30.0	
8403684		3415321213		103	107-TF	SUNRISE #3	TWINSBURG	35.0	
8403689		3415321377		103	107-TF	WOLSTEIN #2	TWINSBURG	40.0	
				RECEIVED:	10/25/83	JA: OH			
-LOMAK PETROLEUM INC									
8403690		3405520570		107-TF		F HEDVED #1	HUNTSBURG	24.0	VESCORP INDUSTRIE
				RECEIVED:	10/25/83	JA: OH			
-MID-ATLANTIC OIL CO									
8403693		3411523238		103	107-TF	C PHILLIS ETAL #1	DUNGANNON	50.0	EAST OHIO GAS CO
8403691		3411523197		103	107-TF	HOCKENBERRY #1	DUNGANNON	50.0	EAST OHIO GAS CO
8403694		3411523266		103	107-TF	PHILLIS/TAYLOR #1	DUNGANNON	50.0	EAST OHIO GAS CO
8403692		3411523190		103	107-TF	RUMMER #1	DUNGANNON	50.0	EAST OHIO GAS CO
-NATIONAL PRODUCTION CORPORATION									
8403696		3412725960		103		BEARD #1	READING	6.0	NATIONAL GAS & OI
8403695		3408924725		103		PRINCE #1	MADISON	8.0	NATIONAL GAS & OI
				RECEIVED:	10/25/83	JA: OH			
-NEW FRONTIER EXPLORATION INC									
8403697		3415123851		103	107-TF	ANTRAM UNIT #1	WASHINGTON	0.0	YANKEE RESOURCES
8403698		3415723794		103	107-TF	JOHN REESE #1	FAIRFIELD	0.0	YANKEE RESOURCES
8403699		3416923552		103	107-TF	ROBERT BURR #1	CHIPPEWA	0.0	YANKEE RESOURCES
				RECEIVED:	10/25/83	JA: OH			
-NOBLE OIL CORP									
8403700		3413321900		107-TF		HANNA HILLS #5	RAVENNA	20.0	GENERAL ELECTRIC
				RECEIVED:	10/25/83	JA: OH			
-OXFORD OIL CO									
8403737		3407522668		108		CARL CASEY #1		0.5	COLUMBIA GAS TRAN
8403733		3407523955		103		DAVID ARNOLD #1	KNOX	10.0	
8403735		3407322549		103		GREENHILL #20	GREEN	10.0	
8403734		3411926646		103	107-TF	H E WILSON #2	BRUSH CREEK	10.0	NATIONAL GAS & OI
8403739		3411924354		108		PUTNAM UNIT #1		2.0	NATIONAL GAS & OI
8403738		3407523307		108		RONALD KLEPATZKI #1		7.0	COLUMBIA GAS TRAN
8403736		3407522666		108		WARREN STEINER #1		1.0	COLUMBIA GAS TRAN
				RECEIVED:	10/25/83	JA: OH			
-POI ENERGY INC									
8403703		3405520443		103	107-TF	H & R INVESTMENTS #CG-3	BAINBRIDGE	34.0	
8403701		3400722287		103	107-TF	M KELLOGG #CG-2	ROME	45.0	
8403702		3400722288		103	107-TF	SPRAGUE #1	WAYNE	36.0	
				RECEIVED:	10/25/83	JA: OH			
-POMINEX INC									
8403707		3409921625		103	107-TF	ANTONOFF UNIT #1	BEAVER	18.0	
8403704		3409921588		103	107-TF	HUNTINGTON #1	BOARDMAN	18.0	
8403705		3409921590		103	107-TF	HUNTINGTON #2	BOARDMAN	18.0	
8403706		3409921624		103	107-TF	LAMANCUSA #1	BEAVER	18.0	
-POWER RESOURCES OPERATING CO INC									
8403708		3415723881		103	107-TF	ALBAUGH #1	WARREN	0.0	EAST OHIO GAS CO
8403709		3415723882		103	107-TF	ALBAUGH #2	WARREN	0.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-QUAKER STATE OIL REFINING CORP									
8403710		3401921633		103	107-TF	G R STIMMEL UNIT #1	BROWN	13.1	M B OPERATING CO
8403713		3401921637		103	107-TF	LOUSOFF UNIT #3	BROWN	21.9	M B OPERATING CO
8403716		3407322829		103	107-TF	SUNDAY CREEK COAL CO #88	WARD	3.7	COLUMBIA GAS TRAN
8403711		3401921635		103	107-TF	T J THOMPSON UNIT #2	BROWN	15.3	M B OPERATING CO
8403712		3401921636		103	107-TF	T J THOMPSON UNIT #3	BROWN	21.9	M B OPERATING CO
8403714		3401921643		103	107-TF	VILLAGE OF MALVERN UNIT #1	BROWN	21.9	M B OPERATING CO
8403715		3401921644		103	107-TF	VILLAGE OF MALVERN UNIT #2	BROWN	23.7	M B OPERATING CO
				RECEIVED:	10/25/83	JA: OH			
-RSC ENERGY CORP									
8403723		3409921093		108		EDWARD WILSON UNIT #1		9.0	EAST OHIO GAS CO
8403717		3409920544		108		HARVEY PAULIN #1		5.0	EAST OHIO GAS CO
8403722		3409921076		108		HARVEY PAULIN #2		5.0	EAST OHIO GAS CO
8403719		3409920987		108		HUFFMAN UNIT #1		11.0	EAST OHIO GAS CO
8403721		3409921024		108		J L EWING #1		8.0	EAST OHIO GAS CO
8403718		3409920926		108		R DAVENPORT #1		13.0	EAST OHIO GAS CO
8403720		3409921023		108		WILTEREST-HALT UNIT #1		13.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-SALEM TOWNSHIP JOINT VENTURE									
8403726		3411922480		108		KNICELY #2		1.0	EAST OHIO GAS CO
8403728		3411922788		108		LAUTZENHEISER #2		1.5	EAST OHIO GAS CO
8403725		3411922440		108		TAYLOR #1		1.0	EAST OHI' GAS CO
8403727		3411922487		108		TAYLOR #2		1.0	EAST OHIO GAS CO
8403724		3411922382		108		WATSON #1		4.0	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-SHONGUM OIL & GAS INC									
8403729		3410323269		107-TF		O'NEAL & MCFARREN #1 S0121	SHARON	25.0	YANKEE RESOURCES
				RECEIVED:	10/25/83	JA: OH			
-STOCKER&SITLER INC									
8403731		3415722816		108		ALLISON UNIT #5		6.0	EAST OHIO GAS CO
8403730		3415722697		108		HOLLOWAY LEASE #1		0.5	EAST OHIO GAS CO
				RECEIVED:	10/25/83	JA: OH			
-THE CARTER JONES LUMBER CO									
8403654		3410323389		107-TF		WAYNE VANCE #3	WADSWORTH	15.0	YANKEE RESOURCES
-VIKING RESOURCES CORP									
				RECEIVED:	10/25/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8403748		3408520478		103		BARCLAY/MESZAROS UNIT #1	PERRY	30.0	
8403741		3416923605		103	107-TF	KING UNIT #5	CHIPPEWA	30.0	
-WILLIAM F HILL				RECEIVED:	10/25/83	JA: OH			
8403742		3407524054		103		TIDBALL #3	MONROE	7.0	COLUMBIA GAS TRAN
-WILLIAM M TIPKA				RECEIVED:	10/25/83	JA: OH			
8403743		3410323440		107-TF		PETERSEN #3	SHARON	40.0	DOEHLER-JARVIS
-WITCO CHEMICAL CORP				RECEIVED:	10/25/83	JA: OH			
8403745		3415123686		103		C. ANTHONY #2	EAST CANTON	3.6	BELDEN & BLAKE CO
8403750		3415123858		103		C. YOUTZ #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403753		3415123861		103		E. A. LOOMIS #4	EAST CANTON	3.6	BELDEN & BLAKE CO
8403746		3415123687		103		E. YOUTZ #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403744		3415122742		103		H. B. KINSEY #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403752		3415123860		103		H. B. KINSEY #4	EAST CANTON	3.6	BELDEN & BLAKE CO
8403747		3415123793		103		J. TATARU #2	EAST CANTON	3.6	BELDEN & BLAKE CO
8403751		3415123859		103		J. TATARU #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403748		3415123794		103		L. BECHTEL "B" #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403754		3415123862		103		M. CLAPPER #3	EAST CANTON	3.6	BELDEN & BLAKE CO
8403749		3415123857		103		M. SHEARER #3	EAST CANTON	3.6	BELDEN & BLAKE CO
-WORTHINGTON OIL COMPANY INC				RECEIVED:	10/25/83	JA: OH			
8403756		3403122758		108		PETERS-WEAVER #1		0.0	COSHOCTON PIPE CO
8403755		3403122733		108		SEWELL RIVER #1		0.0	COSHOCTON PIPE CO
8403757		3403122765		108		TONY WILSON #1		0.0	COSHOCTON PIPE CO
-ZENITH OIL & GAS INC				RECEIVED:	10/05/83	JA: OH			
84011448		3408924616	D	107-TF		JOHN PARKINSON #1	HENPECK-SOUTH	2.5	COLUMBIA GAS TRAN
**********									
TENNESSEE OIL & GAS BOARD									
**********									
-AMTEX RESOURCES INC				RECEIVED:	10/25/83	JA: TN			
8403784		4104921121		102-2		GERNT-GERNT UNIT #2		50.0	FENTRESS GAS TRAN
8403785		4112921258		103		JAMES WEBB #1		3.0	
8403786		4112921275		103		JAMES WEBB #2		3.0	
8403787		4112921272		103		VIRGIL SMITH UNIT #1		5.0	
-APPALACHIAN OIL & GAS CO INC				RECEIVED:	10/25/83	JA: TN			
8403788		4104921135		102-2		E ATKINSON #3	UNNAMED FIELD	45.5	FENTRESS GAS TRAN
8403783		4104920675		102-2		ELMER ATKINSON #1	WILDCAT	32.0	
-B & W OIL CO				RECEIVED:	10/25/83	JA: TN			
8403781		4112921286		102-2		FREDERICK BACK #1	GLADES EAST	7.2	TENNESSEE GAS PIP
-B-J INC				RECEIVED:	10/25/83	JA: TN			
8403782		4112921340		102-4		R D FREELS ETAL #4		868.7	INTRASTATE ENERGY
-BASIN RESOURCES CORP				RECEIVED:	10/25/83	JA: TN			
8403780		4112921307		102-2		BOBBY YORK-BASIN #1		2.0	
-CAIOOSA EXPLORATION CORP				RECEIVED:	10/25/83	JA: TN			
8403778		4104921145		102-4		ARNOLD COLDITZ #2-A	BIG BRANCH	3.5	FENTRESS GAS TRAN
-CHEROKEE-TENNESSEE PARTNERSHIP				RECEIVED:	10/25/83	JA: TN			
8403779		4104921084		102-2		MUTZELL TAUBERT #1		188.0	INTRASTATE ENERGY
-COMMERCE OIL CO				RECEIVED:	10/25/83	JA: TN			
8403777		4112920879		108		PEMBERTON-BAKER #2	BOONE CAMP	4.8	INTRASTATE ENERGY
-DAVIS SAM				RECEIVED:	10/25/83	JA: TN			
8403776		4112920254		103		BOYLE PLANTATION #1		21.9	INTRASTATE ENERGY
-DIXIE-SHAMROCK OIL & GAS INC				RECEIVED:	10/25/83	JA: TN			
8403775		4104921074		102-2		CHARLES GERNT #10	STOCKTON SW	1.1	TENNESSEE GAS PIP
8403772		4112921285		102-4		ECHOLS-GUNTER #1	WILDCAT	36.0	TENNESSEE GAS PIP
8403774		4112921284		102-4		G C PEMBERTON #1	WILDCAT	19.0	TENNESSEE GAS PIP
8403773		4112921280		102-4		G C PEMBERTON #2	WILDCAT	22.0	TENNESSEE GAS PI
-GLEN A WRIGHT				RECEIVED:	10/25/83	JA: TN			
8403760		4115121129		102-2		CRAWFORD & ELMORE SECTION #2		10.0	INTRASTATE ENERGY
8403762		4115121122		102-2		CRAWFORD & ELMORE SEXTON #1		12.0	INTRASTATE ENERGY
8403761		4115121138		102-2		CRAWFORD & ELMORE SEXTON #3		10.0	INTRASTATE ENERGY
8403763		4112921338		102-2		SALENIA HAMBY UNIT #1		6.0	INTRASTATE ENERGY
8403759		4115121142		102-2		T C SMITHERS UNIT #1		10.0	INTRASTATE ENERGY
-RICHARD R ROGERS OPERATING				RECEIVED:	10/25/83	JA: TN			
8403770		4112920397		103		REX ANDES ETAL #1		219.0	INTRASTATE ENERGY
-SAINT JOSEPH PETROLEUM INC				RECEIVED:	10/25/83	JA: TN			
8403769		4104921122		102-4		C & S GERNT-CHARLES GERNT #1	STOCKTON S W	3.6	B & W OIL CO
8403768		4104921012		102-2		ESTATE OF BRUNO GERNT INC #4	STOCKTON-ALLARDT	3.6	FENTRESS GAS TRAN
-SONIC PETROLEUM INC				RECEIVED:	10/25/83	JA: TN			
8403771		4112921036		102-4		BOB ANDERSON/EARL MANIS S/4		3.0	INTRASTATE ENERGY
-T & V DRILLING CO				RECEIVED:	10/25/83	JA: TN			
8403764		4104921148		102-2		JOHNNY RAMSEY #1		10.9	FENTRESS GAS TRAN
-TARTAN OIL COMPANY				RECEIVED:	10/25/83	JA: TN			
8403767		4112920955		108		LEE GRIFFITH #2 (PERMIT #4384)	UNNAMED	7.5	INTRASTATE ENERGY
-TEXILL ENERGY CORP				RECEIVED:	10/25/83	JA: TN			
8403765		4112921331		103		CASSELL HULING #2		16.0	INTRASTATE ENERGY
-THREE G'S DRILLING CO				RECEIVED:	10/25/83	JA: TN			
8403766		4104920976		102-4		CHARLES ANDREWS #2		1.0	FENTRESS GAS T AN

[FR Doc. 83-31630 Filed 11-23-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Friday
November 25, 1983

Part VI

Department of Transportation

Federal Aviation Administration

Airport, Airspace, Aviation Security, and Flight Operations Requirements; 1984 Summer Olympics, Los Angeles, Calif.; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 107, 108, 109, 121, and 135

[Docket No. 23847 NPRM 83-18]

Airport, Airspace, Aviation Security, and Flight Operations Requirements; 1984 Summer Olympics, Los Angeles, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a Special Federal Aviation Regulation for the period July 14, 1984, to August 26, 1984, to establish airport, airspace, aviation security, and flight operations requirements for the XXIII Olympic Games to be held primarily in the vicinity of Los Angeles, California, in the summer of 1984. In addition, this notice announces other FAA services, including the provision of air commerce and aviation security information which will be available to the national and international air commerce community during the Olympic period.

DATES: Comments must be received on or before January 12, 1984.

ADDRESSES: Send comments on the rule in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204, Docket No. 23847), 800 Independence Avenue, SW., Washington, D.C. 20591 United States of America. Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments are particularly requested from U.S. domestic and foreign scheduled air carriers on the proposed Airport Reservation System and advance notice procedures proposed during the Olympic period. Areas of interest include the equitable distribution of available airport capacities at the reservation and security airports identified in this Special Federal Aviation Regulation (SFAR). Also, in regard to the proposed Advance Airport Reservation Service, comments are invited on the week or period which should be used for the purpose of establishing a base operations schedule. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the above specified address. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. Commenters who wish the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped post card on which the following statement is written: "Comments to Docket Number 23847." The post card will be date/time stamped and returned to the commenter. The proposals in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

In addition to seeking written comments on this NPRM, the FAA will hold a public hearing in Los Angeles, California, on December 14, 1983, to allow additional public input.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Request To Make a Presentation

Interested persons are invited to attend the public hearing and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the Rules Docket. Requests to make an oral presentation at the public meeting should identify the docket number, the time required, and be sent to Gene Falsetti, ATT-235, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8783. Requests should be received on or before November 25, 1983. Presentations will be scheduled on a first-come first-served basis as time may permit within the meeting schedule.

Meeting Procedures

Persons who plan to attend the meeting should be aware of the following procedures to be followed:

1. The meeting will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation.

2. The meeting will begin at 9 a.m. (local time). There will be no admission fee or other charge to attend and participate. All meeting sessions will be open to all persons on a space available basis. The presiding officer may accelerate the meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

3. All meeting sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

4. Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the presiding officer. Participants submitting handout materials must present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

5. Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Meeting Schedule

The schedule for the meeting is as follows:

Place: Marriott Hotel, 5855 West Century Blvd., Los Angeles, California 90045.

Date: December 14, 1983.

Agenda

9:00 to 9:10 Presentation of Meeting Procedures.

9:10 to 10:30 FAA Presentation of notice of proposed rulemaking.

10:30 to 12:00 Public Presentations and Discussion.

1:30 to 5:00 Public Presentation and Discussion.

Air Traffic Demand—1984 Olympics

Background

The Olympic Games of the XXIII Olympiad will be held primarily in the southern California, Los Angeles area, from July 28 to August 12, 1984. In addition to the normal daily movements of some 200,000 people in the greater Los Angeles area, the various game and demonstration sports are expected to draw upwards of an extra 50,000 people per day. In terms of air traffic demand, the pregame, game, and postgame activities from June through August 1984, are expected to generate substantial increases in aircraft operations in that area. In addition to the fixed-wing traffic, the games will generate a substantial amount of rotorcraft (helicopter) movements. Helicopters are expected to provide the transport for security, communications media, and approved Olympic-related flights. Most of these operations are expected to be flown at lower altitudes. Fixed-wing operators are asked to be especially alert for this traffic. The bulk of the fixed-wing and helicopter demand is expected to be focused within an 80-nautical-mile radius of the Los Angeles International Airport. Other areas such as San Diego and Las Vegas and other Olympic events in other areas of the country are also expected to generate substantial spectator interest and consequent air traffic movements.

In the southern California area, at least 28 airports, now open for public use, are expected to absorb, to varying degrees, the added domestic and international air traffic demand generated by the Olympics. At least one other airport outside this area, Las Vegas McCarran, is expected to experience a proportional share of the increased traffic demand. The current air traffic movements at most of these airports, and within the southern California area, are already substantial. In terms of total operations, Long Beach, Van Nuys, Santa Ana (John Wayne), and Torrance rank as second, third, sixth, and twenty-second, respectively, in the Nation. This high density air traffic environment will be taxed even further by the Olympics. As an aid in forecasting the Olympic air traffic demand, operators and aviation organizations are requested to submit overall estimates of their anticipated increased air traffic movements generated by the Olympics.

The measures outlined in this notice are designated to manage the above normal, concentrated demand in a safe and efficient manner, and serve the needs of security.

Discussion

The Special Federal Aviation Regulation

The SFAR is proposed to provide for the safe and efficient movement of air traffic during the Olympic period. Also, in conjunction with the combined security efforts of the U.S. Federal, State, and local governments, it is intended to help provide for the security of persons and property in the air and on the ground as affected by air traffic. To accomplish these goals, the SFAR is designed for flexibility and adaptability. For example, the SFAR establishes a Los Angeles Olympic area and identifies airports within that area and adjacent areas that are or may be subject to reservation or advance notice procedures.

The airspace user should be aware that other airports and airspace areas of the country associated with Olympic activity may be subject to reservations and restrictions as traffic demand dictates. The proposed SFAR also contains authority to issue, as needed, temporary flight restrictions, prohibitions, and management procedures to maintain an efficient flow of air traffic.

The air traffic control and air traffic flow management systems will monitor and assess the air traffic demand so that restructions and prohibitions are kept to an essential minimum. To assure maximum flexibility, the SFAR will provide for issuance of Notices to Airmen to announce all restrictions, prohibitions, and other actions including the lifting of any restrictions or prohibitions taken by the FAA in response to changing airport and air traffic conditions.

Provisions of the SFAR are directed toward flight safety, security, and orderly movement of air traffic. These provisions include the application of a reservation system at airports so designated, the required filing of flight plans at reservation airports, the required filing of notice for foreign arrivals at designated airports, the curtailment of airborne filing of flight plans in the Los Angeles Olympic area, and the possible restriction/prohibition of certain visual flight rules/instrument flight rules (VFR/IFR) operations at any airport and/or terminal/enroute airspace impacted by Olympic activity. Airport reservation and advance notice information will provide an advanced assessment of air traffic demand on certain airports and airspace areas impacted by Olympic traffic. This information will be used as a planning means for balancing the demand to available air traffic control capacity.

The advanced filing of flight plans for operations at designated airports provides for the entry of imminent air traffic demand information into the U.S. air traffic control system which will be utilized to assure the safe and efficient integration and movement of all air traffic. A minimum of 2 hours lead time is proposed for the filing of IFR flight plans for flights to or from designated airports. This minimum is considered necessary to provide adequate time for the air traffic control system to receive, process, and disseminate the flight data. In addition, this minimum time will be needed to react, if necessary, to the imminent air traffic demand through the application of local and national flow control procedures.

Other provisions of the SFAR are incorporated to provide flexible and efficient management and control of air traffic and civil aviation security. These include provision of authority to—

1. The Director, Air Traffic Service, to give priority to or exclude essential military, medical emergency, rescue, law enforcement, public health and welfare, Presidential, Olympic family, and heads of state flights from requirements of the special regulation;

2. The Director, Office of Civil Aviation Security, to prescribe security procedures to protect persons and property in air commerce, and exempt aircraft operators and others from security regulations and procedures; and

3. The Associate Administrator for Policy and International Aviation to review and, if necessary, implement reductions in scheduled U.S. carrier and other commercial operations as air traffic capacity requires.

The SFAR also provides for the implementation of terminal/enroute airspace flow control management procedures. The enactment of flow control procedures provides for system-wide control of air traffic flows to assure the maximum efficiency of the U.S. air traffic control system.

Proposed Airport Reservation and Advance Notice Procedures

During the busy Olympic period, the FAA must assure the continued safe and efficient use of airspace and air traffic control capacity. To achieve this objective while minimizing disruption to the air traveling public, the FAA proposes separate airport reservation and advance notice systems for airports that are designated "Olympic Reservation Airports." The reservation system would be applicable to U.S. domestic operations and the advance notice procedure to foreign operations entering the U.S. With respect to the

servicing of the foreign air traffic arrivals at Olympic Reservation Airports, the FAA proposes two options to be found in the regulatory portion of this document.

The proposed airport reservation system consists of two separate services: (1) The Advance Airport Reservation Service (ARS) which services all scheduled operations of U.S. air carriers and commercial operators, and (2) the FAA Olympic Reservation Service (ORS) which services the U.S. unscheduled operations specified in Appendix II of the SFAR. Both services are available to foreign operators, and both would apply at airports designated in the SFAR or in Notices to Airmen (NOTAM's) issued pursuant to the SFAR.

With respect to foreign air traffic, operations into the U.S. by foreign air carriers and commercial operators are conducted in accordance with international agreements, including Annex 2 of the Convention on International Civil Aviation. However, to facilitate operations into Olympic Reservation Airports and Olympic Security Airports during the Olympics, the proposed advance notice procedures would be applicable, with few exceptions, to all foreign arrival operations, scheduled and unscheduled, at Olympic Reservation Airports. In lieu of the notice procedures, it has been suggested that all foreign air carriers and commercial operators conducting scheduled operations into those airports should comply with the Advance Airport Reservation Service rules and that all charter operations, including those of foreign scheduled air carriers, should conduct those operations under the ORS.

Airport Reservations—U.S. Scheduled Operations

The proposed SFAR establishes a long-term advance reservation system which would be applicable to all U.S. scheduled air carrier and commercial operations. For the purposes of this system, scheduled operations are considered to be those which are published in the Official Airline Guide (OAG) and also those regularly scheduled but unpublished flights by air carriers and commercial operators. All scheduled operations will be included, that is, departures and arrivals, and operations conducted under both instrument and visual flight rules. In addition, scheduled operations would include air carrier scheduled but unpublished flights such as air cargo, charter, training, and ferry flights.

Alternatives To Advance Airport Reservation Service

The long-term advance airport reservation service was chosen from several options of allocating scheduled operations at reservation airports. Other alternatives that were considered include accepting requests for reservations from air carriers and commercial operators on a first-come first-served basis. Air carrier and FAA experience with this method under Special Federal Aviation Regulation 44 (SFAR 44) indicated that this was inherently unfair to operators who do not belong to the Aeronautical Radio, Incorporated System. Furthermore, any small benefit which this method may have provided was outweighed by the inordinate amount of resources which the operators and the FAA had to devote to the processing of paperwork.

Another method considered involved the placing of individual operator requests (sorted by airport, by hour, by day) into capsules and holding a random drawing. This method would optimize an operator's chance for slots. It would also eliminate any requirements that an operator be present to participate in the allocation process. As with the first-come, first-served method, this type of random drawing would generate an unmanageable and unnecessary amount of work for the operators and the FAA.

The long-term reservation procedure was chosen because it is believed it will provide the flexibility needed to accommodate the additional activity at the Olympic Reservation Airports as the level of scheduled operations increases or changes. The procedure will allow air carriers and commercial operators to plan schedules, make decisions involving staffing and equipment, and will allow the public to make plans.

The Long-Term Advance Airport Reservation Service

The long-term advance airport reservation service would be in effect from 12:01 a.m. local time July 14, 1984, until 7:59 p.m. local time August 26, 1984, and is designed to be applied to scheduled operations at Olympic Reservation Airports conducted by U.S. air carrier and commercial operators. Under the system, the scheduled arrival and departure capacity at Olympic Reservation Airports is allocated as far in advance as possible in order that the air carriers and commercial operators currently serving those airports may be accommodated to the maximum extent practicable as well as permitting others to plan their scheduled operations as early as possible. The FAA will also monitor the scheduled operations conducted during the Olympic period and will take appropriate action if an operator conducts an operation without a reservation or cannot justify a failure to perform any flight that is requested and reserved.

Many airports are considered as candidates for the reservation system; however, only the following seven airports are currently specified in the SFAR:

Los Angeles International (LAX)
Burbank-Glendale-Pasadena (BUR)
Long Beach (Daugherty Field) (LGB)
Santa Ana (John Wayne/Orange County) (SNA)
Ontario International (ONT)
Las Vegas (McCarran) (LAS)
San Diego International (SAN)

If the scheduled demand on air traffic control capacity at other airports in Olympic areas outside the southern California area requires, those airports will be designated Olympic Reservation Airports by NOTAM's issued pursuant to this SFAR. The procedures specified in the SFAR for obtaining advance reservations will be applicable to those airports.

Reservation Procedures—U.S. Scheduled Air Carrier and Commercial Operations

Air carrier arrival reservations at Los Angeles International Airport (LAX) are currently established under the procedures of SFAR 44–5, made necessary as a result of the illegal controllers' strike. The FAA had planned to remove the SFAR 44–5 restrictions at LAX on January 1, 1984. However, the FAA's ability to accomplish this has been restricted by the closing of runway 25L for construction. With this runway closed, it is necessary to restrict air traffic to a level that the remaining runways can efficiently handle. By telegraphic message dated October 5, 1983, the FAA announced additional capacity for LAX for the period beginning January 1, 1984. (A copy of that document is in the public docket.) Inasmuch as the reopening of runway 25L will be near the beginning of the Olympic period, the current reservation procedures of SFAR 44–5 shall remain in effect for that airport until July 14, 1984. On that date it is proposed that additional capacity will be available for operations at LAX.

It should be noted that while the procedures of SFAR 44–5 apply only to arrivals, the procedures proposed for the Olympic Reservation Airports except LAX, would require both arrival and departure reservations. The FAA believes that the SFAR 44–5 procedures

will provide for the scheduled air carrier operations currently anticipated. However, the FAA is also concerned that the patterns of departure demands at LAX could result in substantial delays and require the imposition of a departure reservation system at LAX. Comments are specifically requested on these concerns. Between July 14 and August 26, 1984, it is proposed that only operators with slots obtained under SFAR 44–5 or under this Olympic SFAR will be able to operate at LAX. The FAA believes that on August 26, 1984, slot restrictions will be eliminated at LAX.

A long-term advanced airport arrival and departure reservation service similar to the SFAR 44–5 procedures is proposed for the Olympic Reservation Airports other than LAX. At those airports it is proposed that the service be based on the scheduled operations each air carrier and commercial operator submits to the OAG on a date which will be selected and announced. This submission shall be considered as the base operation for that operator for the duration of the Olympic Reservation Period (July 14, 1984, to August 26, 1984). An air carrier or commercial operator's base is defined as the number of departures and arrivals per day, per hour at any of the Olympic Reservation Airports for a specific period which will be announced.

If an air carrier or commercial operator does not publish schedules of certain flights in the OAG, such as cargo, scheduled charter, training, and ferry flights, it must submit to the FAA by a date to be announced, a schedule of the unpublished but planned operations at a reservation airport for the period July 14, 1984, to August 26, 1984. All unpublished but planned flights, whether instrument or visual flight rules, must be submitted.

Comments are especially invited on the choice of an OAG schedule period for the purpose of establishing a base. In this connection, any period proposed should—

1. Allow sufficient time to verify schedules which have been submitted to the OAG or submitted as unpublished schedules; and

2. Ensure that no carrier unreasonably anticipates greater operations than is realistically foreseeable.

It should also be understood that if an air carrier or commercial operator does not operate the full schedule specified in the OAG or established in unpublished schedules for the specific period that is used to establish the base period, the air carrier or commercial operator's base will be adjusted and decreased by the specific flights now flown. The schedule used to determine the carrier's base will be used in conjunction with unpublished but planned operations submitted to the FAA to determine what capacity exists to accommodate the air traffic demand at reservation airports. The FAA has considered the following three alternative schedule periods for use in determining a carrier's base:

1. A period immediately before the Olympic schedule period, such as the week beginning April 1, 1984.

2. A period in 1983, such as July 14, 1983, through August 26, 1983.

3. A period in 1982, such as July 14, 1982, through August 26, 1982.

As noted above, specific comments are invited on the choice of schedule period to be used to establish an air carrier or commercial operator's base schedule. If the proposed operations exceed capacity, the FAA will determine the reduction which may be required. Although it would appear that a prorata reduction might be equitable, individual adjustments may also be necessary depending on the circumstances which created the excess. If there is a surplus of capacity, the FAA will allocate the additional capacity in accordance with the procedures established in the SFAR.

Allocation of Additional Capacity

The proposed SFAR allocates any additional capacity in the following manner:

1. A random drawing will be held for U.S. scheduled air carriers and commercial operators interested in additional slots for the reservation airports during the reservation period. At this drawing, the numerical order in which carrier representatives will choose slots will be established.

2. Representatives of air carriers and commercial operators will be invited to a slot allocation session to be held on (at date to be announced such as April 1, 1984). At this session, they may choose departure and arrival slots from the available capacity.

3. At the slot allocation session, each operator's representative may choose one arrival and one departure slot during his/her turn. The slots that will be available will be listed by day, by hour, and by airport.

4. The slot allocation session will continue until all available capacity is allocated or until the operators no longer desire to select the remaining slots.

Airport Reservations—U.S. Unscheduled Operations

The second airport reservation system service, the FAA Olympic Reservation Serve (FAA/ORS), requires certain U.S. unscheduled operators to obtain a reservation from the FAA/ORS. This service will be in operation 24 hours a day and will receive and approve departure and arrival reservation requests for the unscheduled operations specified in Appendix II of the SFAR. With two exceptions, San Diego and Las Vegas, the airports designated in this SFAR at which reservations are required for the U.S. unscheduled operations specified are all within the Los Angeles Olympic area. If air traffic conditions require reservations at other airports, those airports will be designated in NOTAM's issued pursuant to the SFAR. The procedures for securing reservations at those airports will be specified in the NOTAM's.

Under the FAA/ORS, the Olympic Reservation Airports are categorized according to the type of operation requiring a reservation. For example, Los Angeles and Ontario International Airports are Category "A" airports. At a Category "A" airport, all operations, whether IFR or VFR require a reservation. On the other hand, all IFR and certain types of VFR operations require reservations at Category "B" airports. The VFR operations requiring reservations at a Category "B" airport are all unscheduled Part 135 departures/arrivals, regardless of type, and all unscheduled turboprop/turbojet departures/arrivals. The Olympic Reservation Airports currently classified as Category "B" airports under this service include Burbank-Glendale-Pasadena, Santa Ana (John Wayne/Orange County), Long Beach (Daugherty Field), Las Vegas McCarran, and San Diego International. A Category "C" airport classification is created, however, no reservation requirements are currently listed for this category of airports. If air traffic conditions warrant, reservation requirements for Category "C" airports will be implemented via a NOTAM issued pursuant to this SFAR.

Under the above airport reservation system for U.S. unscheduled operations, most VFR general aviation operations would not be required to obtain a reservation. Although a reservation is not required for those general aviation operations, it should be noted that reservation flights take precedence over these flights. Therefore, those flights are likely to be subject to delay dependent on traffic demand at the impacted airports. If delays become excessive or other traffic conditions warrant, these operations may be included in the reservation system through issuance of a NOTAM issued pursuant to the SFAR.

Advance Notice—Foreign Operations

To assure that the U.S. air traffic control capacity can safely and efficiently accommodate all air traffic demand, Appendix III of the proposed SFAR requires advance notice for all foreign arrival operations, scheduled and unscheduled, at designated Olympic Reservation Airports. Advance notice must be provided to the U.S. FAA and will be required at least 30 days in advance of intended date of arrival for all operations from July 14 to August 26, 1984. The purpose of this system is to provide operating knowledge of foreign air traffic demand upon impacted U.S. airports and the air traffic control system. This information, combined with knowledge of domestic air traffic movements, provides the basis of action to assure the safe, efficient, and orderly movement of all air traffic during the Olympic period.

Under this proposed procedure, the following foreign arrival flights would require notice:

1. All scheduled arrival movements published in the OAG.

2. All known, but unpublished arrival flights, such as—cargo flights; charter flights; private flights; and State flights.

To provide the maximum flexibility of access, notice may be submitted by mail or via aeronautical radio and telegraph facilities. Specific addresses are provided in the proposed SFAR. To assist the FAA in ensuring efficient use of available ATC capacity, foreign air carriers are urged to fulfill the proposed 30-day notice requirement by submitting proposed schedules at the time U.S. air carriers are to submit scheduled but unpublished operations. The notice information to be provided includes the place of foreign departure, aircraft type and flight identification, date and hour of planned arrival in Greenwich Mean Time (GMT), and destination Olympic Reservation Airport.

Airport Reservations for Foreign Operations

All foreign operators of scheduled traffic and unscheduled traffic are invited to consider voluntary participation in the airport reservation systems in Appendices I and II as an alternative to the notice procedure in Appendix III. Under those systems, all known foreign aircraft arrivals would be given consideration based upon the intended place and time of landing. Without a reservation to assure a planned arrival slot, an influx of unreserved foreign air traffic demand could result in extensive holding, delay, route and possibly airport diversions, and consumption of costly aviation fuel. Diversions for holding purposes, required holding at points distant from the destination airport, and consequent delay could be particulrly burdensome to both foreign operators and the air traffic control system.

Operations at Los Angeles and Ontario International Airports

The Los Angeles International Airport is expected to be the destination airport for the official Olympic organizations. It will serve as the arrival point for the "Olympic family" and representatives of foreign governments participating in the Olympics. Ontario is available to serve as the backup or alternate if required. Both airports are centrally located and capable of handling the large volume of people carried by large aircraft. Accordingly, the FAA believes the safe and efficient use of airspace and air traffic control as well as the security measures that may be required for Olympic flights requires that these airports be limited, at least initially, to air carriers and commercial operators, persons conducting flights serving the offical Olympic organizations, and persons operating aircraft that are permanently based at those airports. Under provisions of this SFAR, the airports may be opened to other additional operations if air traffic control capacity permits.

Aircraft Movements Not Controlled by ATC—Southern California Area

Uncontrolled aircraft movements are those fixed-wing and rotorcraft (helicopter) movements within the southern California area that do not utilize air traffic control services. Since southern California is a very high density air traffic area, aircraft operators not utilizing the services of air traffic control should adhere to the well established air traffic flow patterns for these types of movements. Pilots and operators should refer to the visual flight rules charts, including the special VFR terminal area chart that will be available for the Olympic period. In addition, operators will have available a special publication of the Los Angeles and vicinity VFR Helicopter Aeronautical Chart. This chart, in addition to depicting commonly used helicopter routes in the Los Angeles area, will also depict the Olympic competition sites, restricted areas, and suggested alternate VFR routes circumnavigating temporary restricted airspace.

In addition, these operators are also asked to give particular attention to information that may be available from such sources as accident prevention briefings, the Airman's Information Manual, NOTAM's, and other sources that may be announced.

Rotorcraft Opeations

Extensive rotorcraft (helicopter) operations are anticipated in the Los Angeles Olympic area during the Olympic period. Increases in commercial and general aviation operations as well as law enforcement, security, supporting military, approved Olympic contractor, and other approved Olympic-related flights will significantly increase helicopter traffic.

The Los Angeles Olympic Organizing Committee (LAOOC) is establishing a number of heliports at or adjacent to, Olympic competition and village sites to provide access for internal Olympic and security-related helicopter operations. All temporary heliports will be located within the Los Angeles Olympic area and will be subject to flight restrictions and prohibitions designated in NOTAM's issued pursuant to this proposed SFAR. Flight restrictions will be depicted on the Olympic special edition of the Los Angeles VFR Helicopter Aeronautical Chart. During the period July 14–August 13, 1984, the temporary heliports will be operated by the LAOOC under the control of the Air Support Subcommittee, Olympic Air Support Headquarters (OASHQ) and will be used for law enforcement, security, and authorized Olympic mission aircraft.

Air Commerce Security Services

The proposed SFAR also establishes requirements to assure the safety and security of all persons and property engaged in air commerce during the Olympic period. The requirements are applicable to operators of airports that are designated Olympic Security Airports and to all air carriers, commercial operators, and pilots conducting operations at those airports.

Airport Security

The airports within the Los Angeles Olympic area and outlying airports servicing Olympic events that are designated Olympic Security Airports have already implemented security procedures as required by the FAR. These airports are:

1. Burbank-Glendale-Pasadena (BUR).
2. Long Beach Municipal (LGB).
3. Los Angeles International (LAX).
4. Ontario International (ONT).
5. San Diego International (SAN).
6. Santa Ana (John Wayne/Orange County).
7. Santa Barbara Municipal (SBA).

The SFAR also includes authority, as conditions warrant, to add other

airports, including general aviation airports, to the list by NOTAM's issued pursuant to this SFAR.

Aircraft operators should contact airport management or airport security at the above listed airports prior to or immediately upon arrival to determine normal and extraordinary security procedures in effect. In addition, operators must be aware that these airports and all other airports which may be designated Olympic Security Airports will have a security program in effect that meets the requirements of the SFAR and NOTAM's issued pursuant to the SFAR. The security program will include—

1. Facilities and procedures to protect/secure aircraft at the airport;
2. Procedures to have law enforcement officers in sufficient number to implement the security program and support any screening system in use; and
3. Procedures and facilities to control airport air operations areas.

General aviation airports, although not currently subject to FAR security requirements, may have local security rules or regulations which apply. Aircraft operators are advised to contact airport management at airports located in areas of Olympic activity prior to arrival for any security requirements that may be in effect.

Air Carrier/General Aviation Security

From July 14 to August 26, 1984, U.S. and foreign air carriers and commercial operators and all others who operate in an area of Olympic activity or land at airports identified as Olympic Security Airports are required by the SFAR to be prepared to implement security procedures specified in the SFAR and in NOTAM's issued pursuant to the SFAR. Coordination of security procedures will be between security representatives of the aircraft operator and the FAA. Under the SFAR, all persons operating helicopters and fixed-wing aircraft (regardless of number of passenger seats) must be prepared to implement procedures that prevent weapons and explosives from being carried aboard aircraft, and be prepared to implement other required security procedures.

U.S. and foreign air carriers and commercial operators are required to maintain an FAA approved security program, including—

1. Procedures and a description of the facilities and equipment to be used to screen passengers and carry-on items;
2. Procedures used to assure that sufficient law enforcement officers are available to support the screening process; and
3. Procedures and facilities necessary to protect aircraft.

Reporting of Criminal or Other Acts Against Air Transportation—FAA Olympic Security Service

The FAA will also establish an Olympic Security Service (FAA/OSS), telephone number (toll free 800 number to be announced), to provide air commerce security services. The FAA/OSS will be available to provide and collect information relative to the following:

1. Security procedures/requirements.
2. Law enforcement coordination.
3. Intelligence (threats).
4. Criminal acts directed toward the air transportation system (hijacking, sabotage, etc.).

In addition, information pertaining to any hijacking or bomb threat incident may be relayed to the nearest air traffic control facility by aircraft radio, telephone, or by telephone to the FAA Washington Duty Office (202–426–3333), who will establish contact with FAA security officials.

Other U.S. Laws and Regulations

Foreign aircraft operators should clearly understand that the proposed SFAR is in addition to other laws and regulations of the U.S. The SFAR does not waive or supersede them. When operating within the jurisdictional limits of the U.S., operators of foreign aircraft must conform with all applicable requirements of U.S. Federal, State and local governments. In particular, aircraft operators planning flights into the U.S. must be aware of and conform to the rules and regulations established by the:

1. U.S. Civil Aeronautics Board regarding flights entering the U.S.;
2. U.S. Customs Service, Immigration and other authorities regarding customs, immigrations, health, firearms, and imports/exports;
3. U.S. Federal Aviation Administration regarding flight in or into U.S. airspace. This includes compliance with Federal Aviation Regulations regarding operations into or within the U.S. through air defense identification zones, and compliance with general flight rules; and
4. Airport management authorities regarding use of airports and airport facilities.

Economic Evaluation

The FAA conducted a regulatory evaluation of this SFAR which is summarized below. The complete evaluation is in the public docket for inspection. The FAA invites comments on all aspects of this evaluation.

I. Identification of Proposals With Economic Impact.

A. Section A9 would forbid general aviation operations whose airplanes are not based at Los Angeles International or Ontario International Airports from conducting operations to or from those airports during the Olympic period.

B. Interrelated Section B1 and Appendices I and II except Sections A2, A3, and A4 of Appendix II would require air carriers who wish to serve LAX, BUR, LGB, SNA, ONT, SAN, and LAS on a scheduled basis during the Olympic period (July 14–August 26, 1984) to get FAA approval of their schedules and aircraft operators who wish to conduct unscheduled IFR and some VFR operations at those airports, during the Olympic period to obtain FAA reservations to do so.

C. Interrelated Sections B2 and B3 designed to prevent overloading of flight service stations in the Olympic area would require advance filing of international flight plans involving a departure from or arrival at an Olympic Reservation Airport and forbids filing of flight plans from aircraft in the Los Angeles Olymic area during the Olympic period.

D. Interrelated Sections C5 and C7 would require air carriers and airport operators to be prepared to implement security measures during the Olympic period.

All other proposals would not have economic impact for various reasons. Table 1 summarizes reasons why they would not have impact.

II. Prohibition of General Aviation Flights To and From LAX and ONT

A. *Benefits.* The main benefit of this proposal is assurance that the two airports will have sufficient capacity to handle the many possible extra flights carrying spectators, athletes, media personnel, and dignitaries during the Olympic period without unnecessary delay. The FAA cannot estimate how many landing and takeoff slots would be made available by this prohibition, but it would not be more than 15,000.

B. *Costs.* The FAA lacks the data to quantify the economic costs of this proposal. As a result of this proposal, some planned flights would be cancelled. The cost of the cancellations would be the value of the flights to pilots and passengers less aircraft operating cost to conduct the flights. Other flights would be diverted to other airports in the Los Angeles area. Diversions would result in additional costs of trips to and from places of intended lodging and possibly extra aircraft operating costs.

C. *Comparison of Benefits and Costs.* The FAA believes the benefits of the proposal are likely to exceed its costs. As shown in the anlaysis of airport reservation requirements, very few flights have to be added to demand at peak hours on even 1 day to cause dramatic increases in delay cost.

D. *Regulatory Flexibility Determination.* A regulatory flexibility analysis of this proposal is not required because it would not significantly affect a substantial number of small entities. It would primarily affect private pilots who fly for recreation and non-business travel. The only small entities which would be affected are those which would use a plane not based at LAX or ONT during the Olympic period for business purposes. FAA believes, that these small entities could use other nearby airports in the Log Angeles area at an additional cost less than the $3,000 (1981) thershold in FAA Order 2100.14.

III. Airport Access and Reservation Requirements

A. *Benefits.* The economic benefit of this interrelated set of proposals is unnecessary aircraft delay avoidance. The FAA's forecast of air traffic activity at five of the airports indicates that the airports could handle the expected increase in traffic during the Olympic period. However, relatively little increase in traffic above forecast levels at peak hours is needed to strain the capacity of the air traffic control system and cause delays nationwide. The proposed airport access and reservation requirements would prevent abnormal peaking of traffic at the airports and the consequent delays.

The FAA cannot quantify the value of the delay avoided because its magnitude depends on the unknow plans of an unknown number of aircraft operators. However, the FAA ran its central flow control model to determine how much delay would result if two possible alternative conditions occurred on one day at LAX.

The first alternative condition is the addition of 25 arrivals per hour during the three peak morning hours. The model showed that this condition would result in 8,270 minutes of additional airborne and ground delays, and the FAA estimated the value of the delay exclusive of the value of passenger time at $185,000. The second, more extreme, alternative condition was the addition of 20 arrivals per hour from 0700–0000. The model showed that this alternate condition would result in 60,430 minutes of additional airborne and ground delays, and the FAA estimated the value of that delay at $1,350,000.

B. *Costs.* The FAA will incur an as yet undetermined amount of cost for operating the slot allocation system for scheduled air carriers. The amount depends on an as yet undertermined amount of staff time and negotiation of a contract.

The FAA will also incur costs to run the Olympic Reservation Service. Fifteen FAA employees will be used 3 shifts a day, 24 hours a day, from July 1 thru August 26. Their salaries, for the 57-day period, exclusive of overhead, will total approximately $97,000. Every attempt will be made to detail FAA employees in the Los Angeles area to hold down per diem and travel costs. Nevertheless, some per diem and travel will probably by needed, and it would total at the most $75,000. The installation and operation charges for 12 WATS and 2 FTS lines would total $51,000.

System users will incur costs to participate in the slot allocation program. FAA lacks the data to quantify these costs. System users will also incur costs to make reservations. These costs are not cash outlays, but the value to the users of the time spent making reservations. Valuing that time at $20.25 an hour, the FAA estimates the cost to make reservations at least $86,000.

C. *Comparison of Benefits and Costs.* The FAA believes the benefits of the interrelated proposals are likely to exceed the costs. FAA and user costs, which can be quantified, would total at the most $309,000 while the benefits of avoiding even 1 day of abnormal peaking, like alternative one, at one covered airport would total $185,000 and of avoiding 1 day at one airport, like alternative two, would total $1,350,000.

D. *Regulatory Flexibility Determination.* An affected small entity would have to make over 2,000 arrival and departure reservations to exceed even the lowest significant cost threshold in FAA Order 2100.14. Therefore, the FAA finds that this set of interrelated proposals would not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

IV. Flight Plan Filing Requirement

A. *Benefits.* The proposal would avoid overtaxing air traffic control capacity. FAA cannot quantify this benefit because its magnitude depends on unknown plans of an unknown number of operators.

B. *Costs.* FAA estimates that about 2,000 flight plans could not be filed from aircraft as a result of this proposal and that the additional cost would be about $5 per flight plan filed. FAA believes these costs would be less than the benefits of the rule.

C. *Regulatory Flexibility Determination.* A single small entity would have to file nearly 700 of the nearly 2,000 affected flight plans to exceed the lowest significant cost threshold in FAA Order 2100.14. Thus, FAA finds that the proposal would not have a significant economic impact on a substantial number of small entities and that a regulatory flexibility analysis is not required.

V. Aviation Security Requirements

A. *Benefits.* The economic benefits of this proposal consist of security incidents avoided. However, the FAA cannot quantify these benefits because they depend on the unknown plans of those who would perpetrate such incidents and because the concentration of aviation activity at the Olympics offers an unprecedented opportunity to perpetrate such incidents.

B. *Costs.* Aircraft operators who are not now required to implement security programs and serve seven airports during the Olympic period may incur costs to implement such programs during the Olympic period and the airport operators may incur additional costs to support the aircraft operator security effort. FAA cannot quantify the costs of these requirements. Four air carriers now serve one or more of the seven airports on a scheduled basis and are not required to screen but could be required to do so under the proposed SFAR. In response to FAA inquiries, they estimated costs between $5,000 and $35,000 per screening point. The wide variance in their cost estimates is because of uncertainty whether they could share existing screening points or would have to establish new ones. An unknown number of aircraft operators who will serve the seven airports on an unscheduled basis may also incur security costs.

C. *Regulatory Flexibility Determination.* Because this proposal actually would require small entities

only to be prepared to implement security measures, FAA believes that its cost to any given small entity would not be significant and that a regulatory flexibility analysis is not required.

TABLE 1.—PROPOSALS WITHOUT ECONOMIC IMPACT

Proposal No.	Proposal summary	Reason for no impact
A1(a)	Designates airspace within 80 nautical mile radius of LAX as Los Angeles Olympic area.	Definitional only.
A1(b)	States that other airports and airspace areas requiring restriction or prohibition of aviation activity will be designated in NOTAM's issued pursuant to this SFAR.	Provision is advisory only. Does not restrict aviation activity at other airports or in other airspace areas.
A1(c)	Lists Olympic Reservation Airports and Olympic Security Airports.	Actual requirements are imposed on users of the airports and airport management in other sections of this SFAR.
A2	Requires persons operating into or out of areas of Olympic activity to be familiar with NOTAM's issued pursuant to this SFAR before operating into/out of specified areas of Olympic activity.	FAR 91.5, Preflight Action, already requires a pilot in command to familiarize himself with all information concerning a flight before beginning that flight.
A3	Prohibits operation of an aircraft contrary to any restriction, prohibition or procedure specified by the Director, Air Traffic Service or the Director, Civil Aviation Security.	Included in the rule for ease of enforcement. Impact is not separate from that caused by rules imposing additional requirements.
A4(a)	Director, Air Traffic Service authorized to issue additional restrictions.	Additional restrictions are not proposed at this time.
A4(b)	Director, Air Traffic Service is authorized to give priority to, or exclude, certain operators and flights from the provisions of this SFAR.	Such exclusions would have beneficial impact but are not proposed at this time.
A5	Director, Air Traffic Service, Associate Administrator for Policy and International Aviation, and Director, Office of Civil Aviation Security permitted to delegate authority to extent necessary.	Included in the rule for administrative convenience.
A6	Director, Air Traffic Service and Director, Office of Civil Aviation Security permitted to cancel or modify provisions of the SFAR.	No additional requirements or revocations of requirements are proposed at this time.
A7	Associate Administrator for Policy and International Aviation authorized to review and implement reductions in scheduled operations and known but unpublished operations of U.S. air carrier and commercial operators as air traffic capacity requires at Olympic Reservation Airports.	No schedule adjustments are proposed at this time.
A8	Requires persons operating aircraft to or from Olympic Reservation Airports to do so in conjunction with this SFAR and NOTAM's issued pursuant to this SFAR.	Included for ease of enforcement. Does not in itself impose any additional requirements.
C1	Director, Office of Civil Aviation Security authorized to prescribe extraordinary security procedures and exempt aircraft operators and others from security regulations and procedures.	No extraordinary security measures or exemptions are proposed at this time.
C2	Persons aware of planned or actual criminal or other acts against civil aviation required to report this information to FAA/OSS.	Responsible citizens would report such information to law enforcement authorities anyway. This merely directs citizen reports to proper authorities.
C3	Forbids operation of an aircraft into an Olympic Security Airport unless airport complies with security requirements specified in this SFAR and in NOTAM's issued pursuant to this SFAR.	Included for ease of enforcement. Does not in itself impose an additional requirement.
C4	Forbids aircraft operators to operate aircraft into an Olympic Security Airport unless they comply with security requirements specified in this SFAR and in NOTAM's issued pursuant to this SFAR.	Included for ease of enforcement. Does not in itself impose any additional requirements.
Appendix II2	Categories Olympic Reservation Airports and permits other airports to be designated as Olympic Reservation Airports.	Does not actually impose new requirements.
Appendix II3	Permits changing the category of an airport.	No changes of category are proposed at this time.
Appendix II4	Excludes certain unscheduled operations from reservation requirements.	Reservations are not required for such flights today.

List of Subjects in 14 CFR Part 91

Aviation safety, Aircraft flight, Air traffic control.

The Proposed Special Federal Aviation Regulation (SFAR)

Accordingly, the FAA proposes to amend Chapter I of Title 14 of the Code of Federal Regulations by adopting a SFAR to read as follows:

Special Federal Aviation Regulation No. ____

A. *General*

1. For purposes of this SFAR:

(a) The Los Angeles Olympic area is the airspace within an 80 nautical mile radius of the Los Angeles International Airport and includes the airports designated in this SFAR that are located in this area.

(b) Other airports and airspace areas associated with Olympic activity which require restriction or prohibition of aviation activity will be designated in NOTAM's issued pursuant to this SFAR.

(c) Airports listed below and in NOTAM's issued pursuant to this SFAR are identified as:

Olympic Reservation Airports

Burbank-Glendale-Pasadena (BUR)
Los Angeles International (LAX)
Las Vegas (McCarran) (LAS)
Long Beach (Daugherty Field) (LGB)
Ontario International (ONT)
San Diego International (SAN)
Santa Ana (John Wayne/Orange County) (SNA)

Olympic Security Airports

Burbank-Glendale-Pasadena (BUR)
Los Angeles International (LAX)
Long Beach (Daugherty Field) (LGB)
Ontario International (ONT)
San Diego International (SAN)
Santa Ana (John Wayne/Orange County) (SNA)
Santa Barbara (SBA)

2. Each person shall be familiar with all Notices to Airmen (NOTAM's) issued pursuant to this SFAR and all other available information concerning that operation before conducting any

operation into or out of an airport or area specified in this SFAR or in NOTAM's pursuant to this SFAR. In addition, each person operating an international flight that will enter the U.S. shall be familiar with any international NOTAM's issued pursuant to this SFAR. NOTAM's are available for inspection at operating FAA air traffic facilities and regional air traffic division offices.

3. Notwithstanding any provision of the Federal Aviation Regulations to the contrary, no person may operate an aircraft contrary to any restriction, prohibition, or procedure specified in this SFAR or by the Director, Air Traffic Service, or the Director, Civil Aviation Security, in a NOTAM which is issued pursuant to this SFAR.

4. As conditions warrant, the Director of Air Traffic Service is authorized to—

(a) Restrict, prohibit, or permit instrument flight rules and/or visual flight rules (IFR/VFR) operations at any Olympic Reservation Airport or terminal or enroute airspace area designated in this SFAR or in a NOTAM issued pursuant to this SFAR.

(b) Give priority to or exclude the following flights from provisions of this SFAR and NOTAM's issued pursuant to this SFAR:

(1) Essential military.

(2) Medical/rescue.

(3) Essential public health and welfare.

(4) Presidential/Vice Presidential.

(5) Flights carrying visiting heads of state.

(6) Flights in the service of the International Olympic Committee, the International Sports Federation, the National Olympic Committees, and media flights whose planned activities have been coordinated and accredited by the Los Angeles Olympic Organizing Committee.

(7) Law enforcement/security.

(8) Flights authorized by the Director, Air Traffic Service,

(c) Implement flow control management procedures.

5. The Director of Air Traffic Service, AAT–1, the Associate Administrator for Policy and International Aviation, API–1, and the Director, Office of Civil Aviation Security, ACS–1, may delegate their authority under this regulation to the extent necessary for the safe and efficient conduct of flight operations.

6. AAT–1 and ACS–1 may issue NOTAM's during the effective period of this SFAR to cancel or modify provisions of this SFAR and NOTAM's issued pursuant to this SFAR if such action is consistent with the safe and efficient use of airspace and the safety and security of persons and property on the ground as affected by air traffic.

7. API–1 is authorized to review and, as conditions warrant, implement reductions is scheduled operations and known but unpublished operations of U.S. air carrier and commercial operators as air traffic capacity requires at Olympic Reservation Airports.

8. No person may operate an aircraft to or from an Olympic Reservation Airport unless that person complies with the requirements of this SFAR and NOTAM's issued pursuant to this SFAR that are applicable to his/her operation.

9. No person may operate to or from the Los Angeles International Airport or the Ontario International Airport unless that person is either—

(a) A U.S. air carrier or commercial operator conducting an operation in accordance with Appendices I or II of this SFAR or a NOTAM issued pursuant to this SFAR;

(b) An air carrier or commercial operator conducting an international operation in accordance with Appendix III of this SFAR or NOTAM's issued pursuant to this SFAR;

(c) A fixed base operator or person that had his/her aircraft stationed at the applicable airport during (a period to be announced);

(d) A person that is conducting a flight in the service of the International Olympic Committee, the International Sports Federation, or any of the National Olympic Committees;

(e) A person that is conducting media flights whose planned activities have been coordinated with and by the Los Angeles Olympic Organizing Committee; or

(f) A person authorized by the Director, Air Traffic Service, pursuant to Section A.4(b) of this SFAR; unless, a NOTAM is issued authorizing operations into either one or both of those airports during any period that reservations are not needed for air traffic control.

B. *Flight Plan Filing*

1. Each person who conducts an unscheduled instrument flight rules (IFR) or visual flight rules (VFR) flight to or from an Olympic Reservation Airport under Appendix II of this SFAR shall file an applicable flight plan and shall—

(a) Obtain an Olympic reservation number from the Olympic Reservation Service (ORS) prior to filing the flight plan and record the number in the remarks section of the flight plan (for operations conducted between reservation airports, record both the departure and arrival reservation number in the remarks section of the flight plan), and

(b) File the flight plan so as to ensure that it will be received by a U.S. Flight Service Station at least 2 hours but not more than 24 hours prior to the proposed departure time.

2. Each person who conducts an international flight to or from an Olympic Reservation Airport shall file an IFR or VFR flight plan and shall ensure that the flight plan will be received by air traffic control (ATC) at least 2 hours prior to the time the flight enters U.S. airspace.

3. Airborne filing of an IFR or VFR flight plan is prohibited within the Los Angeles Olympic area, unless an emergency exists or the flight is conducted wholly within the airspace controlled by the air traffic facility in which the destination airport is located and is authorized by ATC.

C. *Air Commerce Security*

1. As conditions warrant, the Director, Office of Civil Aviation Security is authorized to—

(a) Prescribe security procedures as deemed necessary to protect persons and property in air commerce and at any Olympic Security Airport, and

(b) Exempt aircraft operators and others from security regulations and procedures required by the Federal Aviation Regulations and this SFAR or in NOTAM's issued pursuant to this SFAR.

2. Any person aware of criminal or other acts, planned or actual, against civil aviation conducted at an airport listed in this SFAR or in a NOTAM issued under this SFAR, or against a civil aircraft operating to or from those airports shall report this information to the FAA Olympic Security Service (FAA/OSS) (telephone number to be announced).

3. No person may operate at an airport designated in this SFAR or in a NOTAM issued pursuant to this SFAR as an "Olympic Security Airport" unless the airport complies with the security requirements specified in this SFAR and in NOTAM's pursuant to this SFAR.

4. No person may operate an aircraft into an Olympic Security Airport unless that person complies with the security requirements specified in this SFAR and in NOTAM's issued by the Director, Office of Civil Aviation Security pursuant to this SFAR that are applicable to the operation.

5. *Airport Security.* The operator of an Olympic Security Airport shall—

(a) Adopt and carry out the security procedures, including increased law enforcement officer support, that are specified in this SFAR and in NOTAMs issued pursuant to this SFAR;

(b) Coordinate airport security procedures and security matters with the FAA, Los Angeles Civil Aviation Security Field Office (CASFO), unless a different FAA CASFO is specified for a particular airport in a NOTAM issued pursuant to this SFAR;

(c) If the airport does not have a security program which meets the requirements of this SFAR, submit a security program or an amendment to its FAA-approved security program to the Los Angeles FAA CASFO for approval no later than 60 days following issuance of this SFAR or, for airports made subject to the security requirements of this SFAR by NOTAM, no later than the date specified in the NOTAM, and

(d) Adopt and carry out a security program that includes the following:

(1) Facilities and procedures to protect/secure aircraft at the airport.

(2) Procedures to have law enforcement officers in sufficient numbers to implement this security program and support any screening system in use.

(3) Procedures and facilities to control their air operations area.

NOTE.—A model security program is available from the FAA Los Angeles CASFO.

6. *Security of Scheduled Operations.* Each air carrier and commercial operator that conducts a scheduled operation, including a public charter, to or from an Olympic Security Airport shall:

(a) Adopt and carry out the security procedures specified in this SFAR or NOTAMs issued pursuant to this SFAR;

(b) Designate air carrier security representatives for those operations and coordinate its security procedures and security matters with the FAA Principal Security Inspector or the FAA Los Angeles CASFO unless a different CASFO is specified in a NOTAM issued pursuant to this SFAR; and

(c) Submit a security program to the FAA for each Olympic Security Airport the air carrier intends to operate to or from no later than 60 days following issuance of this SFAR, or from an airport added to the list of Olympic Security Airports, no later than the time specified in the NOTAM, that includes the following:

(1) Procedures and a description of the facilities and equipment to be used to screen passengers and carry-on items.

(2) Procedures used to assure that sufficient law enforcement officers are available to support the screening process.

(3) Procedures and facilities necessary to protect aircraft.

7. *Security of Operations Other Than Scheduled Operations.* Each person, other than an air carrier or commercial operator conducting scheduled air carrier operations, who operates an aircraft, regardless of the number of passenger seats, to or from an Olympic Security Airport shall adopt and carry out any security procedures, including procedures that will prevent weapons or explosives from being carried aboard that aircraft, specified in this SFAR and in NOTAM's issued under this SFAR applicable to that person's operation.

Appendix I—Airport Reservation System—U.S. Scheduled Operations

A. Advanced Airport Reservations—Scheduled Operations—LAX

The number of arrival operations per day, per hour that a U.S. air carrier or commercial operator may operate under instrument and visual flight rules at Los Angles International Airport shall not exceed the number established under SFAR 44–5 and any additional arrival operations established under this SFAR.

B. Advanced Airport Reservations—Scheduled Operations—Other than LAX

1. Except as modified pursuant to paragraphs 8 and 9 of this Appendix, the number of departure and arrival operations per day, per hour that a U.S. air carrier or commercial operator may operate under instrument and visual flight rules at an Olympic Reservation Airport shall not exceed—

(a) The number of departure and arrival operations per day, per hour submitted by an air carrier to the OAG for publication on (a date and day for a weekly period to be announced), less any flights scheduled but not operated during that period; and

(b) The number of scheduled flights operated (during a period to be announced) but not published in the OAG, such as scheduled air cargo, charter, training, and ferry flights, that are submitted by the operator to the FAA on (a date or period to be announced); less

(c) Any reduction per day, per hour required by API–1 and notified by the FAA.

The number of operations established under this paragraph shall be the base operation schedule for that carrier at an Olympic Reservation Airport during the July 14 to August 26, 1984, reservation period.

2. The schedules submitted to the OAG and the FAA will be reviewed by the FAA to determine if adequate capacity exists to accommodate the air traffic demand at each Olympic Reservation Airport. If the proposed operations exeed capacity at an airport, Associate Administrator for Policy and International Aviation will determine the redution that will be required and notify the operator of the required reduction. If there is a surplus of capacity, the FAA will allocate the additional capacity pursuant to paragraphs 8 and 9 of this Appendix.

3. An air carrier or commercial operator who does not participate in the advanced reservation procedure or cannot schedule all of its flights before 15 days in advance of their operation may submit requests for reservations, including extra sections and charters to the FAA Olympic Reservation Service in accordance with the procedures set forth in Appendix II. Filing a request under Appendix II does not guarantee a departure or arrival reservation, and the flight may not be operated unless a reservation is issued by the FAA.

4. The submission and FAA approval of scheduled operations at an Olympic Reservation Airport does not relieve the aircraft operator from securing approval from the operator of the airport to land and use the airport facilities.

5. If air traffic demand at airports not designated as Olympic Reservation Airports dictates, those airports will be designated Olympic Reservation Airports and made subject to—

(a) an advanced reservation procedure; or

(b) the 15 day notice procedure; by NOTAM's issued under this SFAR.

6. Strict adherance to the operations procedures contained in this SFAR and NOTAM's issued under this SFAR is essential to safe and efficent use of airspace. The Administration will take whatever action is necessary to ensure adherence to operation limits, including but not limited to withdrawal of previously approved slots, disqualification for participation in the program, temporary suspension of some or all slots, civil penalties, or combinations of the above.

7. All notifications to the FAA required to be submitted by this Appendix shall be in writing and shall be submitted in one of the following ways:

Mail: Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, USA, Attention: Harvey B. Safeer, APO–1

ARINC: DCAYAXD, Attention: Harvey B. Safeer, APO–1

TELEX: 892562, Attention: Harvey B. Safeer, APO–1.

8. *Random Drawing—Procedure.* (a) Each U.S. air carrier and commercial operator that desires to participate in a selection session for any additional

capacity at an Olympic Reservation Airport shall notify the FAA no sooner than (a date and time to be specified, such as March 10, 1984, 0900 Eastern Daylight Time (EDT)) and not later than (a date and time to be specified, such as March 15, 1984, 1159 EDT). Notifications received before or after these deadlines will be rejected.

(b) A random drawing to determine the order in which the participants in the selection session may select reservations will be held (at a time and place to be announced, such as April 3, 1984).

(c) Representatives of air carriers and commercial operators participating in the selection session need not be present at the random drawing.

(d) A capsule will be prepared for each air carrier and commerical operator that has notified the FAA of its interest in obtaining additional departure and arrival reservations.

(e) All capsules will be placed in a rotating drum.

(f) Capsules will be randomly pulled from the drum to determine the order of selection of the reservation.

(g) The results of the random drawing for order of selection will be available in the FAA docket.

9. *Allocation of Additional Capacity.*

(a) A selection session will be held on (a date to be announced such as April 16, 1984) at (a time and place to be announced) at which the representatives of the air carriers and commercial operators participating in the selection session may select departure and arrival reservations from the capacity available at each Olympic Reservations Airport.

(b) An air carrier or commercial operator that does not notify the FAA at least 48 hours before the selection session of the names of the persons that will represent it at the selection session may not be permitted to participate in the selection session.

(c) The order of selection will be determined by the random draw held on (a date to be announced, such as April 3, 1984).

(d) Each participant will have an opportunity to choose one additional departure and one additional arrival reservation at any Olympic Reservation Airport for any day and hour set forth in a notice provided by the FAA. For example, the participant with rank order Number 1 may choose from any day within the reservation period at any available hour, at any Olympic Reservation Airport.

(e) The representative of a participant must indicate that he/she is present within 1 minute and make his/her selection within 5 minutes after being requested to select or they will be eliminated from the rank order of participants.

(f) The selection session will continue until all available reservations have been selected or until such time as the participants who are present no longer indicate a desire for the available reservations.

(g) Each reservation selected will be assigned a reservation number for FAA tracking and surveillance purposes, e.g., 714 SAN 100A for an arrival slot at San Diego International Airport; 812 SAN 110D for a departure reservation at San Diego International Airport.

(h) Air carrier and commercial operators should advise the FAA as soon as possible of any reservations that have been issued to them that they will not use, so that the reservation may be made available under Appendix II.

(i) In view of the short schedule reservation period, trading of reservations between operators will not be permitted.

Appendix II

A. Airport Reservations—U.S. Unscheduled Operations

1. A reservation is required for certain unscheduled departure and arrival operations at any airport specifically designated as an Olympic Reservation Airport in this SFAR or in a NOTAM issued pursuant to this SFAR.

2. For purposes of designating the types of U.S. unscheduled operations requiring reservations, the Olympic Reservation Airports are categorized below:

(a) Category A

(1) Airports:
Los Angeles International (LAX)
Ontario International (ONT)
(2) Operations Requiring Reservations:
IFR/VFR—all unscheduled departures/arrivals

(b) Category B

(1) Airports:
Burbank-Glendale-Pasadena (BUR)
Santa Ana (John Wayne/Orange County) (SNA)
Long Beach (Daugherty Field) (LGB)
Las Vegas McCarran (LAS)
San Diego International (SAN)
(2) Operations requiring reservations:
IFR—all unscheduled departures/arrivals
VFR—all unscheduled Part 135 departures/arrivals, regardless of type; and
—all unscheduled turboprop/turbojet departures/arrivals

(c) Category C

In addition to the airports designated in this SFAR as Olympic Reservation Airports, there is a good possibility that other airports, including but not limited to the following airports which are designated Category C airports may be designated Olympic Reservation Airports in NOTAM's issued pursuant to this SFAR.

Brackett Field
Cable Upland
Camarillo
Chino
Corona Municipal
El Monte
Fullerton Municipal
General Wm. J. Fox Airfield
Gillespie Field
Hawthorne Municipal
Montgomery Field
McClellan-Palomar
Oxnard
Palm Springs Municipal
Rialto Municipal
Riverside Municipal
Riverside Rubidoux
Santa Barbara Municipal
Santa Monica Municipal
Torrance Municipal
Van Nuys
Whiteman

3. If conditions warrant, NOTAMs may be issued to change the category of an airport.

4. For purposes of this SFAR, an unscheduled operation is one that is not operated under Appendix I or Appendix III of this SFAR.

5. Unless otherwise required in a NOTAM issued pursuant to this SFAR, the following unscheduled operations are excluded from reservation requirements:

(a) Essential military.

(b) Medical emergencies—rescue.

(c) Law enforcement/security.

(d) Flights essential to the public health and welfare.

(e) Presidential/Vice Presidential and support flights.

(f) Foreign flights originating outside the U.S.

6. The filing of a request under this Appendix does not guarantee a departure or arrival reservation, and the flight may not be operated unless a reservation is issued by the FAA.

B. Airport Reservation Procedures—Unscheduled Operations

1. Period for which reservations are required: July 14, 1984, to August 26, 1984.

2. Effective Times: From 0600 Pacific Daylight Time (PDT) through 2059 PDT daily.

3. Reservation requests will be accepted and approved on a first-come first-served basis.

4. Reservation requests must be made no more than 14 days and not less than 2 hours prior to the first proposed departure/arrival time.

5. Multiple reservation requests will be accepted provided—

(a) the same departure reservation airport is not specified twice in the same request; and

(b) the total request does not include more than three reservation requests (departure or arrival).

6. Telephone Numbers: To obtain a departure/arrival reservation at an Olympic Reservation Airport, call the Federal Aviation Administration Olympic Reservation Service (FAA/ORS). Several 800 series telephone numbers are available to service the reservation airports. Pilots/operators planning flights between reservation-required airports should use the toll-free number associated with the first departure airport. Use the 800 telephone number listed below for the associated airports if it is designated as an Olympic Reservation Airport. Telephone numbers will be announced ———.

Telephone number	*Associated Airports*
Continental U.S./Hawaii call 800———— or In California call 800————.	Fullerton Municipal Hawthorne Municipal Los Angeles International Santa Barbara Municipal Santa Monica Municipal Torrance Municipal
Continental U.S./Hawaii call 800———— or In California call 800————.	Burbank-Glendale-Pasadena Camarillo General W. J. Fox Airfield Las Vegas McCarran Oxnard Van Nuys Whiteman
Continental U.S./Hawaii call 800———— or In California call 800————.	Brackett Field Cable Upland Chino Corona Municipal El Monte Ontario International Palm Springs Municipal Rialto Municipal Riverside Municipal Riverside Rubidoux
Continental U.S./Hawaii call 800———— or In California call 800————.	Long Beach (Daugherty Field) John Wayne—Orange County San Diego International Gillespie Field Montgomery Field McClellan-Palomar

7. To assure that available capacity of the system is utilized, cancellations must be called in to the ORS as soon as possible after the decision to cancel is made.

Appendix III—Foreign Arrival Operaitons

A. Advanced Notice—Foreign Arrival Operations

Operations into the United States by foreign air carriers and commercial operators are conducted in accordance with internaitonal agreements including Annex 2 of the Convention on International Civil Aviation. However, to facilitate operations into Olympic Reservation Airports, the following applies:

1. Notice is required for any foreign scheduled or unscheduled arrival operation into the United States landing at an Olympic Reservation Airport. Notice of all operations is required, including regularly scheduled flights, extra sections, cargo, and charters.

2. Notice of arrival into the United States at an airport designated below or in a NOTAM issued pursuant to this SFAR, shall be given to the FAA at least 30 days prior to the intended date of arrival.

3. Cancellations of intended flights into the U.S. shall be provided to the FAA as soon as possible after the decision to cancel is made.

4. The notice requirement of this SFAR is for air traffic control puposes. It does not constitute an air traffic control clearance and does not guarantee airport access, nor does it waive any other existing U.S. entry requirement. It does not waive or supersede any other notice requirement which may be applicable to flight operations regarding entry into the U.S.

5. *Notice Procedures.* (a) Period for which Notice is Required: July 14, 1984, to August 26, 1984.

(b) Effective Times: From 0600 Pacific Daylight Time (PDT) through 2059 PDT daily.

(c) Airports requiring notice:

(i) Burbank-Glendale-Pasadena

(ii) Las Vegas (McCarran) International

(iii) Long Beach (Daugherty Field)

(iv) Los Angeles International

(v) Ontario International

(vi) San Diego International

(vii) Santa Ana (John Wayne/Orange County)

(d) Notice specified in this Appendix to be given the FAA may be given in one of the following ways:

Mail: Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. USA., 20591, Attention: Harvey B. Safeer, APO–1

ARINC: DCAYAXD, Attention: Harvey B. Safeer, APO–1

TELEX: 892562 Attention: Harvey B. Safeer, APO–1

(e) The following information shall be provided in the notice:

(i) Foreign departure country and airport.

(ii) Aircraft type and flight identification number.

(iii) Proposed departure time in Greenwich Mean Time (GMT).

(iv) Date/Hour (in GMT) of planned arrival at Olympic Reservation Airport.

(v) Destination Olympic Reservation Airport.

B. Voluntary Participation—Airport Reservations

In lieu of filing advance notice of arrival at an Olympic Reservation Airport, all foreign scheduled operators are urged to voluntarily participate in the airport reservation service. Foreign scheduled operations would be included in the long-term advanced reservation system; foreign unscheduled operations would be included in the reservation system for unscheduled operations. These systems are described in Appendices I and II. The base of the long-term advanced reservation system is the submission of flight schedules to the OAG during a period in early 1984 which will be announced.

The intent of the advanced reservation system is to even the scheduled demand at the Olympic Reservation Airports during peak demand periods. The airport reservation system for unscheduled traffic is designed to accomplish the same objective, i.e., the balancing of the known air traffic demand to available air traffic control and airport capacity.

C. Foreign Charter Airport Reservations

It has also been suggested that all foreign charter operations, including those of scheduled foreign air carriers, should obtain a reservation to operate into an Olympic Reservation Airport. The reservation systems are described in Appendices I and II.

Special Federal Aviation Regulation No. —— (if adopted), terminates August 26, 1984, unless sooner superseded or revoked.

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958 as amended (49 U.S.C. 1348, 1354(a) and 1421); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.45))

Note.—For the reasons set forth in the preamble to this notice: (1) the FAA has determined that the proposal does not involve a major proposal under Executive Order 12291 and (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket, and a copy may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Washington, D.C., on October 13, 1983.

John W. Baier,

Acting Director, Air Traffic Service.

Attachment—Air Commerce Information and Other Services

Useful Publications—U.S. Entry and Departure

Information regarding aeronautical, procedures, regulations and practices of the U.S. is set forth in the following publications. These publications also provide information on U.S. entry and departure requirements, flight operations, and airports within the U.S. National Airspace System.

1. *Aeronautical Information Publication (AIP).* This is a comprehensive aeronautical publication containing information which defines and describes airspace, facilities, services, rules, and practices regarding aircraft operations. The AIP is published and presented in accordance with the International Civil Aviation Organization (ICAO) guidelines and for most ICAO countries, it represents that country's official aeronautical information publication. The U.S. publication of the AIP contains information with respect to the following:

(a) Designated authorities of reference regarding entry into and depature from the U.S.

(b) U.S. entry, transit, and departure requirements, regulations, and procedures.

(c) Aerodromes available for international use, including restrictions and customs information, general information on aerodrome administration, availability and use, services available, and marking and lighting.

(d) General information concerning fees and charges for use of aerodrome facilities.

(e) A listing of international aerodromes in U.S. territory containing services available, physical characteristics, visual ground aids, and obstruction information.

(f) Communications and navigational aid availability and services.

(g) Meteorology and pilot briefing availability and service.

(h) Air traffic rules and services.

(i) Regulations regarding operation of civil aircraft.

(j) Search and rescue procedures and services.

(k) Subscription information regarding available aeronautical charts.

(l) Differences between U.S. and ICAO recommended standards and practices.

The U.S. AIP is available on subscription from the Superintendent of Documents for $70 domestic shipping and $87.50 foreign shipping. A subscription consists of the basic edition, issued biannually, and seven loose leaf page amendments, issued quarterly. Subscriptions may be obtained by remitting a check or money order payable on a U.S. bank or by international money order to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, USA.

The AIP subscription does not include aeronautical charts and airport facility directories.

2. *U.S. Customs Service Guide for Private Flyers.* This is a complete guide to Customs Service requirements, with listing of international and landing rights airports and specific details on reporting requirements and hours of Customs Service, Telephone numbers, etc. It is for sale by the Superintendent of Documents, address above.

3. *Airman's Information Manual.* This manual is designed to provide basic flight information and air traffic control procedures for use in the National Airspace System of the U.S. It contains the fundamentals required to fly in the U.S. and also items of interest to pilots concerning flight safety. It is available from the U.S. Superintendent of Documents, address above. The current annual subscription price is $17 domestic and $21.25 foreign. To subscribe send check or money order to the Superintendent of Documents, address above.

4. *Designated U.S. Airports Servicing International Air Traffic.* This is an advisory circular of the United States Government, Federal Aviation Administration, Number 150/5000-5. It explains different categories of U.S. international airports and contains a current listing. It may be obtained free from: U.S. Department of Transportation (DOT), Communications Management Branch, Initial Distribution Section, M-442.31, Washington, D.C. 20590, USA.

All operators are advised to assure themselves that they have fully complied in advance with requirements so that flights into or from the U.S. are carried out in accordance with valid law, requirements, practices, and regulations. Specifically, aircraft operators from foreign States must know the U.S. airports of entry and the times during which Customs Service and other clearance services are available at the aerodrome of entry.

Other matters that the foreign aircraft operator should consider include the following:

(a) The advance notification requirements appropriate for the flight.

(b) Entry documents, which include proper aircraft registration and airworthiness papers, licenses, etc., available for presentation, if necessary.

(c) Import regulations, if the aircraft is parked for an extended period.

(d) Fees and payment methods (cash, credit cards, etc.) for aircraft parking and services.

(e) Visa and passport information.

(f) Airport use limitations (noise, weight, curfew hours, etc.).

Air Navigation Chart and Airport Information

The following is a listing of special charts and other airport information and services that will be available during the Olympic period:

(a) A special edition of the Los Angeles VFR terminal area chart which contains, on the reverse side, the Los Angeles VFR flyway planning chart.

(b) A special edition of the Los Angeles and vicinity VFR helicopter aeronautical chart.

(c) A flight information handout containing, as a minimum, selected information pertaining to:

(1) special air traffic procedures;

(2) airports;

(3) flight restrictions;

(4) the Airport Reservation Systems;

(5) the Special Federal Aviation Regulation;

(6) Security services, requirements, and information;

(7) U.S. entry and departure information; and

(8) Olympic sites.

Obtaining U.S. Air Navigation Charts

The following provides information on how to obtain the special air navigation charts for the Olympics as well as other air navigation charts for use in the U.S.

The National Ocean Service (NOS) publishes and distributes aeronautical charts of the U.S. There charts are readily available through a network of sales agents located at and near principal civil airports. Because of the large variety, all NOS products may not be available locally; users can procure these products directly from the NOS. Chart prices, subscription rates, and catalogs of related publications are available on request and are obtainable by writing to: National Oceanic and Atmospheric Administration, National Ocean Service, Distribution Branch, N/CG33, Riverdale, Maryland 20737, USA. Phone: (301) 436-6990—General Information; (301) 436-6993. Subscription Only; (301) 436-8194—One Time Sales Only.

NOS products will be shipped via United Parcel Service, First Class Mail, or priority package within the U.S. To addresses in other countries, please add 25 percent to the total cost of order for foreign surface shipment. Please write to NOS for a transportation cost quotation if faster foreign delivery is required. All mail order purchases must be accompanied by check or money order made payable to "NOS, Department of Commerce, N/CG33." Remittance must be made in U.S. funds; that is, by check payable on a U.S. bank, or by international money order. Returned checks will result in cancellation of orders.

Chart sales offices are maintained at the following locations:

National Ocean Service, Chart Sales & Control Data Office, 701 C Street, Anchorage, Alaska 99513, USA

National Ocean Service, Chart Sales Office, 6501 Lafaytte Avenue, Riverdale, Maryland 20737, USA

Pacific Marine Center, National Ocean Service, 1801 Fairview Avenue East, Seattle, Washington 98102, USA

Atlantic Marine Center, National Ocean Service, 439 West York Street, Norfolk, Virginia 235510, USA

In addition, over the counter sales of a limited selection and quantity of charts may be purchased at: National Ocean Service, Chart Sales Office, 6001 Executive Blvd., Room 101, Rockville, Maryland 20852, USA.

Chart prices are subject to recomputation, based on cost of production, in accordance with Federal law. Price changes, when required, will be published 60 days in advance of the effective date.

The special Olympic issue charts will be published and made available by May 1, 1984.

Airport Information

Operators should be aware that many airports, particularly those in the southern California area, have use restrictions/limitations as established by airport management. Use restrictions/limitations may involve noise, aircraft weight, aircraft type, types of facilities available, limited time of use, etc. This basic information is published in the U.S. Government flight information publication, "Airport/Facility Directory." This directory, distributed every 8 weeks, may be purchased by subscription or nonsubscription from: National Ocean Service (NOS), Distribution Branch N/CG33, Riverdale, Maryland 20737, USA.

Notice to Airman (NOTAM) Information

Time-critical aeronautical information which is of either a temporary nature or is not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications, receives immediate dissemination via the National Notice to Airmen (NOTAM) system. All domestic operators planning flight to the Olympics need to pay particular attention to NOTAM D, and Flight Data Center (FDC) NOTAM information. NOTAM D information could affect a pilot's decision to make a flight. It pertains to information on airports, runways, navigational aids, radar services, and other information essential to flight. An FDC NOTAM will contain information which is regulatory in nature, such as amendments to aeronautical charts and restrictions to flight. FDC and NOTAM D information will also be provided to international operators in the form of International NOTAM's. NOTAM's are distributed through the National Communications Center in Kansas City, USA, for transmission to all air traffic facilities having telecommunications access.

Pilots/operators should consult the biweekly Notice to Airmen (Class II) publication. This publication contains the NOTAM D and FDC NOTAM's. Special information, including graphics, will be published in the biweekly publication several weeks in advance of the Olympics. For more detailed information concerning the NOTAM system, refer to the Airman's Information Manual, "Preflight" Section.

Flight Information Handout—1984 Olympics

In addition to the Airport/Facility Directory, the FAA will publish other airport information in the special flight information handout. In addition to providing information in the areas described above, this handout will include airport information which may not appear in the Airport/Facility Directory. Pilots/operators need to pay particular attention to this and other operational information, such as flight restrictions of a more permanent nature. The flight restrictions to be implemented for the Olympic period will be graphically portrayed in the handout along with dates and times of application.

Flight information handouts will be available at all FAA flight service stations, general aviation district offices, the FAA Western-Pacific Region Office in Los Angeles, California, and the National Flight Data Center in Washington, D.C. The Washington and region addresses are:

Washington: DOT/FAA, 800 Independence Ave., SW., Washington, D.C. 20591, Attn: AAT-250

FAA Western Pacific Region: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Attn: AWP-530

Air Commerce Services—1984 Olympics

FAA Olympic Reservation Service

The FAA Olympic Reservation Service (FAA/ORS) is established to provide an airport reservation service for certain unscheduled flights into/out of the Los Angeles Olympic area. This facility will be in operation for 24 hours a day commencing July 1, 1984. Several 800-series telephone numbers are available for accepting reservation requests at the designated reservation airports for calls originating in California, other areas of the continental U.S. outside California, and Hawaii. Details of FAA/ORS operation are found in the regulation portion of this document.

FAA Airport Reservation Service

The FAA Airport Reservation Service (FAA/ARS) is established to provide a reservation service for certain U.S. scheduled and commercial operator flights into/out of designated Olympic Reservation Airports. This service will be in operation in early 1984 at a date to be announced. It will be administered by the FAA's Associate Administrator for Policy and International Aviation. Details of FAA/ARS operation are found in Appendix I of the regulatory portion of this document.

[FR Doc. 83-31667 Filed 11-23-83; 8:45 am]
BILLING CODE 4910-13-M

federal register

Friday
November 25, 1983

Part VII

Department of the Treasury

Internal Revenue Service

Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste; Imposition of Taxes on Hazardous Waste; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 52 and 57

[T.D. 7923]

Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste; Imposition of Taxes on Hazardous Waste

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the collection of the tax on hazardous waste, petroleum and certain chemicals. Changes to the applicable tax law were made by the Hazardous Substance Response Revenue Act of 1980. These regulations provide necessary guidance to the public for compliance with the law, and affect importers of petroleum, operators of United States refineries, manufacturers, producers and importers of certain chemicals, and owners and operators of qualified hazardous waste disposal facilities.

DATES: The regulations are effective with respect to the collection of tax on hazardous waste after September 30, 1983 and, with respect to the tax on petroleum and certain chemicals, after March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T 202-566-4336, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On June 24, 1983, the **Federal Register** published proposed amendments to the regulations on Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste (26 CFR Part 52) under sections 6011, 6071, 6091, 6151 and 6302 of the Internal Revenue Code of 1954 (48 FR 29007). A public hearing was held on September 1, 1983. Four written comments were received and two of the commentors requested to speak at the public hearing. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision.

Summary of Comments

One comment was relevant to the proposed regulations. The commentor suggested that payments of the tax imposed by section 4681(a) should be made on a monthly basis rather than a semimonthly basis as provided for in the proposed regulations. This suggestion is not adopted in the final regulations. If a special rule is fashioned for payment of the tax on hazardous waste, other special rules may have to be given to every other industry that has unique business practices.

The remaining comments did not address the proposed collection regulations and are expected to be the subject of another regulations project (LR-341-81).

No semimonthly deposits are required under the provisions of this part 52 with respect to the tax imposed by section 4681(a) for the semimonthly periods in October, 1983. Although these deposits are excused they must made together with the first semimonthly deposit for the first semimonthly period in November, 1983. See § 52.6302 (c)-1 (a) (2) relating to the time prescribed for semimonthly deposits.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, pursuant to 5 U.S.C. 605(b) the Secretary of the Treasury has certified that this rule will not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is therefore not required. The final regulations do not have a significant economic impact on small entities because the taxpayer who is required to pay environmental taxes will merely complete Form 720 (Quarterly Federal Excise Tax Return). The information needed to fill out this form is readily available to the taxpayer. The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this regulation is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 52

Environmental taxes on petroleum and certain chemicals and hazardous waste.

Adoption of Amendments to the Regulations

PART 52—[AMENDED]

Accordingly, 26 CFR Part 57 is redesignated as Part 52 and revised as follows:

PART 52—ENVIRONMENTAL TAXES ON PETROLEUM AND CERTAIN CHEMICALS AND HAZARDOUS WASTE

Sec.

52.6011(a)-1 Returns.
52.6011(a)-2 Final returns.
52.6071(a)-1 Time for filing returns.
52.6091-1 Place for filing returns.
52.6151-1 Time and place for paying tax shown on return.
52.6302(c)-1 Use of Government depositaries.

Authority: Secs. 6011 (68A Stat. 732, 26 U.S.C. 6011), 6071 (68A Stat. 749, 26 U.S.C. 6071), 6091 (68A Stat. 752, 26 U.S.C. 6091), 6302 (68A Stat. 775, 26 U.S.C. 6302), and 7805 (68A Stat. 917, 26 U.S.C. 7805), Internal Revenue Code of 1954.

§ 52.6011(a)-1 Returns.

(a) *In general.* Effective as of April 1, 1981, liability for tax imposed under section 4611, Imposition of Tax on Petroleum, or section 4661, Imposition of Tax on Certain Chemicals, shall be reported on Form 720, Quarterly Federal Excise Tax Return. Effective as of October 1, 1983, liability for tax imposed under section 4681, Imposition of Tax on Hazardous Waste, shall be reported on Form 720, Quarterly Federal Excise Tax Return. Except as provided in paragraphs (b) (1) and (2) of this section, a return on Form 720 shall be filed for a period of one calendar quarter beginning with the quarter ending June 30, 1981, in the case of the taxes imposed under sections 4661 and 4611, and the quarter ending December 31, 1983, in the case of the tax imposed under section 4681. Every person required to make a return on Form 720 for the return period ended June 30, 1981, in the case of the taxes imposed under sections 4611 and 4661, or for the return period ended December 31, 1983, in the case of the tax imposed by section 4681, shall make a return for each subsequent calendar quarter (or month or semimonthly period if required by the district director under paragraph (b) of this section), whether or not liability was incurred for any tax reportable on such return for such return period, until a final return has been filed

in accordance with § 52.6011(a)–2. Every person not required to make a return on Form 720 for the return period ended June 30, 1981, in the case of the taxes imposed under sections 4611 and 4661, or for the return period ended December 31, 1983, in the case of the tax imposed under section 4681, shall make a return for the first calendar quarter thereafter in which the person incurs liability for tax imposed under section 4611, 4661, or 4681 and shall make a return for each subsequent calendar quarter (or month or semimonthly period if required by the district director under paragraph (b) of this section) until a final return has been filed in accordance with § 52.6011(a)–2.

Approved by the Office of Management and Budget under control number 1545–0023.

(b) *Monthly and semimonthly returns*—(1) *Requirement.* If the district director determines that any taxpayer who is required to make a deposit of taxes under the provisions of § 52.6302(c)–1 has failed to make deposits of such taxes, such taxpayer shall be required, if so notified in writing by the district director, to file a monthly or semimonthly return on Form 720, except that, if some other form is furnished by the district director for use in lieu of Form 720, the return shall be made on such other form. Every person so notified by the district director shall make a return for the calendar month or semimonthly period (as defined in § 52.6302(c)–1(c)(1)) in which the notice is received and for each calendar month or semimonthly period thereafter until the taxpayer has filed a final return or is required to make returns on the basis of a different return period pursuant to notification as provided in paragraph (b)(2) of this section.

(2) *Change of requirement.* At the district director's discretion, the taxpayer may be notified in writing that the taxpayer is required to make a quarterly or monthly return if the taxpayer has been filing returns for a semimonthly period or is required to make a quarterly or semimonthly return, if the taxpayer has been filing monthly returns.

(3) *Return for period change takes effect.* If a taxpayer who has been filing quarterly returns receives notice to file a monthly or semimonthly return or a taxpayer who has been filing monthly returns receives notice to file a semimonthly return, the first return required pursuant to the notice shall be made for the month or semimonthly period in which the notice is received and all prior months or semimonthly periods which are not includable in a prior period for which the taxpayer is required to file a return. If a taxpayer who has been filing monthly or semimonthly returns received notice to file a quarterly return, the last month or semimonthly period for which a return shall be made is the last month or semimonthly period of the calendar quarter in which such notice is received. If a taxpayer who has been filing semimonthly returns receives notice to file a monthly return, the last semimonthly period for which a return shall be made is the last semimonthly period of the month in which such notice is received.

§ 52.6011(a)–2 Final returns.

(a) *In general.* Any person who is required to make a return on Form 720 pursuant to § 52.6011(a)–1, and who in any return period ceases operations in respect of which the person is required to make a return on such form, shall make such return for such period as a final return. Each return made as a final return shall be marked "Final Return" by the person filing the return. A person who has only temporarily ceased to incur liability for tax required to be reported on Form 720, because of temporary or seasonal suspension of business or for other reasons, shall not make a final return but shall continue to file returns.

(b) *Statement to accompany final return.* There shall be executed as a part of each final return a statement showing the address at which the records required by the regulations in this part will be kept, the name of the person keeping such records, and, if the business of a taxpayer has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or transfer took place. If no such sale or transfer occurred or the taxpayer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

§ 52.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 52.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the immediately preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized financial institution or by a Federal Reserve bank.

(b) *Monthly and semimonthly return*—(1) *Monthly returns.* Each return required to be made for a monthly period under paragraph (b)(1) of § 52.6011(a)–1 shall be filed not later than the 15th day of the month following the period for which it is made.

(2) *Semimonthly returns.* Each return required to be made for a semimonthly period under paragraph (b)(1) of § 52.6011(a)–1 shall be filed not later than the 10th day of the semimonthly period following the period for which it is made.

(c) *Last day for filing.* For provisions relating to the time for filing a return when the prescribed due date falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration). Section 7502, relating to timely mailing treated as timely filing and paying, shall apply to the same extent it applies to the collection of taxes under Chapter 32, relating to Manufacturers' Excise Taxes.

(d) *Late filing.* For additions to the tax in case of failure to file a return within the prescribed time, see § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

§ 52.6091–1 Place for filing returns.

(a) *Persons other than corporations.* The return of a person other than a corporation shall be filed with the district director for the internal revenue district in which is located the principal place of business or legal residence of such person. If such person has no principal place of business or legal residence in any internal revenue district, the return shall be filed with the District Director at Baltimore, Md. 21202 except as provided in paragraph (c) of this section.

(b) *Corporations.* The return of a corporation shall be filed with the district director for the district in which is located the principal place of business or principal office or agency of the corporation, except as provided in paragraph (c) of this section.

(c) *Returns of taxpayers outside the United States.* The return of a person (other than a corporation) outside the United States having no legal residence or principal place of business in any internal revenue district, or the return of a corporation having no principal place of business or principal office or agency

in any internal revenue district, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, unless the principal place of business or legal residence of such person, or the principal place of business or principal office or agency of such corporation is located in the Virgin Islands or Puerto Rico, in which case the return shall be filed with the Director of International Operations, U.S. Internal Revenue Service, Hato Rey, Puerto Rico 00917.

(d) *Returns filed with service centers.* Notwithstanding paragraphs (a), (b), and (c) of this section, whenever instructions applicable to such returns provide that the returns shall be filed with a service center, such returns shall be so filed in accordance with such instructions.

(e) *Hand-carried returns.* Except as provided in paragraph (e)(3) of this section, and notwithstanding paragraphs (1) and (2) of section 6091(b) and paragraph (d) of this section—

(1) *Persons other than corporations.* Returns of persons other than corporations which are filed by hand carrying shall be filed with the district director (or with any person assigned the administrative supervision of an area, zone, or local office constituting a permanent post of duty within the internal revenue district of such director) as provided in paragraph (a) of this section.

(2) *Corporations.* Returns of corporations which are filed by hand carrying shall be filed with the district director (or with any person assigned the administrative supervision of an area, zone, or local office constituting a permanent post of duty within the internal revenue district of such director) as provided in paragraph (b) of this section.

(3) *Exceptions.* This paragraph (e) shall not apply to returns of—

(i) Persons who have no legal residence, no principal place of business, nor principal office or agency in any internal revenue district.

(ii) Citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States.

(iii) Persons who claim the benefits of section 911 (relating to earned income from sources without the United States), section 931 (relating to income from sources within possessions of the United States), or section 933 (relating to income from sources within Puerto Rico), and

(iv) Nonresident alien persons and foreign corporations.

(f) *Permission to file in district other than required district.* The Commissioner may permit the filing of any return required to be made under the regulations in this part in any internal revenue district, notwithstanding the provisions of paragraphs (1), (2), and (4) of section 6091(b) and paragraphs (a), (b), (c), (d), and (e) of this section.

52.6151–1 Time and place for paying tax shown on return.

The tax required to be reported on each tax return required under this part is due and payable to the internal revenue officer with whom the return is filed at the time prescribed in § 52.6071(a)–1 for filing such return. See the applicable sections in Part 301 of this chapter (Regulations on Procedure and Administration), for provisions relating to interest on underpayments, additions to tax, and penalties. For provisions relating to the use of Federal Reserve banks or authorized financial institutions in depositing the taxes, see § 52.6302(c)–1.

§ 52.6302(c)–1 Use of Government depositaries.

(a) *Requirements—(1) Monthly deposit.* Except as provided in paragraph (a)(2), (a)(3), or (a)(4) of this section, if for any calendar month, other than the last month of a calendar quarter, any person required to file a quarterly excise tax return on Form 720 has a total liability of more than $100 for all excise taxes reportable on such form, the amount of such liability for taxes (to which this part relates) shall be deposited with a Federal Reserve bank or authorized financial institution on or before the last day of the month following such month.

(2) *Semimonthly Deposit.* This paragraph (a)(2) applies to excise taxes (to which this part relates) which are reportable on Form 720 by any person whose total liability for all excise taxes reportable on Form 720 for any calendar month in the preceding calendar quarter exceeds $2,000. In any case to which this paragraph (a)(2) applies (except as provided in paragraphs (a)(3) or (a)(4) of this section), the excise tax payable under this part for a semimonthly period (as defined in paragraph (c)(1) of this section) shall be deposited by such person in a Federal Reserve bank or authorized financial institution on or before the depositary receipt date (as defined in paragraph (c)(2) of this section). A person will be considered to have complied with the requirements of this paragraph (a)(2) for a semimonthly period if—

(i) The person's deposit for such semimonthly period is not less than 90 percent of the total amount of the excise taxes (to which this part and Parts 46, 48, and 49 relate) reportable on Form 720 for such period and if such period occurs in a month other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following such month; or

(ii) The person's deposit for each semimonthly period in the month is not less than 45 percent of the total amount of the excise taxes (to which this part and Parts 46, 48, and 49 relate) reportable on Form 720 for the month, and if such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following such month; or

(iii) The person's deposit for each semimonthly period in the month is not less than 50 percent of the total amount of the excise taxes (to which this part and Parts 46, 48, and 49 relate) reportable on Form 720 for the second preceding calendar month, and if such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following such month;

(iv) The requirements of paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section (if applicable under the last sentence of this paragraph (a)(2)) are satisfied for the first semimonthly period in the month and the person's deposit for the second semimonthly period in such month is, when added to the deposit for such first semimonthly period, not less than 90 percent of the total amount of the excise taxes to which this part relates reportable by the person on Form 720 for such month, and if such period occurs in a month other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following such month.

Accordingly, a person who makes deposits in accordance with the provisions of paragraph (a)(2)(ii), (a)(2)(iii), or (a)(2)(iv) of this section will not find it necessary to keep books and records on a semimonthly basis. However, paragraph (a)(2)(ii) or (a)(2)(iii) of this section shall not apply to any such person who normally incurs in the first semimonthly period in each month more than 75 percent of the total excise tax liability (to which this part and Parts 46, 48, and 49 relate) for the month.

(3) *Exception.* The provisions of this section shall not apply with respect to taxes for the month or the semimonthly period in which the taxpayer receives notice from the district director that

returns are required under paragraph (b)(1) or (2) of § 52.6011(a)–1, of any subsequent month or semimonthly period for which a return is required.

(4) *No deposit for the calendar quarter ending June 30, 1981.* No deposit is required under the provisions of this part 52 with respect to the taxes payable for the calendar quarter ending June 30, 1981.

(5) *No semimonthly deposits for the month of October, 1983.* No semimonthly deposits are required under the provisions of this part 52 with respect to the tax imposed by section 4681 (a) for the semimonthly periods in October, 1983. Instead, the deposits for the semimonthly periods in October must be made together with the first semimonthly deposit for the first semimonthly period in November, 1983. See § 52.6302 (c)–1 (a) (2) relating to the time prescribed for semimonthly deposits.

(b) *Special requirements.* The provisions of this paragraph (b) apply to every person (whether or not required by paragraph (a)(1) or (a)(2) of this section to make a deposit of taxes) required to file a quarterly excise tax return on Form 720 for a calendar quarter who has a total liability for all excise taxes (to which this part and Parts 46, 48, and 49 relate) reportable on such form which exceeds by more than $100 the total amount of taxes deposited pursuant to paragraph (a) (1) or (2) of this section for the quarter. The person shall, on or before the last day of the month following the calendar quarter for which the return is required to be filed, deposit with a Federal Reserve bank or authorized financial institution the full amount by which the liability for all excise taxes reportable on such form for the calendar quarter exceeds the amount of excise taxes previously deposited for that calendar quarter.

(c) *Definitions.* The terms enumerated in this section are to be defined in the following manner.

(1) *Semimonthly period.* A "semimonthly period" means the first 15 days of a calendar month or the portion of a calendar month following the 15th day of the month.

(2) *Depositary receipt date.* The "depositary receipt date" is the 9th day of the semimonthly period following the semimonthly period for which the taxes are reportable.

(d) *Depositary forms*—(1) *In general.* A person required to make deposits by paragraphs (a) (1) or (2) or (b) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Remittance.* Each remittance of an amount required to be deposited shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the applicable instructions. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank, or, at the election of the person making the remittance, forwarded to a financial institution authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date stamped on the Federal Tax Deposit form by a Federal Reserve bank or by the authorized financial institution, whichever is earlier. Section 7502(e), relating to timely mailing treated as timely filing and paying, shall apply to the same extent it applies to the collection of taxes under Chapter 32, relating to Manufacturers' Excise Taxes. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay (or deposit by the due date of such return) the balance, if any of the taxes due for such period.

(3) *Time deemed paid.* Amounts deposited under paragraph (d)(2) of this section shall be considered as paid on the last day prescribed for filing the return for the tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(4) *Procurement of prescribed forms.* Copies of Form 504 will so far as possible be furnished persons required to deposit. The person may secure the forms or additional forms by applying for them to the district director or director of a service center and by supplying the person's name, identification number, address, the type of tax, and the taxable period to which the deposits will relate. A person will not be excused from making a deposit, however, by the fact that no form has been furnished. A person not supplied with the proper form should make application for it in ample time to make the required deposit within the time prescribed.

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

This Treasury decision is issued under the authority contained in sections 6011 (68A Stat 732, 26 U.S.C. 6011), 6071 (68A Stat. 749, 26 U.S.C. 6071), 6091 (68A Stat. 752, 26 U.S.C. 6091), 6302 (68A Stat. 775, 26 U.S.C. 6302), and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: November 21, 1983.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-31690 Filed 11-22-83; 11:30 am]

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federal register

Friday
November 25, 1983

Part VIII

Department of Health and Human Services

Office of Human Development Services

Announcement of Availability of Fiscal Years 1984 and 1985 Competitive Financial Assistance for Projects To Promote Social and Economic Self-Sufficiency for Native Americans

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-842]

Administration for Native Americans

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Fiscal Years 1984 and 1985 Competitive Financial Assistance for Projects to Promote Social and Economic Self-Sufficiency for Native Americans.

SUMMARY: The Administration for Native Americans (ANA) announces applications are being accepted for competitive financial assistance under Section 803 of the Native American Program Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing dates for receipt of applications are January 31, 1984 and June 29, 1984.

ANA Mission

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. In this context, self-sufficiency is the level of development and degree to which a Native American community can provide for the needs of its community members and pursue its own social and economic goals.

ANA Program Goals

ANA has three program goals:

1. *Governance:* To promote the development or strengthening of tribal governments and Native American institutions and local leadership to assure local control and decision-making over all resources.

2. *Economic Development:* To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.

3. *Social Development:* To support local access to, and coordination of, services and programs which safeguard the health and well-being of Native Americans, and which are essential to a thriving and self-sufficient community.

In Fiscal Years 1982 and 1983, the Administration for Native Americans implemented a new program direction that moved from funding core administration for Native American organizations and providing funds for services on a gap-filling basis to funding projects that represent local social and economic development strategies (SEDS) for achieving self-sufficiency.

In Fiscal Years 1984 and 1985, ANA will continue this SEDS focus to promote self-sufficiency through support of projects that are expected to make a lasting impact on the social and economic well-being of Native American communities.

ANA provides financial assistance to public and private non-profit organizations including Indian Tribes, urban Indian centers, Alaska Native villages, Native Hawaiian orgainzations, rural off-reservation groups, and other Native American organizations for the development and implementation of social and economic development strategies that promote self-sufficiency. These projects are expected to result in improved social and economic conditions of Native Americans within their communities and to increase the effectiveness of Indian Tribes and Native American organizations in meeting their economical and social goals.

The local community is considered to have the primary responsibility for determining its own needs and priorities, and for planning and implementing its own programs. The local community is in the best position to weigh the trade-offs in deciding on the best approach to pursuing social and economic self-sufficiency.

Purpose of This Program Announcement

The purpose of this program announcement is to provide financial assistance to promote self-sufficiency for Native Americans through support of local social and economic development projects. Proposed project(s) will be reviewed on a competitive basis against the evaluation criteria identified in this announcement.

Program Priority and Expected Outcomes

The ANA program priority is to fund projects that will make the greatest impact in promoting social and economic self-sufficiency for Native Americans. The applicant's proposal must clearly identify in measurable terms the expected results of the project and the positive impact on the community. ANA encourages applicants to consider innovative approaches to addressing the social and economic conditions in the community. Some examples of the types of measures and results expected from the ANA supported projects are the following:

Governance—ANA Goal No. 1

- Increase in number of programs operated by the Indian Tribe that were previously run by Federal employees.
- Tribal commercial codes enacted to control commerce in Indian country and promote an environment conducive to economic development.
- Adoption codes enacted by the Tribe separately or as part of a comprehensive Tribal children's code.
- Child abuse and neglect reporting code enacted by the Tribe separately or as part of a comprehensive children's code.
- Environmental protection codes enacted.
- Taxation codes enacted and revenue generated to cover some of the costs of Tribal government operations.
- Energy development codes enacted to protect the environment, promote energy development and the socio-economic growth of the local economy.
- Implementation of a merit employment personnel system to provide a stable, efficient and effective Tribal civil service system.
- Increase in the ratio of Tribal employees to Federal employees providing services to Indians.
- Cooperative Tribal/State agreements executed in new areas of mutual support and benefit.
- Increase in Indian representation on city, county, and/or State advisory boards or commissions that have influence in allocating public resources and planning public services.
- Research, documentation, and/or presentation of evidence to support claim for recognition as an Indian Tribe or to clarify jurisdictional status as a governmental entity.

Economic Development—ANA Goal No. 2

- Number of business starts and expanded manufacturing trade and retail efforts initiated.
- Number of new agricultural and mining efforts initiated.
- Number of of Indian owned and operated businesses established or expanded.
- Number of non-Indian owned businesses established on a reservation.
- Amount of revenue generated from energy development or other increased revenue efforts.
- Number of urban Indian business enterprises initiated.
- Number of urban Indian economic businesses developed or expanded.
- Federal housing units transferred from Federal control to Indian Tribal management and used for rent or sale to

include, but not limited to, housing currently operated by the Bureau of Indian Affairs and the Indian Health Service serving Federal employees on Indian reservations.

- Increase in home ownership in a community by Native Americans.
- Number of housing units constructed, renovated and/or sold.
- Number of jobs resulting from an ANA grant project.
- Number of placements by the enactment of Tribal employment rights ordinances (TERO).
- Establishment under Tribal sponsorship of a for-profit health care system for Indians and non-Indians including outpatient and hospital care though fee-for-service, insurance reimbursements and other third-party claims and contracts for Indian health services operating at the local level.

Social Development—ANA Goal No. 3

- Assuming local control of planning and delivering social services in Native American communities.
- Licenses obtained by Native American urban organizations to provide social or other services for State and local governments.
- Increase of Native American volunteers working in the community.
- Increase in employer-provided social services, such as day care, counseling.
- New service programs established with ANA funds and funded for continued operation by local communities or the private sector.
- Reduction in the rate of out-of-home placements of Native American children.
- Increase in Indian children adopted or placed in permanent homes that would otherwise be in foster care of institutions.
- Increase in Indian children returning home from foster homes.
- Increase in number of developmentally disabled Indian children served by appropriate agencies.

Decrease in General Assistance caseload and Aid to Families with Dependent Children caseload.

- Decrease in Indian child welfare caseload.
- Decrease in Native American suicides.
- Decrease in Indian child abuse and neglect incidences as a result of improved social conditions such as employment and improved social services in the community.
- Decrease of fetal alcohol syndrome.
- Urban Indian organizations establishing formal linkages with local governments.

This is not an all inclusive list. There are other definitive results, benefits, and impacts that can accrue from a project. The major emphasis is the use of ANA resources to create definite, measurable, and positive results or impact in the community by the end of the budget period.

Note.—Under the Social Development goal, ANA will reject applications which request funding for on-going direct social service delivery. Projects addressing this goal must be developmental in nature, to be maintained by other than ANA resources, and result in an improvement in the well-being of the members of the community.

Cooperative Management Initiative

The Cooperative Management Initiative (CMI) is an Office of Human Development Services (HDS) management initiative to strenghten local coordination and enhance the efficiency of HDS Indian programs. ANA social and economic development grants, ACYF Head Start grants and AoA Title VI grants. The purpose of local cooperative management of Federal programs is to reduce administrative burden and duplicative reporting requirements which Indian Tribes encounter when they administer more than one HDS grant. Additionally, CMI facilitates management improvements and joint use of facilities at the Tribal level.

All eligible Indian Tribes (those which ave two or more HDS grants) are strongly encouraged to join in this cooperative effort. Indian Tribes that are currently participating in CMI or that are interested in joining CMI should include their intent in the narrative portion of their application. For further information on CMI, contact: Bernice Harris, CMI Coordinator, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue SW., Washington, D.C. 20201; (202) 245–7730.

Contact Person

Applicants who wish information regarding this program announcement may contact Dwaine LeBeau, ANA, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue SW., Washington, D.C. 20201; (202) 245–7776.

Eligible Applicants

This program announcement is a solicitation of new grants.

- The following groups which are *not* Fiscal Year 1983 grantees of ANA are eligible to apply for a grant award under this announcement: Federally recognized Indian Tribes; consortia; non-Federally recognized Tribes; non-profit, multi-purpose community-based Indian organizations; urban Indian Centers; and non-profit Native Hawaiian organizations.
- Additionally, Fiscal Year 1983 grantees of ANA who have sumitted an application to ANA for Fiscal Year 1984 funding under the announcement No. 13612–841, and have received notice of disapproval are eligible to apply under this announcement.
- Individual consortia members may apply for direct funding from ANA, even though their consortium organization is an ANA grantee, providing the projects are different from those funded by ANA to the consortium and the application indicates that the consortium organization has been notified of the individual member's intent to apply for a grant award from ANA. The consortium must recognize that if one of its members receives direct funding from ANA, the grant award to the consortium may be renegotiated.

Alaska Native villages and Regional Alaska Native non-profit corporations are not eligible under this program announcement because a separate program announcement was published exclusively for Fiscal Years 1984 and 1985 funding of Alaska Native Projects: Program Announcement No. 13612–833, published in the **Federal Register** on May 16, 1983 (48 FR 22126–22128).

Available Funds

ANA expects to award approximately $1.8 million for each of the two closing dates under this program announcement. It is anticipated that 15 grants will be awarded in Fiscal Year 1984 and another 15 grants in Fiscal Year 1985.

Applications for projects of one, two, or three years duration may be submitted. Applicants who are proposing projects for one year or more must submit full applications on all program activities for the entire project period, that is, for years one, two, and three, not just for the first year. The budget period for each grant award will be for twelve (12) months. Funding after the first year of a multi-year project will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of funds, and compliance with the Native American Programs Regulations.

For projects approved for more than one year, only minimal application information for subsequent year funds will be required. Specific guidance will

be provided to those grantees to whom this applies.

Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind. The total approved cost of the project is the sum of the Federal Share and the non-Federal Share. A budget detailing applicant's non-Federal Share in the project must be included in the application.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied, including the Part IV, *OMB 0980–0016*, and in the manner prescribed by ANA. The application kits containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201. *Attn:* Mrs. Hazel Byrd, (202) 245–7727. *Attention: No. 13612–842.*

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

Application consideration. The Commissioner of ANA determines the final action to be taken with respect to each grant application received under this announcement.

- Incomplete applications and applications which do not conform to this announcement will not be accepted for review. Applicants will be notified in writing accordingly.
- Complete applications which conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process against the published criteria. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff and other interested parties.
- The Commissioner makes grant awards consistent with:
- The purpose of the Native American Programs Act;
- The ANA regulations;
- This program announcement; and
- The limits of the announced available funds.
- When the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing. Successful applicants are notified through an official Notice of Financial Assistance Awarded. This Financial Assistance Notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, the project period, and the amount of non-Federal share grantee participation.

Criteria for Review and Evaluation

Applications which conform to all the requirements of this program announcement will be evaluated against the following criteria:

(1) The proposed project, when completed, will show a measurable increase in the social and economic self-sufficiency of a specific Tribe or community. The benefits or impacts expected in the community, as a result of achieving the project objectives, are quantifiable, measurable, and do not depend upon on-going support from ANA. See Section labeled "PROGRAM PRIORITY AND EXPECTED OUTCOMES" for examples of quantifiable and measurable impact and benefits. (25 Points)

(2) The overall application specifies long-range community goals and project priorities, identifies a well-defined strategy and a sound methodology for achieving the project objectives; and clearly identifies how improvements will be sustained at the end of ANA's funding. The goals, objectives, activities, and expected results relate to each other, are realistic, and are based on a locally developed social and economic development strategy. Specific evidence of the commitment of the local community and the support of the governing body are contained in the application, such as, resource commitments from the community and applicant organization for the proposed project; cited reports or studies which support the feasibility of the proposed project. (20 Points)

(3) The proposed project objectives identified in Part IV of the application are clearly defined, sufficiently detailed, in logical order, and provide a basis for project monitoring. (15 Points)

(4) The application presents a detailed budget specifically related to the work plan objectives in Part IV. It has complete explanations and justification of line items, including technical assistance. The budget is of reasonable cost to the government in terms of the outcomes and benefits expected. (10 Points)

(5) The application identifies by position or role all proposed key personnel, consultants and/or cotractors. Their qualifications are demonstrated by the inclusion of resumes, position descriptions, and consultant and contractor capability statements. (15 Points)

(6) Specific documentation of the necessary management and administrative capabilities of the applicant is evident in the application to ensure accountability and to justify receipt of Federal funds. (5 Points)

(7) The application contains a management plan for the project period for the applicant's coordinated use of specific non-Federal and Federal resources (other than from ANA) as part of its strategy to move toward self-sufficiency through social and economic development. (10 Points)

Due Date for Receipt of Applications

The closing dates for applications submitted in response to this program announcement are January 31, 1984 and June 29, 1984. Applications received for the January 31, 1984 closing date will be considered for a grant award during Fiscal Year 1984. Applications received for the June 29, 1984 closing date will be considered for a grant award in the first quarter of Fiscal Year 1985.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Recieved on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the review panel (one week after closing date). (Applicants are advised to request a legible U.S. Postal Service postmark; to use express mail, certified or registered mail; and to obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.) Applications submitted by any means other than first class mail through the U.S. Postal Service shall be considered as meeting the deadline only if the applications are physically received before close of business on or before the deadline date.

Late applications: Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: November 8, 1983.

Casimer R. Wichlacz,

Acting Commissioner, Administration for Native Americans.

Approved: November 18, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

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H.J. Res. 308 / Pub. L. 98-161

Increasing the statutory limit on the public debt. (Nov. 21, 1983; 97 Stat. 1012) Price: $1.50

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