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Friday
March 4, 1983

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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

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

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is revising the Standards for a Merit System of Personnel Administration. With this revision, OPM adopts the merit principles of the Intergovernmental Personnel Act as the basic personnel management requirement for administering all Federal intergovernmental assistance programs that require, by statute or by regulation, that the State or local agency receiving the assistance maintain a merit system of personnel administration. In addition, OPM establishes new procedures for assuring compliance with the Standards. OPM's approach to administration of the Standards relies primarily on certification of agreement to comply by State and local chief executives. OPM affirms the responsibility of chief executives to assure compliance of their jurisdictions with the Standards. However, OPM will retain ultimate authority to interpret the Standards and make determinations of noncompliance with them.

The revision is in keeping with the spirit of Executive Order 12372, Intergovernmental Review of Federal Programs. It will: (1) Better implement the requirement of the Intergovernmental Personnel Act to minimize Federal intervention in State and local personnel administration; (2) remove unnecessarily burdensome and costly restrictions on State and local merit personnel systems; (3) effect cost savings by eliminating the need for dual personnel systems that the existing Standards have led some State and local governments to maintain; (4) recognize the voluntary progress of State and local governments, over the years, in developing modern personnel systems and in voluntarily implementing the intent of the Standards, thus making detailed Federal requirements no longer necessary; (5) encourage innovation and allow for diversity in merit systems as required in the Intergovernmental Personnel Act; (6) recognize fully the rights, powers, and responsibilities of State and local governments; and (7) provide State and local governments more flexibility in administering their merit personnel systems, while maintaining protections where there is a Federal interest in promoting proper and efficient administration of Federal grants.

EFFECTIVE DATE: April 4, 1983.

FOR FURTHER INFORMATION CONTACT: Terry W. Culler, (202) 254–3134.

SUPPLEMENTARY INFORMATION: Under section 208(a) of the Intergovernmental Personnel Act, as amended, the U.S. Office of Personnel Management (OPM) is responsible for prescribing personnel standards which are to be followed by State and local governments as a condition of participation in Federal assistance programs which require of personnel administration on a merit basis for persons engaged in carrying out such programs.

Consistent with OPM's experience with State and local government implementation of the intent of the Standards, the requirement of the Intergovernmental Personnel Act itself that Federal intervention be minimized, and the President's goal to reduce unnecessary regulatory burdens on State and local governments, OPM reviewed its regulations carefully to identify unnecessary requirements.

As a result of this review, OPM published a proposed revision of its regulations in the May 11, 1982, Federal Register (47 FR 20142) for a 60-day public comment period.

Comments were received from 105 sources, including State and local governments, public interest groups, professional organizations, employee organizations, and individuals. The following summarizes the comments, suggestions and actions taken.

Appropriate Level of Regulatory Detail

The proposed revision removed detailed regulatory requirements and guidance and substituted the broad statements of principle found in the Act itself. A number of commentors agreed that the revision would ensure merit-based personnel administration while increasing State and local government efficiency and cost effectiveness. Other commentors suggested that broad statements of principle lack definition and invite inappropriate application. Some commentors were concerned that, without detailed guidance, Federal grantor agencies might impose inconsistent and possibly conflicting requirements on State and local jurisdictions. Other commentors were concerned that some State and local governments would misuse the flexibilities of the proposed revision to the detriment of proper and efficient administration of Federal grants.

Particular areas of concern were: (1) Criteria for exemption of personnel from standards coverage; (2) substitution of the IPA merit principles for more detailed guidance contained in the existing regulations; and (3) removal of the Uniform Guidelines on Employee Selection Procedures from the Standards.

OPM appreciates the concerns outlined above, but believes that standardized, detailed requirements restrict flexibility, discourage innovation, and constitute an unwarranted regulatory burden on State and local governments. The problems which remain can best be dealt with through the joint State and local-Federal compliance process outlined in these regulations. In accordance with concerns about conflicting Federal policies, however, OPM has revised § 900.604(b)(3) and § 900.605 to make it clear that OPM has sole responsibility, aside from State and local chief executives, for interpretation of the Standards, and that OPM will review issues regarding compliance with the Standards. OPM believes that prudent exercise of its oversight role will strike the best balance between State and local needs for flexibility and the Federal need to ensure proper and efficient grants administration.

With regard to EEO, these Standards recognize equal employment opportunity requirements insofar as they apply by

statute to State and local jurisdictions under Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the State and Local Fiscal Assistance Act and other relevant laws. The Uniform Guidelines continue to apply to State and local governments through other appropriate regulations, and are duplicative and unnecessary in these regulations. Equal employment opportunity is specifically retained as a Standard under § 900.603(e).

Compliance Provisions

Some commentors suggested that the compliance provisions of the proposed revisions did not provide for a sufficient oversight role for OPM. Particular areas of concern were self-certification of compliance by State and local chief executives and the lack of a detailed review process. OPM has not changed the proposal for self-certification. OPM believes that self-certification, combined with effective resolution of compliance issues, will allow it to focus its efforts on improving those personnel systems with severe problems. The 1979 revision of Merit Standards regulations also provided for self-certification.

With regard to OPM's complaints review process, OPM agrees that there should be a mechanism for surfacing compliance issues and that all parties concerned should be informed of the specific procedures to be used in reviewing complaints. OPM is therefore adding a new section, § 900.606, which indicates that specific guidance will be published in the Federal Personnel Manual System and in other relevant publications.

State/Local Compliance Relationship

Several comments received made it clear that the provisions allowing for State supervision of local government certifications were confusing. In some States, State agencies have supervised compliance of local jurisdictions with the Merit Standards. OPM has no objection to a continued State/local supervisory relationship, should it be acceptable to the parties involved. The May 11 proposed revision therefore allowed for States to continue to collect local certifications of compliance. Comments made it clear that this provision was subject to misinterpretation. For example, some commentors apparently thought that OPM was promoting State supervision of local government merit personnel administration. Others apparently believed OPM intended to conduct reviews of State supervisory activities. Form OPM's point of view, each chief executive is responsible for ensuring compliance of his/her jurisdiction with the Standards. However, OPM wishes to minimize Federal interference in State and local relationships. It has no objection to continued State supervision of local governments; neither does it intend to promote such supervision. OPM has, therefore revised § 900.604(a) to delete all regulatory reference to the relationship between State and local governments.

Employee Protections

A number of employee organizations have suggested that the proposed revision will result in a weakening of employee protections. OPM does not believe that this will happen since State and local governments have, over the years, made considerable progress in implementing the intent of the Standards. However, should any abuses of merit principles occur, OPM will resolve them through its complaints review process. With this revision, OPM is reducing Federal regulation. These Standards *in no way* require or encourage State or local governments to reduce employee protections.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulations.

Regulatory Flexibility Act

The purpose of this revision is to eliminate unnecessary and burdensome requirements on State and local governments. It places no new requirements on State and local governments. However, it will allow State and local governments to make certain changes in their personnel operations, should they find such changes to be desirable.

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 900

Administrative practice and procedure, Civil rights, Equal employment opportunity, Government employees, Grant programs—education, Handicapped, Intergovernmental relations.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends 5 CFR Part 900 by revising Subpart F to read as follows:

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

* * * * *

Subpart F—Standards for a Merit System of Personnel Administration

Sec.

Authority: 42 U.S.C. 4728, 4763; E.O. 11589, 3 CFR Part 557 (1971–1975 Compilation).

Subpart F—Standards for a Merit System of Personnel Administration

§ 900.601 Purpose.

(a) The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and local governments and encourages innovation and allows for diversity among State and local governments in the design, execution, and management of their systems of personnel administration, as provided by that Act.

(b) Certain Federal grant programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal grant statutes and in other cases are required by regulations of the Federal grantor agencies. Title II of the Act gives the U.S. Office of Personnel Management authority to prescribe standards for these Federally required merit personnel systems.

§ 900.602 Applicability.

(a) Sections 900.603–604 apply to those State and local governments that are required to operate merit personnel systems as a condition of eligibility for Federal assistance or participation in an intergovernmental program. Merit personnel systems are required for State and local personnel engaged in the administration of assistance and other intergovernmental programs, irrespective of the source of funds for their salaries, where Federal laws or regulations require the establishment and maintenance of such systems. A

reasonable number of positions, however, may be exempted from merit personnel system coverage.

(b) Section 900.605 applies to Federal agencies that operate Federal assistance or intergovernmental programs.

§ 900.603 Standards for a merit system of personnel administration.

The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as—

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws. (f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

§ 900.604 Compliance.

(a) *Certification by Chief Executives.* (1) Certification of agreement by a chief executive of a State or local jurisdiction to maintain a system of personnel administration in conformance with these Standards satisfies an applicable Federal merit personnel requirements of the Federal assistance or other programs to which personnel standards on a merit basis are applicable.

(2) Chief executives will maintain these certifications and make them available to the Office of Personnel Management.

(3) In the absence of certification by the chief executive, compliance with the Standards may be certified by the heads of those State and local agencies that are required to have merit personnel systems as a condition of Federal assistance or other intergovernmental programs.

(b) *Resolution of Compliance Issues.* (1) Chief executives of State and local jurisdictions operating covered programs are responsible for supervising compliance by personnel systems in their jurisdictions with the Standards. They shall resolve all questions regarding compliance by personnel systems in their jurisdictions with the Standards. Findings and supporting documentation with regard to specific compliance issues shall be maintained by the chief executive, or a personal designee, and shall be forwarded, on request, to the Office of Personnel Management.

(2) The merit principles apply to systems of personnel administration. The Intergovernmental Personnel Act does not authorize OPM to exercise any authority, direction or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee.

(3) If a chief executive is unable to resolve a compliance issue to the satisfaction of the Office of Personnel Management, the Office will assist the chief executive in resolving the issue. The Office of Personnel Management, as authorized by section 208 of the Intergovernmental Personnel Act, will determine whether personnel systems are in compliance with the Standards and will advise Federal agencies regarding application of the Standards and recommend actions to carry out the purpose of the Act. Questions regarding interpretation of the Standards will be referred to the Office of Personnel Management.

§ 900.605 Establishing a merit requirement.

Federal agencies may adopt regulations that require the establishment of a merit personnel system as a condition for receiving Federal assistance or otherwise participating in an intergovernmental program only with the prior approval of the Office of Personnel Management. All existing regulations will be submitted to the Office of Personnel Management for review.

§ 900.606 Publication of procedures to implement merit requirements.

Procedures to implement these merit requirements will be specified in the Federal Personnel Manual System and other relevant publications of the Office of Personnel Management.

Appendix A to the Standards for a Merit System of Personnel Administration

Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.

Program, Legislation, and Statutory Reference

Food Stamp, Food Stamp Act of 1977, as amended; 7 U.S.C. 2020(e)(6)(B).

National Health Planning and Resources Development, Public Health Service Act (Title XV), as amended by the National Health Planning and Resources Development Act of 1974, section 1522, on January 2, 1975; 42 U.S.C. 300m-1(b)(4)(B).

Old-Age Assistance, Social Security Act (Title I), as amended by the Social Security Act Amendments of 1939, section 101, on August 10, 1939; 42 U.S.C. 302(a)(5)(A).[1]

Employment Security (Unemployment Insurance and Employment Services), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, section 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Pub. L. 81-775, section 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).

Aid to Families with Dependent Children, Social Security Act (Title IV-A), as amended by the Social Security Act Amendments of 1939, section 401, on August 10, 1939; 42 U.S.C. 602(a)(5).

Aid to the Blind, Social Security Act (Title X), as amended by the Social Security Act Amendments of 1939, section 701, on August 10, 1939; 42 U.S.C. 1202(a)(5)(A).[1]

Aid to the Permanently and Totally Disabled, Social Security Act (Title XIV), as amended by the Social Security Act Amendments of 1950, section 1402, on August 28, 1950; 42 U.S.C. 1352(a)(5)(A).[1]

Aid to the Aged, Blind or Disabled, Social Security Act (Title XVI), as amended by the Public Welfare Amendments of 1962, section 1602, on July 25, 1962; 42 U.S.C. 1382(a)(5)(A).[1]

Medical Assistance (Medicaid), Social Security Act (Title XIX), as amended by the Social Security Amendments of 1965, section 1902, on July 30, 1965; 42 U.S.C. 1396(a)(4)(A).

State and Community Programs on Aging (Older Americans), Older Americans Act of 1965 (Title III), as amended by the Comprehensive Older Americans Act Amendments of 1978, section 307 on October 18, 1978; 42 U.S.C. 3027(a)(4).

Adoption Assistance and Foster Care, Adoption Assistance and Child Welfare Act of 1980; 42 U.S.C. 671(a)(5).

Part II: The following programs have a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis.

Program, Legislation, and Regulatory Reference

Occupational Safety and Health Standards, Williams-Steiger Occupational Safety and Health Act of 1970; Occupational Safety and

[1] Pub. L. 92-603 repealed Titles I, X, XIV, and XVI of the Social Security Act, effective January 1, 1974, except that "such repeal does not apply to Puerto Rico, Guam, and the Virgin Islands."

Health State Plans for the Development and Enforcement of State Standards; Department of Labor, 29 CFR 1902.3(h).

Occupational Safety and Health Statistics, Williams-Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.

Child Welfare Services, Social Security Act (Title IV–B); 45 CFR 1392.49(c).

Development Disabilities Services and Facilities Construction, Developmental Disabilities Services and Facilities Construction Act, as amended by Pub. L. 95–602, on November 6, 1978; 45 CFR 1386.21.

Emergency Management Assistance, Civil Defense Act of 1950 (Title II), as amended; 44 CFR 302.5.

Comprehensive Employment and Training Act, Comprehensive Employment and Training Act of 1973; 29 CFR 98.14(a).

Part III: The following programs have personnel requirements which may be met by a merit system which conforms to the Standards for Merit Systems of Personnel Administration.

Program, Legislation, and Reference

Disability Determination Services, Social Security Act (Titles II and XVI), as amended; SSA Disability Insurance State Manual, Part IV, § 425.1.

Health Insurance for the Aged (Medicare), Social Security Act (Title XVIII), especially as amended by the Health Insurance for the Aged Act, on July 30, 1965; SSA State Operations Manual, Part IV section 4510(a).

[FR Doc. 83–5584 Filed 3–3–83; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 273, and 274

[Amendment No. 243]

Food Stamp Program; Duplicate Participation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This rulemaking implements two food stamp provisions of the Omnibus Budget Reconciliation Act of 1982. State agencies will be required to establish systems which assure that no individual receives food stamps in more than one jurisdiction within the State. In addition, State agencies will have to ensure that recipients of Supplemental Security Income (SSI) in SSI cash-out States and participants in cash-out demonstration projects do not also receive food stamps. The objective of cross checking for duplicate participation is to reduce program cost, abuse, and waste. This rulemaking also corrects an error relative to the household definition made in the interim rule published on December 14, 1982 (47 FR 55903) entitled Eligibility Criteria and Reduction or Termination of Benefits.

DATES: Sections 272.1(g)(59) and 274.1(d) (except the recordkeeping requirements in § 274.1(d)(1) which are under review at OMB) are effective April 4, 1983, to be fully implemented no later than October 1, 1983. The correction appearing in § 273.1(a)(iv) is effective retroactive to September 8, 1982. Comments on this interim rulemaking must be received on or before June 2, 1983 to be assured of consideration in the final rulemaking process.

ADDRESS: Comments should be submitted to Thomas O'Connor, Acting Chief, Program Design and Rulemaking Branch, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact John Knaus, Acting Supervisor, State Agency Management and Control Section, at the above address or telephone at (703) 756–3431.

SUPPLEMENTARY INFORMATION:

Classification

Justification for Publishing as Interim Rule. This rulemaking is being published as an interim rule consistent with the mandate of Section 193 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253, enacted on September 8, 1982). Section 193 mandates that the provisions of Pub. L. 97–253 including those addressed in this rule are effective as of the date of enactment. For this reason Robert E. Leard, Acting Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C 553, has determined that prior public comment on this rule is impracticable and contrary to the public interest and that good cause exists for making this rule effective less than 60 days after publication. Public comment is solicited on this rule for 90 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major."

Regulatory Flexibility Act. This interim rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Acting Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed changes will affect State agencies and a relatively small number of food stamp recipients.

Recordkeeping Requirements. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). The public will be notified of approval from OMB of the recordkeeping requirements contained within this interim rule through publication of a final rulemaking.

Prevention and Detection of Duplicate Participation

Background

The Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253, enacted on September 8, 1982), requires State agencies to establish a system that will prevent any person from receiving multiple benefits in the Food Stamp Program. Section 172 of that Act establishes requirements for checking that no individual receives food stamps in more than one jurisdiction within the State. Comparing records to determine that a person was not receiving benefits in more than one project area would also detect whether a person was receiving excessive program benefits through multiple applications or being counted as members of more than one participating household within one jurisdiction. Section 174 requires State agencies to establish a system that will verify that an individual does not receive both food stamps and benefits in lieu of coupons as part of SSI cash-out or a cash-out demonstration project.

There are several requirements in the food stamp regulations to prevent a person from receiving multiple benefits. Section 273.3 states that no individual

may participate as a member of more than one household or in more than one project area, in any month (unless an individual is a resident of a shelter for battered women and children and was a member of a household containing the person who abuse him or her). No individual who receives Supplemental Security Income benefits and/or State supplementary payments as a resident of the States of California or Wisconsin is eligible to receive food stamps. As stated in Section 273.20, their SSI payments have already been increased to include the value of the food stamp allotment. Likewise, persons who receive a check instead of coupons as part of the SSI/elderly cash-out demonstration project, as described in § 282.12, cannot also receive food stamps.

Even though there have been rules against duplicate participation, there has been no requirement to systematically check for it. In many States there is not even an elementary system to ensure that the recipient is not concurrently a recipient in another jurisdiction within the same State. Conversely, a number of State agencies have already been doing increasingly sophisticated work in computer matching to detect participation across project area and other jurisdictional lines.

Such computer matching is an important tool in the detection and prevention of mistakes or fraud. Computers are a fast, efficient and accurate way to review enormous amounts of data. They can quickly review numerous food stamp records to determine if the same individual appears more than once. Once apparently contradictory information is exposed, verification or investigative efforts can then determine whether possible error or intentional misrepresentation exists. Computers can detect individuals who are receiving multiple program benefits and deter others from trying to defraud the system.

Once a State agency has acquired an automated system to detect duplicate participation, it will probably be able to use the system for other purposes. Analysis of information obtained through the computer may show trends of errors where corrective action can be taken to correct program vulnerabilities or improve program efficiency.

The Data Base

This regulation requires State agencies to establish a system to detect whether any individual is receiving multiple benefits. Such a system must use names and social security numbers at a minimum and may include other identifiers. While the Department is not, at this time, requiring the use of individuals' birth dates, it is strongly recommending that State agencies consider using this identifier. Several State agencies currently operating systems to detect duplicate participation have determined date of birth to be a useful identifier and use it in their systems.

The system must check all individuals participating in the Food Stamp Program within the State, not just the heads of households. While the search would not necessarily have to be done by computer, an automated system clearly would be the most efficient method.

When State Agencies Must Search for Duplicate Participants

The law requires that State agencies *periodically* verify that an individual does not receive coupons in more than one jurisdiction within the State. The law also specifies that verification to prevent persons receiving both coupons and cash-out assistance must be done "where necessary, but no less often than annually." Of the States which currently run a system for detecting multiple benefits, most test prior to authorization of benefits.

The Department is interested in receiving comments about how often verification should be done—what is feasible and cost effective. In this interim rulemaking the Department is requiring that the checks be made, at a minimum, at the time of certification, recertification and whenever a change in household composition occurs. However, the Department realizes that some State agencies already have computer systems in place to check for multiple benefits and in some States it may be more efficient to periodically compare the records of all individuals on file rather than doing it at the time of certification. Therefore, if checking at the time of certification, recertification and changes is incompatible with an existing system, equipment, or the State's plans for a system, then, at a minimum, the State agency must check for duplicate participants quarterly. The Department will reconsider the timeframes based on the comments received.

Action on "Hits"

If a duplicate is found prior to approving an application for food stamps, the State agency would deny the application. If the individual has already been receiving duplicate benefits, the State agency would process a claim. In either case, the State could also proceed with an administrative disqualification hearing or referral for prosecution, if deemed appropriate.

If matching of records shows an excessive proportion of individuals receiving multiple benefits, the State agency should take further corrective action. For example, if the State agency runs quarterly comparison of all individuals in the file according to social security numbers and finds an excessive number of duplicate participants, then the State agency might want to consider requiring the check for duplicates prior to certification or distributing more information to the public about the penalties for intentional misrepresentation.

Funding

State agencies planning, enhancing and/or developing automated systems can obtain 75 percent matching funding for this activity. For more information about 75 percent matching funding, interested State agencies can refer to § 277.18 of the Food Stamp regulations or request information from their respective FNS Regional Offices.

Correction of Household Definition Error

The Department is correcting in this rule an error made in the Eligibility Criteria and Reduction or Termination of Benefits rule which was published, as an interim rulemaking in the **Federal Register** on December 14, 1982 (47 FR 55903). In § 273.1(a)(1)(iv), the last sentence should read "However, the income (all income included under 273.9 (b)) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165 percent of the *proverty line.*" (Emphasis added). This is consistent with Section 146(c)(2) of Pub. L. 97-253. While the discussion on this subject in the preamble of the December 14, 1982 rulemaking is correct, the rule says "165 percent of the Food Stamp Program's gross monthly income eligibility standard."

Implementation

The provisions in this rule on duplicate participation become effective 30 days following publication. Some State agencies are already operating a system to check for duplicate participation; others will be able to modify existing systems. Still others will need time to acquire computer equipment and design the programs. The regulations require State agencies to begin planning and have the system fully operational by October 1, 1983. The Conference report about this legislation states, "The conferees recognize that not

all States currently have the computer capability to begin immediate, comprehensive statewide control. In the interim, all States are expected to implement this control to the extent of their current capability and to proceed systematically toward upgrading their capabilities to achieve total State coverage of all participants by the control system." See Conf. Rep. No. 97-759, 97th Congress, 2nd Sess., p. 69, (1982).

Therefore, unless a State agency has submitted a request for a waiver which shows why a delay is necessary and a plan that shows how implementation can be achieved by a later date, the Department expects all State agencies to have implemented this system by October 1, 1983. Implementation means having a system designed, having information on current participants stored inthe data base, and the running of checks according to the required timeframes.

The correction made to § 273.1(a)(1)(iv), relating to household definition, is effective retroactive to September 8, 1982, pursuant to Section 193 of Pub. L. 97-253. State agencies are already aware of this retroactive implementation date since it was discussed in the December 14, 1982 interim rule. In addition, State agencies are, for the most part, aware of this error and are already implementing this provision based on 165 percent of the proverty line.

List of Subjects

7 CFR Part 272

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

7 CFR Part 273

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

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Parts 272, 273, and 274 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(59) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(59) Amendment No. 243. (i) State agencies may implement this Duplicate Participation rule at anytime, but shall implement this rule Statewide no later than October 1, 1983. FNS will consider requests for waivers to this timeframe on a State-by-State basis if the State establishes good cause through submission of written justification of the need for a longer timeframe and submits a plan that shows when the system will be implemented.

(ii) State agencies shall implement the correction made to Section 273.1(a)(1)(iv) retroactive to September 8, 1982.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1 the last sentence in paragraph (a)(1)(iv) is revised to read as follows:

§ 273.1 Household Concept.

(a) *Household definition.*

(1) * * *

(iv) * * * However, the income (all income included under 273.9(b)) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165 percent of the poverty line.

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PART 274—ISSUANCE AND USE OF FOOD COUPONS

3. In § 274.1, a new paragraph (d) is added to read as follows:

§ 274.1 State agency issuance responsibilities.

* * * * *

(d) *State monitoring of duplicate participation.*

(1) The State agency shall establish a system and implement other measures where necessary to assure that an individual does not receive multiple benefits in the Food Stamp Program. Checks to detect multiple benefits shall be made at the time of certification, recertification and whenever a change in household composition occurs. However, if the State agency can show that these timeframes are incompatible with its system, then the State agency shall check for duplicate benefits at least quarterly. To identify such individuals, the system shall use names and social security numbers at a minimum, and other identifiers as appropriate (use of individuals' dates of birth is strongly recommended).

(i) The system shall be designed to verify that an individual does not receive food stamps in more than one jurisdiction within the State. The system should also be designed to detect individuals participating in more than one household within the State.

(ii) If the State agency provides assistance in lieu of coupons for SSI recipients or for households participating in cash-out demonstration projects, the system shall verify that an individual does not receive both coupons and other benefits provided in lieu of coupons.

(2) State agencies shall develop follow-up procedures and corrective action requirements, including timeframes within which action should be taken, to be applied to data obtained from matching for duplicate participation. Follow-up actions shall include, but not be limited to the adjustment of benefits and eligibility, and the filing of claims, as appropriate.

(3) FNS reserves the right to review State agencies' use of data obtained from matching for duplicate participation and may require State agencies to take additional specific action to ensure that such data is being used to protect program integrity.

(91 Stat. 958 (7 U.S.C. 2011-2029); Secs. 172 and 174 of Pub. L. 97-253, 96 Stat. 780 (7 U.S.C. 2020))

Dated: February 23, 1983.

Robert E. Leard,

Acting Administrator.

[FR Doc. 83-5006 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota and Marketing Regulations for the 1983 Through 1985 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This Interim Rule, which is applicable to the 1983 through 1985 crops of peanuts, sets forth the regulations for: (1) Establishing State and farm poundage quotas and farm yields; (2) providing for transfers of quota; (3) determining undermarketings; (4) identifying marketings; (5) determining marketing penalties; and (6) handling marketing violations. These regulations are necessary in order to implement amendments made to the Agricultural Adjustment Act of 1938 and

the Agricultural Act of 1949 by the Agriculture and Food Act of 1981 (Pub. L. 97–98, 95 Stat. 1213, approved December 22, 1981). The most significant provisions of these regulations relate to quota reductions for farms from which the farm poundage quota was leased to another farm and produced by a different farm operator.

EFFECTIVE DATE: March 4, 1983. Comments must be received on or before April 4, 1983, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC. 20013.

FOR FURTHER INFORMATION CONTACT: David L. Kincannon (ASCS) 202–382–0154. The Impact Analysis describing the options considered in developing this rule is available upon request.

SUPPLEMENTARY INFORMATION: This Interim Rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this Interim Rule applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

A notice of proposed rulemaking and request for public comments on the poundage quota and marketing regulations for the 1983 through 1985 crops of peanuts was published in the Federal Register (47 FR 50706) on November 9, 1982. The usual comment period provided by the Department of Agriculture is 60 days. However, because the planting season for peanuts begins in March and farmers need to know their poundage quota so that they can make financial arrangements before planting, the comment period was shortened to 45 days and ended on December 27, 1982.

This Interim Rule revises the proposed rules in several aspects, principally with respect to poundage quota reductions for the 1983 crop and the establishment of the last date for spring transfers (pre-planting quota transfers). Because of the reduction revision and the large number of comments that issue has produced, it has been decided to solicit additional comment. For that reason, an Interim Rule has been adopted instead of a Final Rule. Although additional comment is solicited, the Department does not believe such added comment is mandated. Among other reasons, the reduction issue and the concerns it raises were set forth in the proposal published on November 9, 1982, as well as in the proposed and final rules issued with respect to the 1982 crop. Further, the reduction method adopted in this Interim Rule for the 1983 crop of peanuts is the same method which was adopted for the 1982 crop. Publishing a revised Notice of Proposed Rulemaking with regard to the method of reducing the poundage was considered. However, it has been determined that an Interim Rule should be published as an alternative to allow for the preparation of quota notices to permit planting decisions to be made by growers. Delay, among other things, would make it difficult, if not impossible, to meet the April 15 contract deadline for "additional peanuts" which is established by statute. Since there have already been significant comments made with respect to the provisions of this Interim rule and since the planting season is approaching, it has been further determined that the comment period for this Interim Rule should be limited to 30 days from the date of publication of the rule in the Federal Register. If the provisions of this Interm Rule are changed as a result of the comments received, the Department will consider undertaking such measures as may be feasible and practicable to offset hardships caused by a change.

Background

The Agriculture and Food Act of 1981 (the "1981 Act"), which was enacted on December 22, 1981, amended the Agricultural Adjustment Act of 1938 (the "1938 Act") and the Agricultural Act of 1949 (the "1949 Act") to make significant changes in the administration of the peanut production and price support program. Changes required by the 1981 Act were incorporated into the regulations governing 1982 poundage quotas (7 CFR 729.111 through 729.164) in a final rule published April 13, 1982 (47 FR 15966), and in an interim rule, governing the marketing of peanuts (7 CFR 729.165 through 729.210) published August 31, 1982 (47 FR 38259).

This Interim Rule sets forth the procedures for the establishment of farm poundage quotas and other terms and conditions of the program affecting the production and marketing of peanuts. This includes transfers of quotas, determination of yields, identification of marketings, and the determination, assessment, and review of marketing penalties. These regulations are basically the same as the regulations which were applicable to the 1982 crop, with the exception of the manner in which the individual farm poundage quotas will be determined for the 1984 and 1985 crops and the dates for making transfers of farm poundage quota. These regulations will be codified at 7 CFR 729.211 through 729.306.

Statutory Requirements

Section 358 of the 1938 Act, as amended by the 1981 Act, provides that there shall be a national poundage quota for each marketing year as follows: 1,200,000 tons for 1982: 1,167,300 tons for 1983; 1,134,700 tons for 1984; and 1,100,000 tons for 1985. The national poundage quota is apportioned to individual States on the basis of each State's share of the national poundage quota for the 1981 marketing year. The State poundage quota is then apportioned to individual farms. Section 358(1)(2) of the 1938 Act provides that the yearly reductions in the State poundage quotas:

"* * * shall insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, be accomplished by reducing the farm poundage quota for each farm in the State to the extent that the farm poundage quota has not been produced on such farm. For purposes of the foregoing sentence, the farm poundage quota shall be considered as not having been produced on a farm to the extent that: (i) During any crop year immediately preceding the crop year for which the adjustment is being made, such quota was not actually produced on the farm because there was inadequate tillable cropland available on the farm to produce such quota; or (ii) during any two of the three crop years immediately preceding the crop year for which the adjustment is made, (I) such quota was not actually produced for any other reason (other than natural disasters or such other reasons as the Secretary may prescribe), or (II) such quota was produced but by another operator on a farm to which the poundage quota (or the acreage allotment upon which such poundage quota was based) was transferred by lease. To achieve the reduction in the State poundage quota in any marketing year, the reductions in farm poundage quotas shall be made first under clause (i) of the preceding sentence and, if

necessary, under clause (ii)(I) and then clause (ii)(II) thereof * * *."

Basically, the 1938 Act sets forth farm poundage quota reduction categories for the purpose of establishing priorities in determining individual farm poundage quota reductions. The first category ("category 1") is for farms which did not actually produce peanuts on the farm because there was inadequate tillable cropland available on the farm to produce the quota quantity in the preceding crop year. The second category ("category 2") consists of those farms where peanuts were not actually produced in two out of the three preceding years, except in those situations where peanuts were not produced because of a natural disaster or such other reasons as are prescribed by the Secretary. The third category ("category 3") contains those farms for which the quota quantity was produced but by another operator on a farm to which the quota (or the allotment on which the quota was based) has been transferred by lease two out of the three preceding years. The third category also covers hybrid situations in which during the three-year base period a farm had both nonproduction of quota quantity and transfers of quota by lease to another operator on another farm. The fourth category ("category 4") consists of all farms which were not reduced to a zero poundage quota under the first three categories. These priorities are not absolute as the 1938 Act, as amended, requires the Secretary to make poundage reductions in accordance with such regulations as the Secretary determines to be fair and equitable.

General Summary of Comments

A total of 368 comments were received with respect to the notice of proposed rulemaking from individuals and entities in 12 States prior to the close of business January 4, 1983, when comments were no longer accepted. A total of 303 comments were received from farmers, 17 from grower and farm organizations, 2 from manufacturers, 10 from Congressmen, 8 from Senators, 2 from financial entities, 1 from a State Deparment of Agriculture and 25 from other entities.

The majority of comments centered around one issue; the reduction in quota on farms for which the quota quantity was produced but by another operator on a farm to which the quota has been transferred by lease for two of the three preceding years. Many comments urged fair and equitable treatment in accomplishing poundage quota reductions by reducing poundage quotas uniformly for all quota holders. Others requested that producers should be given one more year in which to grow peanuts in order to adjust to the 1981 amendments. Most of these respondents implied that after they had produced the quota on the farm for two years (1982 and 1983) the proposed method of poundage quota reductions which entailed separating out category 3 for the 1983 crop would be acceptable. Five organizations representing a large number of producers favored the proposed method of reducing poundage quotas as did 2 producers, 1 Senator, and 1 Congressman.

Comments on Specific Issues

I. Reduction in Individual Farm Poundage Quotas

A. *Provisions of the Proposed Rule.* For the 1983 through 1985 crops, the proposed rule defined the categories of farms in which the poundage quota reductions would be made and the order of reductions as follows:

1. *Category 1. Inadequate Tillable Cropland.* Under the proposed rule, adequate tillable cropland is land determined by the county committee for the preceding crop year to be: (a) Suitable for the production of peanuts; and (b) land on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable for the production of peanuts includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

2. *Category 2. Nonproduction of the quota during two of the three preceding years.* In this category, the proposed rule provides that farm poundage quota will be reduced for the current year to the extent that the county committee determines that peanuts were not actually produced during two of the three years of the base period, except when the county committee determines that the quota quantity was not produced because of natural disaster.

3. *Category 3. Farms from which quota was transferred by lease.* Category 3 as defined in the proposed rule applies to situations in which the farm poundage quota was produced two of the three preceding years but by another operator on a farm to which the poundage quota was transferred by lease. This is the largest of the first three categories (poundage-wise). The lease and transfer authority under which such leases were executed was added to the 1938 Act by Pub. L. 90–211, 81 Stat. 658, December 18, 1967, and requires the owner and operator of the transferring farm to approve the transfer. In addition, Section 358a(b)(4) of the 1938 Act, as amended, provides that: "no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer is made and such committee determines that the transfer complies with the provisions of this section." The record used by ASCS to accomplish the transfer is Form ASCS–375, Record of Transfer of Allotment or Quota. This record shows the names of the operator and owner of the transferring farm and the name of the owner or operator (but not both) of the receiving farm. The proposed rule provides that ASCS–375, as well as other similar records, will be used in making determinations for potential reductions in category 3. Transfers between farm tracts within a reconstituted farm (combined worksheet) and leasing arrangements which did not involve a transfer are not treated as being in category 3, since these arrangements are not transfers of farm poundage quota by one operator to a different operator on a different farm.

However, the proposed rule treats "hybrid situations" as being in category 3. A hybrid situation can occur when during the three base period years (the three years preceding the crop year for which a poundage quota reduction is made) a farm has both nonproduction of the farm poundage quota and production of farm poundage quota by another operator on a farm to which the farm poundage quota (or portion thereof) was transferred by lease. The proposed rule takes into account the potential cumulative effect of both nonproduction and leasing of poundage quota, and provides a method for allocating reductions in the farm poundage quota between category 2 and category 3. It would also prevent duplication of reduction in both categories. It is not anticipated that there are a significant number of farms in the hybrid situation.

4. *Category 4. Quotas not reduced to zero in categories 1, 2 or 3.* Under the proposed rule, a uniform State factor would be determined and applied against the preliminary farm poundage quotas on all farms not reduced to zero in the first three reduction categories. This differed from the rule adopted for the 1982 crop of peanuts whereby, because of the difficulty at that time of determining the impact of doing otherwise, it was decided that a uniform factor would be applied to all farms whose quota was not reduced to zero under the first two categories. Because

each State's reduction will be made independently of other States, the application and size of the factor provided for in the proposed rule would vary between States. Included in the fourth category under the proposed rule are farms that received a partial reduction in one or more of categories 1, 2, or 3 and still retained farm poundage quota.

B. *Comments.* As mentioned in the general summary of comments, a vast majority of the comments addressed the issue of reductions in category 3, with about 98 percent opposing the proposal to reduce category 3 independently. Most respondents requested that 1983 poundage quota reductions be made across the board for all quota holders. Many respondents suggested that, under the provisions of the 1938 Act, as amended, which authorizes the Secretary of Agriculture to make reductions in the poundage quota on such fair and equitable basis as the Secretary may by regulation prescribe, reductions should be made in the same manner used for the 1982 crop of peanuts. These respondents felt that producers should be given one more year in which to produce the quota on the farm for which the quota was established.

C. *Analysis and Conclusion.* Upon reconsideration of the collected data with respect to the impact of poundage quota reductions and upon consideration of the comments which were received regarding the proposed rule, it has been determined that the rules which were applicable to the 1982 crop of peanuts for making poundage quota reductions should be continued for one additional crop year. This determination has been made in accordance with the provisions of Section 358 of the 1938 Act, as amended, which permit the Secretary to make reductions in poundage quotas on such fair and equitable basis as the Secretary may by regulation prescribe. The supplemental information issued with the proposed rule notes that category 3, if broken out separately for the 1983 crop, will produce reductions at 23 percent of the nationwide category 3 quota. The proposed rule failed to take into full account, however, that this is an average. Poundage quota reductions are made on a State-by-State basis. This means that the actual reduction factor superimposed on individual category 3 farm quotas will vary by State depending on the quota-composition of each individual State. The collected data indicates that the reductions will range from 0 percent in some small (poundage-wise) peanut-growing States and 18 percent in Texas, one of the principal peanut-growing States, to about 50 percent in Georgia and 100 percent in Virginia, both principal peanut-growing States. This creates widely disparate treatment for farms otherwise identically situated in the same category; i.e., farms having actively-produced quotas which have tillable acreage readily available for the production of peanuts and which are thus within the group of farms for which the statutory poundage quota reductions ultimately seek to benefit, those being farms with actual farmland in the traditional sense (land committed to seasonal crops).

Specifically, if the method specified in the proposed rule for reducing poundage quotas for the 1983 crop of peanuts were to be adopted, many farms would lose half or all of their quota, while others would suffer no reduction or a relatively small reduction.

These disparities are compelling not only in light of the nature of the land involved but also because cropping decisions for tillable acreage may have been made for any one or several of a number of reasons and such decisions may have been temporary and fortuitous. Further, the statistical disparities which would be created for the 1983 crop year in category 3 would, insofar as actively-produced quotas are concerned, be a matter essentially confined to category 3. In all but one State, with a very few number of farms, the quota for category 1 (the only other actively-produced quota category of the first three categories) was wholly eliminated by the poundage reductions which were made for the 1982 crop. In the category 1 State where only a partial reduction occurred with respect to the 1982 crop, category 1 farms absorbed the full 1982 reduction. The 1982 poundage quota reduction was the most substantial of all of the reductions mandated by the 1981 amendments to the 1938 Act. Moreover, the few category 1 farms which suffered only a partial reduction in 1982 should additively be subject to an additional reduction for the 1983 crop year.

There have been some variances in the degree of reductions in category 2. However, that category, as well, is small. Thus, the variations and number of quota holders affected are small and the variations are relatively isolated. Further, category 2 involves uniquely different considerations as that category involves quotas which were not actually produced and lack of production suggests that there is an absence of need for production, a lack of ability to produce, or that local conditions, including the possibility of producing other crops, makes peanut production unattractive. However, the Department has taken steps to avoid unfairness in the application of category 2 reductions since the rules applicable to the 1982 crop and those made applicable here to the 1983 through 1985 crops make special provision for an exemption from category 2 reductions for extraordinary circumstances, such as where the farm has been in the eminent domain pool.

The disparities which would occur by separating out category 3 for the 1983 crop year would be permanent in most cases since farms where the poundage quota was not reduced for the 1983 crop, or farms where quotas were not reduced to the same extent as farms more severely affected, might well be free of any reduction in future years since tillable cropland on farms in category 3 can be easily re-committed to peanut production. Production of the quota on the farm for the 1983 crop combined with such production for the 1982 crop would put the farm in category 4 for quota reduction purposes for the 1984 and 1985 crop years.

Beyond the statistical disparities, separation of category 3 without a second year of adjustment would create distinctions between otherwise identical growers with actively-produced quotas based on cropping decisions in the base period which involved no significant change in land use and which may have been fortuitous. The amendments to the 1938 Act made in 1981, however, seek to tie actively-produced quotas to tillable cropland and continuation of the 1982 crop rules simply leave the decision to the producer of which crop is the most beneficial to produce. By contrast, a failure to adopt the procedure for making poundage quota reductions which was applicable to the 1982 crop would essentially accomplish no more than create a small windfall for some tillable acreage at the expense of other tillable acreage. Also, drastic cuts in areas where the poundage quotas are subject to a reduction in category 3 is relatively large as opposed to other areas where the reductions in poundage quotas would be low could, in light of the large size of the poundage quota in category 3, seriously impact on well-established local markets in a disporportionate fashion. Such distortions would harm all persons dependent on such markets. These effects, as well, would be permanent. Under the 1938 Act, as amended, transfers of poundage quotas from one county to another are severely restricted. Present sales of poundage quotas in the same county, however,

would not avoid these problems since such transfers bring with them the quota history of the selling farm. Among those harmed, as well, would be those farmers who may have been confused about the effect of forthcoming poundage quota reductions and purchased poundage quotas in 1982; such farmers would not, with respect to the 1983 crop, have a two-year history of growing poundage quotas on the land on which the quota was established and would be subject to quota reductions of up to 100 percent. Adopting for one additional year the procedure which was applicable to the 1982 crop for making poundage quota reductions should provide growers with sufficient time to adjust their farming operations to avoid these problems.

On drawing a balance from all of these factors taken together, it has been decided that the most appropriate procedure for making poundage quota reductions for the 1983 crop is the same procedure which was applicable for the 1982 crop year. Accordingly, the proposed regulations (specifically, 7 CFR 729.233) have been so revised. In those States where categories 1 and 2 do not absorb the full reduction for the 1983 crop, a uniform percentage factor will be applied to those farms whose quota is not reduced to zero in those categories. For the 1984 and 1985 crops, the method for making poundage quota reductions set forth in the proposed rule is adopted.

II. Reserves for Corrections to Quota Reductions

A. *Provisions of the Proposed Rule.* In proposing separate categories 3 and 4 for quota reduction priority, it was decided to propose two separate reserve pools for making corrections in quota reductions in each State. One reserve, not to exceed 1 percent of the basis quota allocated to the State, was for correcting errors in the calculation of quota reductions. A second special reserve, also limited to 1 percent of the State's allocation of basic quota, was for quota reduction exemptions in category 3 for special considerations applicable to the 1983 crop year.

B. *Comments.* No specific comments were received with respect to this provision.

C. *Conclusion.* Since the same quota reduction categories are being adopted for the 1983 crop as were used for the 1982 crop, it has been determined that the two reserves are no longer necessary. Combining categories 3 and 4 in 1983 eliminates the need for the special reserve for exemptions in 1983. In addition, since farmers will have had 2 years to produce the quota on the farm to which it was established, a special reserve will not be necessary for the 1984 and 1985 crops. Therefore, this Interim Rule adopts for the 1983 through 1985 crops, a reserve not to exceed 1 percent of each State's poundage quota.

III. Calculation of the Farm Poundage Quota Reduction in Categories

A. *Provisions of the Proposed Rule.* It was proposed that the calculation of farm poundage quota reductions would be accomplished by individual categories in order of priority. In category 1, as proposed, the reduction would equal the percentage of nonproduction of the farm poundage quota that is attributable to inadequate tillable cropland during the previous crop year, times the *preliminary* farm poundage quota. (The preliminary farm poundage quota is equal to the farm poundage quota for the farm for the immediately preceding crop year.)

In category 2, as proposed, the reduction will be based on the average of the two highest percentages of nonproduction of the farm poundage quota during the three base period years. The amount of the reduction would equal: (1) The product of the average percent *times* the preliminary farm poundage quota, *minus* (2) the amount of any reduction made under category 1, to the extent that this subtraction does not bring the reduction to a figure less than zero. The amount of reduction under category 1 is subtracted in order to prevent a duplication of reductions between the two categories. Otherwise, the cumulative effect of reductions in categories 1 and 2 could cause the farm poundage quota to be reduced below the amount of actual production of peanuts on the farm during the base period years.

In category 3, as proposed, the reduction would be based on the average of the two highest percentages of the combined amount of quota produced by lease by another operator and nonproduction of the farm poundage quota. This procedure accommodates both the pure category 3 situation and the hybrid situation discussed above. The amount of the reduction would equal: (1) The product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reductions made under category 1 and category 2. As above, the amount of reductions under category 1 and category 2 are subtracted to prevent duplication of reductions between categories.

The proposed rule set forth an example of how the calculations described above would be made.

B. *Comments and Discussion of Comments.* No specific comments were received on the method for calculating the reduction of farm poundage quotas, although the majority of comments opposed giving reductions in category 3 priority over reductions in category 4.

C. *Conclusion.* In view of the adoption of one method of making reductions in 1983 (combining categories 3 and 4) and another method specified in 1984 and 1985 (separate categories 3 and 4), the method for calculating the reduction of farm poundage quotas will be the method specified in the proposed rule for crop years 1984 and 1985. The 1983 reduction will be calculated using the same method as was used for the 1982 crop.

IV. Final Date for Filing Spring Transfers

A. *Provisions of the Proposed Rule.* Due primarily to difficulties experienced in contracting for additional peanuts for crushing or export, it was proposed to establish April 1 as the date for filing for "spring transfers" (i.e., pre-planting transfers of quota).

B. *Comments.* Only a small number of respondents addressed this issue with about half favoring the proposal and the others recommending a later date, such as June 14 and July 31. The major objection was that such an early date did not give producers adequate time to complete plans such as financial and planting arrangements.

C. *Conclusion.* After consideration of the comments regarding the proposed filing date, a decision was made to adopt a compromise date in the Interim Rule. As adopted, the final date for filing a spring transfer will be the date established by the State committee but not later than the final planting date. This will give producers the time needed to complete all spring transfers prior to the end of the normal planting date in the State.

V. Reduction or Waiver of Penalty

A. *Provisions of the Proposed Rule.* Under the proposed rule, the producer had the right of appeal to the State committee and to the Deputy Administrator in accordance with appeal procedures set forth at 7 CFR Part 780 for any penalties assessed against the producer.

B. *Comments.* No specific comments were received on this provision.

C. *Conclusion.* Section 359(f)(2) of the 1938 Act, as amended, provides as follows:

> The Secretary shall authorize, under such regulations as the Secretary shall prescribe, the county committees established under Section 8(b) of the Soil Conservation and Domestic Allotment Act to waive or reduce marketing penalties provided for under this

subsection in cases in which such committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned. Errors in weight that do not exceed one-tenth of 1 per centum in the case of any one marketing document shall not be considered. (7 U.S.C. 1359(f)(2)).

In addition, Section 359(k)(4) of the 1938 Act, as amended, provides that:

Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulations may prescribe * * * (7 U.S.C. 1359(1)(4)).

This Interim Rule implements these provisions of the 1938 Act in the following manner. First, the county committees are authorized to waive or reduce penalties in appropriate circumstances in accordance with guidelines issued by the Deputy Administrator, State and County Operations, ASCS. However, the Deputy Administrator may require that waivers or reductions be reviewed by the State committee or the Deputy Administrator in order to assure a reasonable degree of uniformity in the implementation of this authority throughout all the peanut producing areas. The reviewing authority may require the county committee to redetermine the amount of the waiver or reduction of penalties if the reviewing authority determines the action of the county committee was not in conformity with the guidelines and instructions issued by the Deputy Administrator.

Second, the rule provides that no penalty shall be assessed for errors in net weight as reported on each ASCS-1007 (Inspection Certificate and Sales Memorandum) that do not exceed one-tenth of one percent. This exemption is not applicable to cases involving fraud or conspiracy.

Third, the rule sets forth procedures whereby a producer may appeal the assessment of a penalty or request a reduction in a penalty. Initially, a penalty is assessed by the county committee. If the producer wishes to contest liability for the penalty, or to request a reduction in the penalty, or both, the producer must file a request for reconsideration with the county committee. The appeal will then be heard by the county committee in accordance with the appeal procedures set forth at 7 CFR Part 780. To allow for the correction of errors in cases where a decision adverse to the producer is rendered, the producer may further appeal the county committee determination in the manner prescribed in Part 780.

Overall Summary

After having given careful consideration of all comments received, the proposed rule is adopted in this Interim Rule as proposed except for the modifications discussed above and for minor technical changes or corrections of typographical errors.

However, since several of the items adopted were substantially different than proposed, it was decided to issue these regulations as an Interim Rule. This will give the public the opportunity to comment on the regulations as adopted in this Interim Rule.

List of Subjects in 7 CFR Part 729

Poundage quotas, Penalties, Reporting requirements.

Interim Rule

PART 729—[AMENDED]

Accordingly, 7 CFR Part 729 is amended as set forth below:

1. The title "Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts" is revised to read "Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 through 1981 Crops of Peanuts".

2. The text of 7 CFR 729.1 is revised to read as follows:

§ 729.1 Basis and purpose.

(a) The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 *et seq.*) and are applicable to peanuts for the 1978 through 1981 crops. They govern the establishment of farm acreage allotments and marketing quotas, farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, and the keeping of records, and making reports incident thereto.

(b) The allotment and marketing quota regulations for peanuts of the 1972 and subsequent crops (37 FR 2645 and 37 FR 3629, as amended) are superseded but remain effective with respect to the 1972 through 1977 crops of peanuts.

3. The text of 7 CFR 729.7(b)(2) is revised to read as follows:

§ 729.7 Determination of farm peanut history acreage.

* * * * *

(b) * * *

(2) Farm acreage allotment times the national quota factor for the 1978 through 1981 crop years.

* * * * *

4. The subheading of 7 CFR 729.46(b)(2) is revised to read as follows:

§ 729.46 Penalty rate.

* * * * *

(b) * * *

(2) *1979 through 1981 marketing years.*

* * *

* * * * *

5. A new subpart is added to 7 CFR Part 729, as follows:

Subpart—Poundage Quota and Marketing Regulations for the 1983 Through 1985 Crops of Peanuts

General

Sec.

729.211 Basis and purpose.
729.212 Extent of calculations and rule of fractions.
729.213 Definitions.
729.214 Types of peanuts.
729.215 Supervisory authority of State committee.
729.216–729.219 [Reserved].

State Poundage Quota, Farm Poundage Quota, Notice To Farm Operator and Appeals

729.220 Instructions and forms.
729.221 Determination of State poundage quota.
729.222 Reserves for corrections.
729.223 Determination of preliminary farm poundage quota.
729.224 Determination of farm poundage quota.
729.225 Determination of undermarketings.
729.226 Determination of effective farm poundage quota.
729.227 Determination of farm yield.
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Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 62, as amended, 63, as amended, 64, 65, as amended, 66, as amended, 70 Stat. 206, as amended, Secs. 801, 802, 803, 804, 805, 91 Stat. 944, as amended, 95 Stat. 1248, (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375, as amended); Sec. 108A, 95 Stat. 1254 (7 U.S.C. 1445c–1).

Subpart—Poundage Quota and Marketing Regulations for 1983 Through 1985 Crops of Peanuts

General

§ 729.211 Basis and purpose.

The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and are applicable to the 1983 through 1985 crops of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto.

§ 729.212 Extent of calculations and rule of fractions.

Computations shall be rounded according to Part 793 of this chapter. The terms set forth below shall be expressed as follows:

(a) Acreage in acres and tenths of acres.

(b) Penalties or damages in dollars and cents.

(c) The quantity of peanuts produced, considered produced and marketed; a preliminary farm poundage quota; a farm poundage quota; an effective farm poundage quota; a farm yield; and an actual yield per acre, in whole pounds.

(d) Factors as a four place decimal except where a different place decimal factor is established by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, (hereinafter referred to as the "Deputy Administrator").

§ 729.213 Definitions.

The definitions in and provisions of Parts 718, 719, and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter require otherwise, the following words and phrases, as used in this subpart and in all related instructions and forms shall mean:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Areas.*—(1) The southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming and all territories and possessions of the United States not otherwise assigned.

(3) The Virginia-Carolina area consisting of the District of Columbia and the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Base period.* The 3 calendar years immediately preceding the year for which a farm poundage quota is being established.

(d) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, cooperative, agent, or in any other capacity, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(e) *Considered produced.* The number of pounds of peanuts to be considered produced for the current year or for a base period year for use in computing a future farm poundage quota. Considered produced pounds for a farm will be the sum of the pounds (limited to the farm poundage quota less the pounds of peanuts marketed) which:

(1) Were not produced because of a natural disaster as determined by the county committee in accordance with instructions issued by the Deputy Administrator; or

(2) Were equal to the farm poundage quota on a farm where the farm was either purchased, or a transfer by sale was approved, or the farm was acquired by an agency having the right of eminent domain, after the latest normal planting date for peanuts for the county, and only to the extent that such farm poundage quota was produced or otherwise conidered produced on the farm to which allocated during the following crop year.

(f) *Cropland.* Land on a farm which is determined by the county committee to be suitable for the production of peanuts and on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or

other noncrop uses as determined by the county committee.

(g) *Crushing.* The processing of peanuts: (1) To extract oil for food uses and meal for feed uses, or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(i) *Domestic edible use.* Domestic edible use means, for purposes of the regulations found in this part: (1) Use for milling to produce domestic food peanuts (including the processing of peanuts into flakes for traditional domestic edible uses); (2) use of peanuts for seed, excluding unique strains which are not commercially available and which are used for the production of green peanuts; and (3) use of peanuts on a farm.

(j) *Effective farm poundage quota.* The quota determined in accordance with § 729.226.

(k) *Excess peanuts.* The quantity of peanuts marketed or considered marketed for domestic edible use in the current marketing year in excess of the effective farm poundage quota.

(l) *False identification.* False identification shall include the following:

(1) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(m) *Farm poundage quota.* The quota determined in accordance with § 729.224.

(n) *Farm yield.* The farm yield determined in accordance with § 729.227.

(o) *Farmers stock peanuts.* Dug peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and access moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers.

(p) *Final acreage.* The acreage on the farm from which peanuts are produced as determined and adjusted in accordance with Part 718 of this chapter.

(q) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(r) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(s) *Loan additional peanuts.* Peanuts which are not eligible for marketings as quota peanuts, are not subject to delivery to fulfill a contract for additional peanuts, and which are pledged as collateral for price support loan at the additionl loan rate.

(t) *Marketed.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "market", "marketing", and "for market" shall have corresponding meanings to the term "marketed" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts, for the harvesting, picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer. Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when unloaded at the delivery point. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts or marketings for domestic edible use.

(u) *Marketing year.* For each crop of peanuts, the period begining August 1 of the current year and ending July 31 of the following year.

(v) *National poundage quota.* 1,167,300 tons for 1983; 1,134,700 tons for 1984; and 1,100,000 tons for 1985.

(w) *Peanuts.* All peanuts produced, excluding: (1) Any peanuts which were not dug or were not picked or threshed before or after marketing from the farm; and (2) any peanuts marketed by the producer for consumption exclusively as boiled peanuts before drying or removal of moisture from such peanuts by natural or artificial means (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal-State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in traditional peanut producing States in the southeastern and southwestern areas, those being Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, that part of South Carolina in the southeastern area, and Texas; and moisture in excess of 8 percent for peanuts grown elsewhere). If the lot of peanuts is not inspected by the Federal-State Inspection Service, the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of the shelled peanuts by 1.5.

(x) *Planted acreage.* The final acreage of peanuts on a farm determined in accordance with the provisions of Part 718 of this chapter.

(y) *Preliminary farm poundage quota.* The quota determined in accordance with § 729.223.

(z) *Produced.* The total pounds of peanuts dug.

(aa) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except the following: (1) Green peanuts; (2) peanuts which are placed under loan at the additional support rate and not redeemed by the producer; (3) peanuts which are marketed under a contract between a handler and a producer for exportation and/or crushing.

(bb) *Seed sheller.* A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's crop.

(cc) *Segregation 1 peanuts.* A lot of farmers stock peanuts which: (1) Has at least 99 percent peanuts of one type; (2) has not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay; and (3) is free from visible Aspergillus flavus mold.

(dd) *Undermarketings.* The number of pounds determined in accordance with § 729.25.

(ee) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage of peanuts.

§ 729.214 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* These peanuts are commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner, Wilmington Runner, Dixie Runner, or

Runner. They are produced principally in the southeastern peanut producing area of the United States and are identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation, and seeds crowed in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* These peanuts are commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish. They are produced principally in the southeastern and southwestern peanut producing areas of the United States and are identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel, and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* These peanuts are commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia. They are produced principally in Tennessee and New Mexico and are identified by the following general characteristics: Typically three- or four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* These peanuts are commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia. They are produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and are identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type; pods which are roughly cylindrical, with veining and corrugation deep, and seeds are cylindrical with pointed ends, length two or three times diameter, and practically smooth.

§ 729.215 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take. The State committee shall correct or require the county committee to correct any action taken by the county committee which is not in accordance with this subpart. The State committee shall also require the county committee to withhold taking any action which is not in accordance with this subpart.

§§ 729.216–729.219 [Reserved]

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

§ 729.220 Instructions and forms.

The Director shall cause to be prepared and issued such forms and instructions as are necessary for carrying out the regulations in this subpart. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 729.221 Determination of State poundage quota.

The State poundage quota shall be the State's share of the current year's national poundage quota calculated to equal the percentage of the 1981 national poundage quota allocated to farms in the State.

§ 729.222 Reserves for corrections.

For the purpose of correcting errors, the State committee shall establish a reserve not to exceed 1 percent of the State poundage quota. If the amount of poundage quota necessary to correct errors is in excess of the reserve established by the State committee, such errors may nevertheless be corrected with the approval of the Deputy Administrator. However, the Deputy Administrator may require the State committee to recalculate the farm poundage quotas for all farms in the State if the Deputy Administrator determines that the amount of poundage quota necessary to correct errors is substantially in excess of the reserve. In such case, the State committee shall reissue corrected farm poundage quotas for all farms in the State and such corrected farm poundage quota shall be considered the farm poundage quota for the farm for all purposes.

§ 729.223 Determination of preliminary farm poundage quota.

The preliminary farm poundage quota shall be the farm poundage quota established for the farm for the preceding year.

§ 729.224 Determination of farm poundage quota.

The farm poundage quota shall be the preliminary farm poundage quota adjusted downward for poundage quota reductions as required by this section, plus permanent adjustments from reserves and permanent transfers.

(a) *1983 poundage quota reduction.*—(1) *Poundage quota reduction.* For the 1983 crop year, the preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for the reserve for the current marketing year.

(i) *Inadequate tillable cropland.* The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage quota during the preceding crop year. Farms on which there is inadequate tillable cropland as the result of performance of a conservation practice shall not be exempt from poundage quota reductions under this paragraph. If the constitution of the farm differs from the constitution of the farm for the preceding year, an individual determination shall be made for each separately identifiable farm tract as it was constituted during the preceding crop year.

(ii) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two years of the base period. If the constitution of the farm differs from the constitution of the farm for any one or more years of the base period, an individual determination shall be made for each separately identifiable farm tract as it was constituted for that year of the base period.

(iii) *Calculation of farm poundage quota reductions under paragraphs (a)(1)(i) and (a)(1)(ii).* (A) The amount of the farm poundage quota reduction made under paragraph (a)(1)(i) of this section shall equal the amount of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(B) The amount of the farm poundage quota reduction made under paragraph (a)(1)(ii) of this section shall equal: (1) The preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three years of the base period minus (2) the amount of any reduction under paragraph (a)(1)(i) of this section, to the extent that this subtraction does not bring the reduction to a figure less than zero.

(iv) *Application of State factor.* (A) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraph (a)(1)(iii)(A) or (a)(1)(iii)(B) of this section are more than the required reduction (including amounts withheld for the reserve) in the State poundage quota for the 1983 crop year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reduction exceeds the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(B) If the cumulative total of individual farm poundage quota reductions computed pursuant to paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) of this section are less than the required reduction (including amounts withheld for the reserve) in the State poundage quota for the 1983 crop year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero by reductions made pursuant to paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(2) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraph (a)(1) of this section, if any, shall also be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

(b) *1984 and 1985 poundage quota reductions*—(1) *Poundage quota reductions.* For crop years 1984 and 1985, the preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for reserves for the current marketing year.

(i) *Inadequate tillable cropland.* The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage during the preceding crop year. Farms on which there is inadequate tillable cropland as the result of performance of a conservation practice shall not be exempt from poundage quota reductions under this paragraph. If the constitution of the farm differs from the constitution of the farm for the preceding crop year, an individual determination shall be made for each separately identifiable farm tract as it was constituted during the preceding crop year.

(ii) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two of the base period years. If the constitution of the farm differs from the constitution of the farm for any one or more of the years of the base period, an individual determination shall be made for each separately identifiable farm tract as it was constituted for that year of the base period.

(iii) *Quota transferred by lease and produced on another farm by a different farm operator.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that any of the following situations apply:

(A) For two or more of the years of the base period: (1) The farm poundage quota was transferred, in whole or in part, as the result of a lease which was filed before or during the normal planting period for peanuts, i.e., leases filed before the time prescribed in accordance with the provisions of § 729.30(b)(1) for crop year 1981, by July 31 for crop year 1982, and by the final planting date established by the State committee for crop years 1983 and 1984, and (2) was produced or considered produced on a receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm; or

(B) The farm poundage quota: (1) Was transferred, in whole or in part, as the result of a lease which was filed during the normal planting period for peanuts as determined in accordance with § 729.30(b)(1) for the crop year 1981, by July 31 for crop year 1982, the final planting date as established by the State committee for crop years 1983 and 1984, and was produced or considered produced on the receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm for 2 or more years of the base period, and (2) was not 100 percent produced or considered produced in 1 or more of the same base period years.

(C) The farm poundage quota: (1) Was not 100 percent produced or considered produced in 2 or more of the years of the base period; and (2) was transferred in whole or in part, as a result of a lease which was filed during the normal planting period for peanuts as determined in accordance with the provisions of § 729.30(b)(1) for the crop year 1981, by July 31 for crop year 1982, and by the final planting date established by the State committee for crop years 1983 and 1984, and was produced or considered produced in part on a receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm in 1 or more of the same base period years.

(D) The farm poundage quota: (1) Was transferred, in whole or in part, as the result of a lease which was filed during the normal planting period for peanuts as determined in accordance with the provisions of § 729.30(b)(1) for the crop year 1981, by July 31 for crop year 1982, and by the final planting date established by the State committee for 1983 and 1984 crop years, and was produced or considered produced on the receiving farm and the operator of the receiving farm was a different person than the operator of the transferring farm for 1 or more of the base period years; and (2) was not 100 percent produced or considered produced in 1 or more of the other base period years.

If the constitution of the farm differs from the constitution of the farm for any one or more of base period years, an individual determination shall be made for separately identifiable farm tracts as they were constituted for that year of the base period.

(2) *Calculation of farm poundage quota reductions for the 1984 and 1985 crop years under paragraphs (b)(1)(i), (b)(1)(ii) and (b)(1)(iii).* (i) The amount of the farm poundage quota reduction made under paragraph (b)(1)(i) of this section shall equal the preliminary farm poundage quota times the percentage of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(ii) The amount of the farm poundage quota reduction made under paragraph (b)(1)(ii) shall equal: (A) The preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three base period years, minus (B) the amount of any reduction under paragraph (b)(2)(i) of this section, to the extent that this subtraction does

not produce a reduction figure of less than zero.

(iii) The amount of the farm poundage quota reduction made under paragraph (b)(1)(iii) shall equal: (A) The product of the preliminary farm poundage quota times the average of the two highest percentages of the sum of the combined farm poundage quota which, during two of the three base period years, was produced or considered produced by another operator to which the farm poundage quota was transferred by lease and was not produced or considered produced, minus (B) the amount of any reduction calculated under paragraphs (b)(2)(i) and (b)(2)(ii) of this section, to the extent that this subtraction does not produce a reduction figure of less than zero.

(3) *Application of State factor.* (i) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraph (b)(2) of this section are more than the required reduction (including amounts withheld for reserves) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reduction exceeds the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for reserves.

(ii) If the cumulative total of individual farm poundage quota reductions computed pursuant to paragraph (b)(2) of this section are less than the required reduction (including amounts withheld for reserves) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero through reductions computed pursuant to paragraph (b)(2) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for reserves.

(4) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraphs (b)(2) and (b)(3) of this section, if any, shall be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

§ 729.225 Determination of undermarketings.

(a) *Actual undermarketings.* Actual undermarketings are the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1980 crop) were less than the total amount of the applicable effective farm poundage quotas (disregarding adjustments for undermarketings from prior marketing years) for such marketing years. For purposes of the foregoing sentence, total marketings of quota peanuts for any marketing year shall be the larger of: (1) The total production of segregation 1 peanuts on the farm for such year, or (2) the total amount of quota peanuts which were marketed or considered marketed from the farm. However, the total marketings of quota peanuts for any marketing year shall not exceed the effective farm poundage quota for that farm for such year.

(b) *Effective undermarketings.* (1) If 10 percent of the national poundage quota for the marketing year to which the actual undermarketings are to be applied is equal to or greater than the actual undermarketings on all farms, the effective undermarketings for the farm shall be the same as the actual undermarketings.

(2) If the conditions in paragraph (b)(1) of this section are not applicable, the actual undermarketings will be apportioned to each farm in such manner that the effective undermarketings: (i) Will not be less than the smaller of the actual undermarketings or 10 percent of the farm poundage quota; (ii) will not be more than the actual undermarketings; and (iii) will be apportioned so as to cause, insofar as practicable, the total of the effective undermarketings on all farms to equal 10 percent of the national poundage quota for the marketing year to which the effective undermarketings are to be applied.

§ 729.226 Determination of the effective farm poundage quota.

The effective farm poundage quota shall be the farm poundage quota adjusted for temporary transfers and effective undermarketings.

§ 729.227 Determination of farm yield.

The farm yield established for a farm for which a farm poundage quota is established for the current year shall be the farm yield established for the farm for the immediately preceding year. If a farm yield is not established for a farm on which a farm poundage quota is established, the county committee shall establish a farm yield in accordance with instructions issued by the Deputy Administrator.

§ 729.228 Determination of farm yield for reconstituted farm.

For reconstitutions which are effective after farm yields have been established, the farm yield shall be determined as follows:

(a) *Combination*—(1) *Quota farm.* The farm yield for combined quota tracts shall be the weighted average of the farm yields for the tracts being combined.

(2) *Quota and nonquota farm.* A combined farm shall be assigned the farm yield of the tract with an established quota if placed in combination with a nonquota tract even though a farm yield previously had been established for such nonquota tract.

(3) *Nonquota farms.* The farm yield for combined nonquota tracts shall be established by the county committee in accordance with § 729.227 even though a farm yield had been previously established for such tracts.

(b) *Divisions*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is being divided.

§ 729.229 Approval of farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, preliminary farm poundage quota, farm poundage quota, and effective farm poundage quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee. The initial notice of farm poundage quota shall not be mailed to a farm operator until the farm poundage quota has been approved. A revised notice may be mailed without the aforementioned approval in any case resulting from: (1) A farm reconstitution which does not require allocation of additional poundage quota; or (2) a transfer by lease, sale, owner or operator, of poundage quota.

(b) *Notice to farm operator.* (1) As soon as possible after the farm

poundage quota or the effective farm poundage quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If a farm poundage quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of farm poundage quota or the effective farm poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the operator shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper have an interest in the farm for which the quota is established.

§ 729.230 Erroneous notice of effective farm poundage quota.

If the official notice of effective farm poundage quota issued for a farm erroneously stated a quota larger than the correct effective farm poundage quota, the quota shown on the erroneous notice shall be used as the effective farm poundage quota. Such quota shall serve as the basis for marketing penalty computations for the farm for the current marketing year only if the county committee determines and the State Executive Director concurs that: (1) The error was not so substantial as to place the operator on notice thereof; and (2) the operator was not notified of the correct effective farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct effective farm poundage quota. Notwithstanding the foregoing, undermarketings for farms for which the erroneous notice of the effective farm poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

§ 729.231 Request for reconsideration or appeal.

Any producer who is dissatisfied with the initial determination of the farm poundage quota or the effective farm poundage quota which is established for such farm may file a request for reconsideration with the county committee in accordance with Part 780 of this Chapter. Such request must be filed no later than 15 days after the producer receives the notice of the farm poundage quota or effective farm poundage quota. If after reconsideration the producer remains dissatisfied with the determination, the producer may appeal such determination to the State committee in accordance with Part 780 of this Chapter. Determinations rendered by the State committee with respect to the determination of individual farm poundage quotas and effective farm poundage quotas shall be final and there shall be no further administrative appeal.

§ 729.232 Farms with one acre or less of peanuts.

Peanuts produced on a farm on which the acreage of peanuts is one acre or less are eligible to be marketed for domestic edible use provided that all producers that share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

§§ 729.233-729.239 [Reserved]

Transfers of Farm Poundage Quota

§ 729.240 Transfer by sale or lease.

The owner and operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not have a farm poundage quota. If the owner(s) and operator of the farm from which the transfer by sale or lease is to be made are different persons, each shall execute the record of transfer. However, only the owner(s) or operator of the receiving farm is required to execute the record of transfer.

§ 729.241 Transfer by owner or operator.

The owner or operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from such farm to another farm owned or controlled by the applicant: (a) In the same county; or (b) in a county that is contiguous to the transferring county in the same State if the receiving farm had a farm poundage quota established for the 1981 crop.

§ 729.242 Transfer within State.

Notwithstanding the provisions of §§ 729.240 and 729.241, a transfer of a farm poundage quota by sale, lease or by the owner or operator, may be made to any other farm in the same State, pursuant to instructions issued by the Deputy Administrator, in the States of Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, New Mexico and Tennessee.

§ 729.243 Witness of signatures.

A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations, or who may be unduly inconvenienced, may be waived provided the county office mails Form ASCS-375 or such other form approved by the Deputy Administrator to such person for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

§ 729.244 Filing record of transfer and time for filing.

No transfer of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this subpart, has been executed on Form ASCS-375 or such other form approved by the Deputy Administrator and filed within the time periods set forth in this section with the county committee in the county where the farms are administratively located.

(a) *Record of transfer filed by the final planting date (spring transfers).* In order to be effective during the normal planting period, a record of transfer shall be filed on or before the final planting date for the area or State as established by the State committee, but not later than June 15. A record of transfer filed after the final planting date established by the State committee but prior to July 1 may be considered to be timely filed if the county committee finds that: (i) The lease was agreed upon no later than the final planting date established by the State committee, and (ii) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

(b) *Record of transfer filed after the final planting date (fall transfer).* A record of transfer which is filed after the final planting date established by the State committee but by July 31 shall be considered a fall transfer and shall not become effective until August 1. A record of transfer which is filed after July 31 shall not become effective unless filed not later than December 31 of the current year. A record of transfer filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee, with approval of the State committee,

finds that: (1) The transfer was agreed upon no later than December 31, and (2) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

§ 729.245 Maximum period of transfer.

(a) *Owner transfer.* (1) An owner transfer may be approved to a farm owned by such person for a temporary period (but not beyond the 1985 marketing year) or permanently. (2) An owner transfer to a farm controlled by such person may be approved for only one year.

(b) *All other transfers.* Transfers by lease and by operator may only be approved for one year. Multiyear leases and permanent operator transfers shall not be permitted.

§ 729.246 Transfer not to be approved.

The county committee shall not approve:

(a) A transfer of poundage quota by sale if poundage quota was transferred to the transferring farm by sale within the 3 preceding crop years.

(b) Temporary transfers by an operator for more than one year.

(c) Permanent transfers by an operator.

(d) Transfers filed after the normal planting date for more than 1 marketing year.

(e) Transfers of actual or effective undermarketings.

(f) Transfers of poundage quota to farms with inadequate tillable cropland to produce the poundage quota.

§ 729.247 Consent of lienholder.

A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in writing by the lienholder.

§ 729.248 Transfer to and from the same farm (subleasing).

(a) *Record of transfer filed on or before the final planting date.* Generally the county committee shall not approve a record of transfer which is filed (or considered filed) on or before the final planting date established by the State committee if the approval would result in a transfer both to and from the farm during the period ending on the final planting date of the same crop year. However, a record of transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(b) *Record of transfer filed after the final planting date.* A temporary transfer of poundage quota either to or from a farm (but not both) may be approved by the county committee if a record of temporary transfer is filed after the final planting date regardless of whether a record of transfer which was filed on or before the final planting date is in effect for such farm. However, the producers on the transferring farm must certify, and the county committee must determine that: (1) The poundage quota to be transferred is not more than will be required to market the entire production of peanuts from the farm as quota peanuts in the current year, (2) the acreage of peanuts planted on the transferring farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the larger of the current farm yield or the highest actual yield for the farm for any one of the preceding three crop years, and (3) the production of peanuts was limited to less than the effective farm poundage quota because of conditions beyond the control of the producer.

§ 729.249 Effect of permanent transfer on determination of farm poundage quota.

The quota, pounds produced, pounds considered produced, pounds transferred and produced on a receiving farm for both the transferring farm and the receiving farm shall be adjusted for the current year and for the 2 preceding years to reflect the applicable increase or decrease in the farm poundage quota and other historical data or farm practices affecting the determination of farm poundage quotas.

§ 729.250 County committee action.

(a) *Approval of transfer.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record of transfer has been received and that the transfer complies with the requirements of this subpart. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(b) *Notice of revised quotas.* A revised notice of farm poundage quota must be issued for each farm affected by the transfer of farm poundage quota.

(c) *Cancellation of transfer.* (1) A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled effective as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or the transfer approval was made in error by the county committee, and (ii) The parties to the transfer agreement were not notified of the cancellation prior to the marketing of quota peanuts in excess of the revised effective farm poundage quota.

(2) Where cancellation of a transfer is required, the county committee shall issue revised notices of poundage quota showing the reasons for cancellation.

§ 729.251 Withdrawal or minor revision.

Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the peanut program will not be impaired, the county committee may permit withdrawal or minor revisions of a transfer upon written request by all parties to the transfer. A temporary transfer may be withdrawn or revised before peanuts are harvested during any year of the agreement. A permanent transfer may be withdrawn or revised before peanuts are harvested only during the first year of the agreement.

§ 729.252 Recomputation of previously approved multiple year transfer.

For a multiple year temporary transfer approved on or before December 22, 1981, the county committee shall annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (a) The poundage quota initially transferred, or (b) the farm poundage quota for the transferring farm.

§ 729.253 Amendment of multiple year transfer agreements approved on or before December 22, 1981.

Notwithstanding any other provision in this subpart, a multiple year temporary transfer approved on or before December 22, 1981, shall not be effective for the 1982 through 1985 crop years unless an amended record of transfer is filed. The county committee shall notify the operator of both the transferring farm and the receiving farm of the requirement for filing an amended record of transfer in order for the previously filed transfer agreement to remain in effect. The amended record of transfer must be filed at the county ASCS office within 30 days from the date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of the

farm poundage quota established for the applicable crop year.

§ 729.254–729.264 [Reserved]

Marketing Cards and Producer Identification Cards

§ 729.265 Issuance of cards.

(a) *Issuance of marketing cards.* A marketing card (ASCS–1002) shall be issued in the name of the farm operator for each farm on which peanuts are produced in the United States in the current year for use by each producer on the farm for marketing such producer's share of the peanuts produced. However, a marketing card issued for experimental peanuts shall be issued in the name of the experiment station and a marketing card issued to a successor-in-interest shall be issued in the name of the successor-in-interest. The face of the marketing card may show the names of other interested producers.

(b) *Issuance of producer identification cards.* A producer identification card shall be issued in the same name that is entered on the marketing card(s) for each eligible farm. The producer identification card will be used to identify the farm on which the peanuts were produced and the card must accompany each lot of peanuts when offered for sale. Producer identification cards shall be issued at the time the marketing cards are issued.

(c) *Person authorized to issue cards.* The county executive director shall be responsible for the issuance of marketing cards and producer identification cards.

(d) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the peanuts available for marketing from a farm shall be entitled to the use of the marketing and identification cards for marketing such producer's proportionate share of the peanuts produced on the farm.

(2) Any person who succeeds, in whole or in part, to the share of a producer in the peanuts available for marketing from a farm shall, to the extent of such succession, have the same rights to the use of the marketing and identification cards and bear the same liability for penalties as the original producer.

(e) *Data on marketing card and supplemental card.* (1) Before issuance, the following data and information must be entered on the marketing card in the spaces provided: (i) The effective farm poundage quota; (ii) the pounds of additional peanuts contracted and the handler number of the contracting handler, if applicable; and (iii) the converted basic penalty rate determined in accordance with § 729.272(b), if applicable.

(2) A supplemental marketing card bearing the same name identification as shown on the original marketing card may be issued for a farm if an original or supplemental marketing card is returned to the county office. The balance of the poundage quota from the returned marketing card shall be entered as the effective farm poundage quota on the supplemental card.

(3) Two or more marketing cards may be issued for a farm if the farm operator specifies in writing the amount of the poundage quota (not to exceed the balance of poundage quota available) which is to be assigned to each card.

(4) The face of the marketing card shall show the entry "Eligible for Buyback" if the farm operator authorizes the handler to purchase peanuts under the "Immediate Buyback" purchase as provided in Part 1446 of this Chapter. Two or more marketing cards may be issued for a farm if the producer wishes to obtain an additional card for purposes of indicating or not indicating "Eligible for Buyback."

(5) Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

(f) *Data on producer identification cards.* (1) The identification card issued in the name of the farm operator shall be embossed to show the: (i) Name and address of the farm operator; and (ii) State, county code, and farm serial number. If an embossed identification card is not available, the above information shall be entered by the county ASCS office.

(2) A farm operator may receive as many identification cards as may be needed at any one time to accompany each lot of peanuts offered for sale until such time as the peanuts are inspected and an ASCS–1007 has been executed by the inspection service.

(3) After the identification card is returned to the farm operator, it may be used again to identify another lot of peanuts.

(g) *Replacing a lost, stolen, or destroyed marketing card.* A new marketing card shall be issued to replace a card which has been determined by the county executive director who issued the card to have been lost, destroyed, or stolen: *Provided,* That the farm operator gives immediate written notice of such fact and furnishes a satisfactory report of the quantity of peanuts which was marketed using the marketing card prior to the time such card was lost, stolen, or destroyed.

§ 729.266 Claim stamping marketing cards.

If a person is indebted to the United States and the indebtedness is listed on the county office claim record, any marketing card issued for the farm on which the person has an interest as a producer shall bear the notation "U.S. Claim" or "PPQ" (peanut poundage quota) followed by the amount of the indebtedness. The name of the indebted producer, if different from the farm operator, shall be recorded directly under the notation. A notation showing "PPQ" as the type of indebtedness shall constitute notice to any peanut buyer that until the amount of penalty and accrued interest is paid, the United States has a lien on the crop of peanuts with respect to which the penalty was incurred and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest. Peanut poundage quota liens shall be collected and paid to the Agricultural Stabilization and Conservation Service prior to making collection for any other lien or claim. A notation showing "U.S. Claim" shall constitute notice to any peanut buyer that, to the extent of the indebtedness shown, and subject to prior liens, the net proceeds from any price support loan or purchase settlement due the debtor must be paid to the Agricultural Stabilization and Conservation Service. The acceptance and use of a marketing card bearing a notation concerning indebtedness to the United States shall not constitute a waiver by the indebted producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action. A lien-free or claim-free marketing card shall be issued by the county ASCS office when the lien or claim has been paid.

§ 729.267 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid under any one of the following conditions:

(1) It is not issued or delivered in the form and manner prescribed.

(2) Any entry is omitted or is incorrect.

(3) It is lost, destroyed, stolen, or becomes illegible.

(4) An erasure or alteration has been made and not initialed by the county executive director.

(b) *Validating invalid cards.* If a marketing card is invalid because an entry is not made as required, the farm operator or other producer shall return the marketing card to the county office. Except for an incorrect entry of the

converted basic penalty rate determined in accordance with § 729.272(b), the marketing card may be made valid by entering data previously omitted or by correcting any incorrect data previously entered. The county executive director shall initial each correction made on the marketing card. An invalid card, if not validated, shall be canceled and a replacement card shall be issued.

§§ 729.268–729.270 [Reserved]

Marketing Penalties

§ 729.271 Basic penalty rate.

The basic penalty rate is 140 percent of the national average support level for quota peanuts, as determined for the marketing year in which the peanuts were produced.

§ 729.272 Peanuts on which penalties are due.

A penalty is due at the basic penalty rate on:

(a) The quantity of peanuts which is marketed or considered to be marketed from a farm for domestic edible use in excess of the effective farm poundage quota for the farm.

(b) All peanuts marketed from the farm, if the certified acreage differs from the measured acreage by more than the tolerance provided in Part 718 of this Chapter: *Provided,* that such penalty shall be paid on each lot of peanuts marketed from a farm based on a converted basic penalty rate as shown on the marketing card. The converted basic penalty rate shall be determined by: (1) Calculating the percentage of incorrect certification; and (2) multiplying the percentage by the basic penalty rate per pound.

(c) All peanuts produced on a farm for which the producer: (1) Failed to certify peanut acreage as provided in Part 718 of this Chapter; or (2) refused to permit entry on the farm to authorized representatives of the Secretary for the purpose of determining the acreage of peanuts on the farm.

(d) The quantity of peanuts marketed without identification by a valid marketing card.

(e) The quantity of peanuts falsely identified, as determined by the county committee with the concurrence of the State committee.

(f) All peanuts, the disposition of which the producer has failed to account for to the satisfaction of the county committee. The quantity of peanuts subject to penalty under this provision shall be the amount of peanuts determined by the county committee to have been marketed or considered marketed from the farm for domestic edible use in excess of the effective farm poundage quota for that farm.

(g) All additional peanuts marketed as contract additional peanuts in excess of the pounds contracted on CCC–1005 between the producer and handler as provided in Part 1446 of this title of the Code of Federal Regulations. Any penalty collected pursuant to this paragraph may be refunded to the extent that the total of all marketings for domestic edible use from the farm for such marketing year do not exceed the farm's effective farm poundage quota.

§ 729.273 Peanuts on which penalties are not to be assessed.

(a) *Error in weight.* A penalty is not due and shall not be collected if the error in net weight as reported on each ASCS–1007, Inspection Certificate and Sales Memorandum, does not exceed one-tenth of 1 percent. However, in the case of fraud or conspiracy, a penalty shall be due for any error in the net weight, regardless of the size of the error.

(b) *Peanuts grown on State prison farms.* No penalty shall be collected on peanuts grown on State prison farms for consumption within such State prison system.

(c) *Peanuts grown for experimental purposes.* No penalty shall be collected on the marketings of any peanuts which are grown only for experimental purposes on land owned or leased by a publicly-owned agricultural experiment station and produced at public expense by employees of the experiment station, or peanuts produced by farmers for experimental purposes pursuant to an agreement with a publicly-owned experiment station. However, the director of the publicly-owned agricultural experiment station must furnish the State Executive Director a list by counties showing the following information for farms in the State on which peanuts are grown for experimental purposes only:

(1) Name and address of the publicly-owned experiment station;

(2) Name of the owner, and name of the operator if different from the owner, of each farm in the State on which peanuts are grown for experimental purposes only;

(3) The acreage of peanuts grown on each farm for experimental purposes only; and

(4) A signed statement that such acreage of peanuts was grown on each farm only for experimental purposes and was necessary for carrying out experimentation, and that the peanuts were produced under the direction of representatives of the publicly-owned experiment station.

(d) *Unique strains used to plant green peanut acreage.* Seed peanuts shall not be subject to penalty if the county committee determines, based upon guidelines furnished by the Deputy Administrator, that such peanuts are unique strains, are not commercially available, and are used to plant green peanut acreage.

§ 729.274 Persons to pay penalty.

(a) *Marketings to handlers.* The handler is liable for the penalty due on peanuts which the handler buys or otherwise acquires from a producer. The handler may deduct the penalty from the price paid to the producer. If a handler fails to collect the penalty due on any marketing of peanuts from a farm, the handler and each of the producers on the farm shall be held jointly and severally liable for the amount of the penalty.

(b) *Other marketings.* The producer is liable for the penalty due on any peanuts marketed to persons who are not peanut handlers.

(c) *Penalty for error on marketing card.* The producer and the handler are jointly and severally liable for any penalties which may be due if the handler made an error or failed to properly record the pounds of peanuts marketed on the producer's marketing card and such error resulted in the effective poundage quota or the pounds contracted in accordance with Part 1446 of this Chapter to be exceeded.

(d) *Notice to affected parties.* Penalties shown on a farm marketing card shall be deemed to be notice to all affected parties of such penalties in addition to such notice as is by operation of law charged to all parties by the publication of these and all other regulations applicable to the peanut program. Further, all affected parties shall be deemed to be on notice that penalties are due when the marketings of peanuts for domestic edible use exceed the effective poundage quota indicated on the marketing card.

§ 729.275 Payment of penalty.

(a) A draft, money order, or check made payable to the Agricultural Stabilization and Conservation Service, may be used to pay any penalty, other indebtedness, or interest thereon. A draft or check shall be received subject to collection and payment at face value. The penalty becomes due on the date of marketing, or in the case of false identification or failure to account for the disposition of peanuts, the date the producer is notified of the false identification or the failure to account, as applicable.

(b) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of interest charged CCC for its borrowings by the United States Treasury on the date such penalty became due. Interest shall accrue from the date the penalty was due if the penalty is not remitted by Monday of the third calendar week following the week in which the penalty is assessed in accordance with § 729.277. For cases of false identification or failure to account, if the penalty is not paid within 15 days after receipt of written notice by the person liable for such penalty, interest shall accrue from the date of receipt of the written notice by such person.

§ 729.276 Lien for penalty.

A lien on the crop of peanuts on which the penalty is incurred, and on any subsequent crops of peanuts subject to poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States until the penalty is paid. The lien on a subsequent crop takes precedence over all other claims as of the time the debt is entered on a county claim record in the county ASCS office for the county in which the subsequent crop is grown. Each county ASCS office shall maintain a list of peanut marketing penalty liens on subsequent crops which have been entered on the county claim record. The list shall be available for examination upon written request by an interested person.

§ 729.277 Assessment of penalties.

Any producer, farm operator, or handler against whom a penalty is assessed in accordance with this subpart, shall be notified of the penalty assessment in writing by the appropriate county committee. Such notice shall state the amount of the penalty and the basis upon which the penalty is being assessed. The notice shall also state that the person against whom the penalty is being assessed has the right to appeal the assessment of the penalty in accordance with §§ 729.278 and 729.279.

§ 729.278 Reduction or waiver of penalty.

(a) *General.* The county committee may, in accordance with instructions and guidelines issued by the Deputy Administrator, reduce or waive any penalty required to be assessed by this subpart in cases in which the county committee determines that the violations upon which the penalties were based were unintentional or without knowledge on the part of the parties concerned.

(b) *Time of reduction or waiver.* The county committee may reduce or waive a penalty either before or after it has been assessed formally in accordance with § 729.277. In those instances where the county committee makes the reduction or waiver prior to formal assessment, the notice of assessment issued under § 729.277 shall state the amount of reduction or waiver and the basis upon which the reduction or waiver was made.

(c) *Appeal procedure.* Any person against whom a penalty is assessed under this subpart may request that the penalty be reduced or waived in accordance with instruction and guidelines issued by the Deputy Administrator and the procedures set forth under § 729.279.

(d) *Review authority.* The Deputy Administrator may, either upon his own motion or in response to appeals which are being taken under § 729.279, require that any determination of a county committee with regard to the reduction or waiver of penalties be reviewed by the State committee or the Deputy Administrator for the purpose of maintaining consistency between different counties in the application of this authority. The Deputy Administrator or the State committee may require a county committee to reverse or otherwise modify its previous determination if the Deputy Administrator or State committee determines that the county committee's previous determination was not made in accordance with the instructions and guidelines issued by the Deputy Administrator. Any person who is adversely affected by any action of the Deputy Administrator or State committee taken under this paragraph may appeal such action by filing a request for reconsideration with the State committee or Deputy Administrator, as appropriate, in accordance with the procedures set forth in Part 780 of this Chapter.

§ 729.279 Appeals.

Any person who is dissatisfied with the penalties assessed by the county committee may file a written request for reconsideration with the county committee in accordance with Part 780 of this chapter. Such request must be filed no later than 15 days after such person receives the notice of assessment issued pursuant to § 729.277. Adverse determinations rendered by the county committee may be appealed administratively in accordance with the procedures set forth in Part 780 of this Chapter.

§ 729.280 Failure to comply with program.

Any producer who relied on the advice of a representative of the Secretary in rendering performance under this subpart which the producer believed in good faith met the requirements of the program as set forth in these regulations may file a request for review of an adverse county committee ruling in accordance with instructions and guidelines issued by the Deputy Administrator. This authority, however, does not extend to cases where the producer knew or had sufficient reason to know that the action or advice of the representative of the Secretary upon which the producer relied was improper or erroneous, or where the adverse action is based on changes made in the statutory authority of the program or changes in regulations issued for the program.

§§ 729.281–729.285 [Reserved.]

Producer Identification and Designation of Peanuts Marketed

§ 729.286 Identification of producer marketings.

The producer must identify each lot of peanuts offered for marketing through a handler by furnishing to the handler the farm operator identification card (ASCS–1003) and the peanut marketing card (ASCS–1002) which was issued for the farm on which the peanuts were produced.

§ 729.287 Designation of peanuts.

Any marketings of peanuts which are not inspected by the Federal-State Inspection Service prior to marketing shall be deemed to be a marketing of quota peanuts. If a lot of peanuts is inspected by the Federal-State Inspection Service, the producer shall designate to the handler whether the lot of peanuts is to be marketed as quota, loan additional, or contract additional peanuts as defined in Part 1446 of this Chapter. The designation must be made within the time allowed by the handler but not later than the close of inspection of the first workday (excluding Saturday, Sunday, or legal holiday) after the peanuts are inspected. In the absence of a designation, any segregation 1 peanuts shall be marketed in the following order of priority:

(a) As quota peanuts to extent of the unused poundage quota on the peanut marketing card which is used to identify the peanuts for marketing;

(b) As contract additional peanuts to the extent of the unused contract poundage balance on the peanut marketing card which is used to identify the peanuts for marketing if the peanuts are being marketed through the contracting handler; or

(c) As loan additional peanuts.

§§ 729.288–729.289 [Reserved.]

Producer Records and Reports

§ 729.290 Report of marketing green peanuts.

(a) The operator of each farm from which green peanuts are marketed shall report the marketing of green peanuts. The operator shall make the report by filing Form ASCS–1011 at the county ASCS office of the county in which the farm is administratively located. The report shall show for the farm:

(1) The number of acres on the farm planted from seed stocks of peanuts;

(2) The acreage on the farm from which peanuts were marketed as green peanuts; and

(3) The name and address of the buyer to or through whom each lot of green peanuts was marketed and the quantity in each lot marketed and the date marketed. However if green peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, the report may be made as either a daily or weekly summary of the quantity so marketed and the place of marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file any report of the marketing of green peanuts as required by this section or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts produced on the farm which will subject the producer to marketing penalties as set forth in § 729.272.

§ 729.291 Report of acquisition of seed peanuts.

(a) If peanuts are planted on a farm in the current year and the seed peanuts were acquired by purchase or gift, the farm operator shall file a report with the county ASCS office of the acquisition(s) of the seed peanuts. The report must be filed by the farm operator at the time a report of planted acreage of peanuts is made in accordance with provisions of Part 718 of this Chapter. The report shall include:

(1) The name and address of the handler or person from whom peanuts were purchased or obtained as a gift for the purpose of planting the peanut acreage on the farm in the current year;

(2) The pounds of peanuts acquired for seed;

(3) The basis (farmer's stock or shelled) of determining the quantity acquired;

(4) The type of peanuts acquired; and

(5) The date of acquisition.

(b) Unique strains of peanuts that are not commercially available and are retained on a farm to plant 1983 through 1985 crops of green peanuts shall also be reported to the county ASCS office.

§ 729.292 Peanuts marketed to persons who are not registered handlers.

(a) If peanuts are marketed to persons other than registered peanut handlers, the operator of the farm on which the peanuts were produced shall file a report of the marketings by executing Form ASCS–1011, Report of Acreage and Marketing of Peanuts to Nonestablished Buyers. The ASCS–1011 must be mailed or delivered to the county executive director of the county in which the farm is administratively located within 15 days after the marketing of peanuts from the farm has been completed. If peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, a daily or weekly summary of the quantity marketed and the place of marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file an ASCS–1011 as required or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts on the farm and may result in the assessment of marketing penalties, as provided in § 729.272.

(c) All peanuts marketed to persons other than registered handlers shall be considered as marketings of quota peanuts.

§ 729.293 Report on marketing card.

The farm operator shall return each peanut marketing card to the issuing county ASCS office as soon as marketings from the farm are completed or at such earlier time as the county executive director may request. At the time the last marketing card for a farm is returned, the farm operator shall execute the certification on the marketing card as to the pounds of peanuts retained for seed or other use. Failure to return a marketing card or failure to execute the certification of the quantity of peanuts retained for seed or other uses shall constitute failure to account for the disposition of peanuts marketed from the farm for which marketing penalties may be assessed as provided in § 729.272, unless a satisfactory report of disposition is furnished to the county committee.

§ 729.294 Report of production and disposition.

(a) In addition to any other reports which may be required under this subpart, the farm operator or any producer on the farm shall furnish, upon written request by certified mail from the State Executive Director, a report of production and disposition of the peanuts grown on the farm to the State committee. The report must be filed on ASCS–1010, Report of Production and Disposition, within 15 days after the request is mailed. The report shall show:

(1) The final acreage of peanuts on the farm;

(2) The total production of peanuts on the farm; and

(3) The name and address of the buyer to or through whom each lot of peanuts was marketed, the number of pounds in each lot, and the date marketed: *Provided however*, That where peanuts are marketed in small lots to persons who are not established buyers, the report may be made as either a daily or weekly summary of the number of pounds marketed and the place of marketing may be reported in lieu of the name and address of each buyer; and

(4) The quantity and disposition of peanuts not marketed.

(b) Failure to file the ASCS–1010 as requested or the filing of an ASCS–1010 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for the production and disposition of peanuts produced on the farm for which marketing penalties may be assessed, as provided in § 729.272.

§§ 729.295–729.299 [Reserved]

Handler's Registration, Responsibilities and Records

§ 729.300 Registration of handlers.

(a) *Registration requirements.* Each person who plans to acquire peanuts for processing or resale shall register as a handler in accordance with the provisions of this section prior to the acquisition of any peanuts.

(b) *Persons acquiring noninspected peanuts.* A person who has not registered under the provisions of paragraph (c) of this section and who plans to buy or otherwise acquire peanuts for processing or resale prior to the peanuts being inspected by a duly authorized inspector of the Federal-State Inspection Service must register with the State ASCS office of the State in which the person will operate as a handler, or if operating in more than one State, the State of residence or principal business location. A person may register by completing an MO–96, Application for Peanut Handler Card, and submitting it to the appropriate State ASCS office.

(c) *Persons acquiring inspected peanuts.* A person who plans to acquire peanuts that have been inspected by a duly authorized inspector of the Federal-State Inspection Service must register as a handler by completing an MQ–96,

Application for Peanut Handler Card, and submitting it to the Virginia, Georgia, or Texas State ASCS Office in the marketing area in which the handler is located.

(d) *Peanut buyer card and buying point card.* The office through which a handler registers will issue an embossed peanut buyer card on which will be entered the handler's registration number, name and address. The buyer card will be used by the handler for identification when the handler buys or sells peanuts. A buying point identification card will be issued by ASCS to the Federal-State Inspection Service for delivery to each handler who operates a buying point at which peanuts are inspected. The buying point card will be embossed with a number and used to identify the physical location of the buying point at which the peanuts are inspected.

§ 729.301 Records and reports required of handlers.

Each handler shall keep records and make reports as required by this section.

(a) *Marketing records.* The handler shall maintain the following records with respect to each lot of farmer's stock peanuts which the handler acquires for his own account:

(1) Farm number (including State and county code) of the farm on which peanuts were produced (obtained from producer's identification card or marketing card), or if purchased from a handler, the handler's number;

(2) Name of seller;

(3) Date of marketing;

(4) Pounds of peanuts marketed as commercial quota or contract additional;

(5) Type of peanuts; and

(6) Amount of penalty due and amount collected from the producer.

(b) *Resales.* Each handler who resells farmer's stock peanuts shall keep records of:

(1) The name and address of the buyer;

(2) The handler number of the buyer if the peanuts are sold to a handler;

(3) The date of the sale;

(4) The type of peanuts sold; and

(5) The pounds (net weight) of peanuts sold.

(c) *Inspected peanuts.* If a lot of peanuts was inspected by the Federal-State Inspection Service, the handler shall complete ASCS–1007, Inspection Certificate and Sales Memorandum, on which the following information must be entered:

(1) Name and address of the farm operator and the State and county code and farm number of the farm on which the peanuts were produced if the peanuts are marketed by the producer, or the handler number if the peanuts are marketed by a handler;

(2) Buying point number assigned to identify the physical location of the buying point at which the peanuts were marketed;

(3) Name, address, and handler number of the handler, or the association number, name and address if the peanuts are accepted for loan through the association;

(4) Net weight of the peanuts;

(5) Net weight of peanuts marketed as either loan quota, loan additional, commercial quota or contract additional;

(6) Date of purchase; and

(7) Amount of penalty collected.

(d) *Noninspected peanuts.* A handler who purchases farmer's stock peanuts which have not been inspected by the Federal-State Inspection Service shall complete ASCS-1030, Report of Purchase of Noninspected Peanuts, for each lot of farmer's stock peanuts purchased. The handler shall complete the ASCS-1030 to show the following:

(1) The name and address of the seller;

(2) Name and address of farm operator and the State and county code and farm number if the peanuts are purchased from the producer of the peanuts, or if the peanuts are purchased from a handler, the ASCS-1030 shall show the handler's name, address, and registration number;

(3) The type of peanut purchased;

(4) The date of purchase;

(5) Quantity purchased; and

(6) Method of determining the weight. After the required information has been recorded, the seller shall sign and date the ASCS-1030. The handler shall use ASCS-1030-P, Handler's Report of Purchases of Noninspected Peanuts, to transmit the ASCS-1030 to the State ASC committee in the State in which the handler's business is located. The ASCS-1030's shall be transmitted weekly.

(e) *Marketing card entries.* Immediately after each lot of peanuts is marketed, the handler shall make the following entries on the marketing card from the ASCS-1007 or ASCS-1030:

(1) The ASCS-1007 serial number which identifies the lot of peanuts, or the date of marketing if the peanuts were not inspected;

(2) The net pounds marketed;

(3) The unused poundage quota balance remaining after the marketing;

(4) The unused contract additional poundage balance remaining after the marketing;

(5) The handler's number or, for loan peanuts, the association number;

(6) For inspected peanuts, the buying point number;

(7) Type of peanuts marketed; and

(8) Any penalties or claims collected.

(f) *Transmittal of penalties.* Form ASCS-1012 Peanuts, "Buyer's Transmittal of Claims and/or Marketing Penalty," shall be used by a handler to transmit a collection of a penalty or a claim. Each collection shall be sent to the county ASCS office which issued the marketing card. The transmittal shall be made within two weeks after the end of the week in which the collection is made.

(g) *Peanuts shelled for a producer.* The handler shall maintain records of peanuts shelled for a producer as follow:

(1) Date of shelling;

(2) Name and address of the producer for whom the peanuts were shelled;

(3) State and county code and farm number of the farm on which the peanuts were produced;

(4) Quantity of peanuts (farmer's stock basis) shelled;

(5) Quantity of shelled peanuts retained by the sheller; and

(6) Quantity returned to the producer.

(h) *Peanuts dried for a producer.* The handler shall maintain records of peanuts dried for a producer as follows:

(1) State and county code and farm number of the farm on which the peanuts were produced;

(2) Name and address of the producer for whom peanuts were dried; and

(3) Quantity dried (weight after drying, farmer's stock basis) and date drying is completed.

(i) *Green peanuts purchased from producer.* Each buyer of green peanuts shall report on Form ASCS–1011 the purchase of green peanuts, except small lot purchases such as street sales, local market sales, and grocery store sales. The report of the purchase of green peanuts by the buyer shall subject the buyer to a review of the purchase and sales records. Any buyer of green peanuts who fails to keep records as required by this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $500. Each buyer shall keep the following records of green peanuts purchased:

(1) Date of purchase;

(2) Name and address of producer selling green peanuts;

(3) Name and address of farm operator and farm number (including State and county code) of the farm on which the green peanuts were produced; and

(4) Pounds of green peanuts purchased.

§ 729.302 Persons engaged in more than one business.

Any person who is required under this subpart to keep any record or make any report as a buyer, processor, or other person engaged in the business of shelling or crushing peanuts, and who is engaged in more than one such business, shall keep such records for each business.

§ 729.303 Penalty for failure to keep records and make reports.

Any person, who dries farmers stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any agency marketing peanuts for a buyer or dealer, any peanut growers cooperative association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts, or manufacturing peanut products, or any person owning or operating a peanut picking or peanut threshing machine, or any farmer engaged in the production of peanuts, who fails to make any report or keep any record as required under this subpart or who makes any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.

§ 729.304 Examination of records and reports.

The Deputy Administrator, the Director of the Tobacco and Peanuts Division, the State Executive Director, or any person authorized by any one of such persons, and any auditor or agent of the Officer of Inspector General, is authorized to examine any records pertinent to the peanut poundage quota program. Upon request from any such person, any person who dries farmers stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any farmer engaged in the producer of peanuts, any agent marketing peanuts for a producer or acquiring peanuts for a buyer or association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanut products, or any person owning or operating a peanut-picking or peanut-threshing machine, shall make available for examination such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are under his control which any person hereby authorized to examine records has reason to believe are relevant to any matter under investigation which relates to the provisions of this subpart.

§ 729.305 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained for a period of 3 years after the end of the marketing year. Records shall be kept for such longer periods of time as may be requested in writing by the State Executive Director, or the Director of the Tobacco and Peanuts Division.

§ 729.306 Information confidential.

All data requested and obtained by the Secretary which are required in accordance with the provisions of this subpart shall be kept confidential by all employees of the U.S. Department of Agriculture. Such data shall be released only at the discretion of the Deputy Administrator and then only in a suit or administrative hearing under Title III of the Agricultural Adjustment Act of 1938, as amended.

Signed at Washington, D.C. on February 25, 1983.

John R. Block,

Secretary.

[FR Doc. 83-5608 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 770

Special Program of Payment in Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton, and Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule provides for a payment-in-kind program for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, rice and upland cotton. Under the program, producers will be offered a quantity of a commodity as compensation for diverting acreage normally planted to that commodity in addition to that being taken out of production under the 1983 acreage reduction and cash land diversion programs for wheat, corn, grain sorghum, rice and upland cotton previously announced. The Department has determined that the diversion of this additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to achieve desirable production goals and that producers should be compensated by receipt of like commodities. This final rule amends an interim rule which was published with respect to a payment-in-kind program on January 12, 1983 (48 FR 1476), setting forth the requirements for program participation and the manner in which payment in kind will be made available.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Grant B. Buntrock, ASCS, 202-447-7641.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Department of Agriculture procedures implementing Executive Order 12291 and Secretary's Memorandum No. 15121 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Department is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation with respect to the payment-in-kind program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Department has prepared a Final Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public from Director, Analysis Division, Agricultural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

The title and number of the federal assistance programs to which this rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

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with respect to the subject matter of this rule.

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The Department is preparing a Final Regulatory Impact Analysis of this regulation. Copies of the analysis will be available to the public after signup, including processing of whole base bids, has been completed and data has been finalized. Copies can be obtained from Director, Analysis Division, Agricultural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

The title and number of the federal assistance programs to which this rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

Program Authorization

The Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, authorizes the Secretary to make land diversion payments to producers of wheat, feed grains, upland cotton, and rice if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of the commodities to desirable goals. The Commodity Credit Corporation Charter Act gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets, and remove and dispose of agricultural surpluses. In accordance with these authorities, an interim rule was published in the **Federal Register** on January 12, 1983, providing for a payment-in-kind program for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, upland cotton, and rice. The interim rule invited public comments on the provisions of the program by February 11, 1983.

Discussion of Comments

The Department received 498 comments from 335 farmers, 46 farm input suppliers, 53 private citizens, 15 farm organizations, 15 commodity associations, 7 government (local/state/national) officials or organizations, 4 conservation organizations and 23 miscellaneous respondents.

Over 65 percent of the comments received were concerned with one or more of the following issues:

(a) *Inclusion of barley and/or oats in the program.* Barley and oats are not included in the 1983 payment-in-kind program. The primary reason for their exclusion is that the proportions of ending stocks to use are not as severely out of line with historical levels as is the situation with the other commodities. Moreover, the announced acreage reduction and cash land diversion program for oats and barley is expected to assist in reducing stocks to more reasonable levels. This adjustment along with that for other grains will improve price prospects for barley and oats.

(b) *Allow summer fallow producers to grow nonprogram crops on diverted acres under the payment-in-kind program or designate fallow acres under the program.* Permitting producers to designate land which is fallowed in 1983 as conservation use acreage for 1983 means that other commodities could be grown on the land which was fallowed in a previous year. These commodities could include other program commodities, if the producers were not participating in the acreage reduction and cash land diversion program for the commodity. If the production of certain commodities on designated conservation use acreage were permitted, other acreage would then be available to produce program commodities. This would impair the effectiveness of the payment-in-kind program in achieving the goal of reducing overall production.

(c) *Provide for making payments in kind available early, mainly for feed or to clear storage space.* Payments in kind are intended to compensate producers who have reduced their acreages which would have otherwise been planted to the 1983 crops of wheat, corn, grain sorghum, upland cotton, or rice. Accordingly, quantities of these commodities which are made available as payment-in-kind are considered to be 1983 production. Therefore, payments in kind are scheduled to be available beginning with the normal harvest date for the 1983 crops of these commodities in each area. Earlier release of these commodities could distort the usual seasonal price patterns for both old crop and new crop commodities.

(d) *Decrease the maximum acreage to be diverted under the payment-in-kind program and the acreage reduction and cash land diversion programs from 50 percent to between 30 and 35 percent.* The overall majority of farm input suppliers commenting on the payment-in-kind program suggested a reduction in the percentage of the total acres which are permitted to be diverted under the payment-in-kind program and the acreage reduction and cash land diversion program. The 50 percent limitation on program crop acreage is determined based upon the total of the farm acreage bases which are established for the commodity in the county and not on the total acreage which was planted to that commodity in the county in 1982. The unlikely occurrence of 100 percent participation in both the acreage reduction and cash land diversion program and at the maximum level in the 10 to 30 percent of the base payment-in-kind program would be necessary in order to achieve a 50 percent diversion of each program crop base. Currently, it is estimated that participation in the payment-in-kind program will range between 60 to 90 percent. It is likely that less than 15 percent of total cropland will be withdrawn from production under both programs.

(e) *Eliminate the farm program yield and/or use the county average to determine the quantity of payments in kind.* The regulations governing the commodity programs which are found at 7 CFR Part 713 require the use of program yields. Producers who are dissatisfied with their established yields for wheat, corn, and grain sorghum are given the opportunity to prove their actual yields. Further, it would be inequitable to producers who have yields above the county average to use individual yields to achieve a weighted county average and to assign each person a yield which is identical to that county average yield.

(f) *Convert a portion of the payment-in-kind acres into permanent conservation use acres.* The payment-in-kind program is a one-year program although it may be extended an additional year to meet program objectives. Under the annual commodity programs announced by the Department, producers are encouraged to implement permanent conservation practices. Such producers receive assurances that the acreage on which permanent conservation practices are installed and maintained can be used to meet program requirements for each crop year through 1985 if a conservation use acreage requirement is in effect.

(g) *Include popcorn in the acreage reduction and cash land diversion program and the payment-in-kind*

program. A resolution by the Nebraska Popcorn Growers with a statement of support signed by 77 producers requested that popcorn be treated as corn for program purposes. Popcorn has not historically been considered to be corn for the purposes of the feed grain program. Acreage which is devoted to popcorn is not, and never has been, used in determining the acreage base for a farm under the feed grain program. Consequently, it has been determined that this acreage is not eligible for payments in kind nor is the acreage of popcorn charged against the acreage of corn which is permitted to be grown by a producer on the farm under the payment-in-kind program.

Other comments concerned tenant rights, warehouse locations, the quality of the grain to be received as payment in kind, the abolition of the payment limitation, distribution of program benefits, the effects on related industries, and the general administration of the program.

Those commenting also requested the addition of other crops under the payment-in-kind program, deficiency payments on grain which is made available as payment-in-kind, and adjustments in disposal deadlines. In particular, private citizens were concerned about feeding starving people with surplus stocks, conservation opportunities under the program, and the need for and cost of farm programs in general.

These comments and all others received were considered in developing the final rule.

Amendments to the Interim Rule

It has been determined after further review that certain technical revisions and clarifications should be made with respect to the provisions of the interim rule which were published at 7 CFR Part 770. It is not believed that these changes are of such significance that further public comment would be warranted. Further, it is imperative that a final rule be published as soon as possible so that the terms and conditions of the payment-in-kind program can be finalized and producers can make a reasoned judgment as to whether they should participate in the program for the 1983 crops. The following is an explanation of the changes which have been made to the interim rule:

(a) Section 770.2(a)(3) of the interim rule provides that a producer who is participating in the payment-in-kind program and who has an outstanding CCC price support loan will be required to redeem a quantity of the commodity which is pledged as collateral for such loan which equals the quantity of the commodity which the producer is otherwise entitled to receive from the Department as payment in kind and sell such quantity to the Department. The Department will purchase the commodity from the producer at a price which equals the cost which the producer incurs in liquidating the loan; i.e., principal, interest, liquidated damages, and other applicable charges. In some instances, it may be to the advantage of the producer, the Department, or both to make different arrangements with respect to the liquidation of a quantity of the commodity pledged as collateral for a loan and the purchase of such quantity by the Department. Accordingly, this section has been revised to permit different arrangements to be mutually agreed upon and specified in the contract between the producer and the Department.

(b) Section 770.3(a)(1) of the interim rule has been amended to clarify that if the entire acreage base for a commodity on the farm has been accepted for payment-in-kind purposes, payment in kind will not be made with respect to that portion of the farm acreage base which is otherwise eligible for cash land diversion payments. Since the Omnibus Budget Reconciliation Act of 1982 provides that cash land diversion payments shall be made for a specific percentage of the farm acreage base on participating farms for the 1983 crops of wheat, feed grains, and rice, any payments in kind which are made with respect to the same acreage would represent double compensation.

(c) In some instances, county ASCS offices have found it beneficial to establish an appointment schedule for enrollment, during the course of which producers have the opportunity to submit a whole base bid for a commodity on a farm under the payment-in-kind program. In such cases, it would be unfair to break ties between identical bids according to the time the bid was received. Accordingly, § 770.5(c) of the interim rule has been revised to provide that if identical whole base bids have been submitted to the county ASCS office where an appointment procedure has been utilized, a lottery shall be used to determine the priority by which such bids should be ranked.

(d) The interim rule did not provide for a succession in interest to payments in kind, except when a producer dies, disappears, or is declared to be incompetent. Accordingly, a new paragraph (d) has been added to § 770.6 to provide for the succession of interest to payments in kind in other situations.

(e) The interim rule did not provide for assignments of payments in kind. It has been determined that the Department will honor an assignment of a payment in kind, without regard to the purposes of such assignment, if the producer (as assignor) and assignee agree to such assignment and execute the appropriate form. Therefore, a new paragraph (e) has been added to § 770.6 to authorize the making of such assignments for payment-in-kind purposes.

(f) The interim rule did not specify that payments in kind will be made without regard to claims or liens. A similar provision is applicable to other program benefits which are made available to producers under commodity programs. Thus, a new paragraph (f) has been added to § 770.6 setting forth this provision with respect to payments in kind.

Information collection requirements contained in this regulation (§§ 770.1 through 770.6) have been approved by OMB under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560-0092.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Final Rule

PART 770—[AMENDED]

Accordingly, the interim rule published at 48 FR 1476 is hereby adopted as a final rule, with the following changes:

1. Section 770.2 is amended by revising the introductory text of paragraph (a)(3) to read as follows:

§ 770.2 Obligations of operators and producers.

(a) * * *

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to January 12, 1983, or regular price support loans, for which they have pledged as security a commodity which the Department is obligated to pay them under the contract, at the time they request payment of the commodity, they must, unless otherwise agreed upon between the producer and the Department and provided for in the contract, sell to the Department a quantity of the commodity which equals the quantity of such commodity which the Department is obligated to pay them, at a price which is equal to the cost of liquidating the loan or portion of the loan for which the quantity sold to the Department is pledged, subject to the following adjustments:

* * * * *

2. Section 770.3 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 770.3 Obligations of the Department.

(a) * * *

(1) * * * The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use under the contract that would otherwise have been planted to that commodity, less the acreage on the farm which is eligible for cash land diversion payments, multiplied by 95 percent for wheat and 80 percent for corn, grain sorghum, upland cotton, and rice, except that in the case of contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

3. Section 770.5 is amended by revising the second sentence in paragraph (c) to read as follows:

§ 770.5 Contracting procedures.

* * * * *

(c) * * * In the case of identical bids, they shall be ranked in the order received or, where an appointment procedure was utilized by the county ASCS office during the course of which producers submitted bids, a lottery shall be conducted to determine the order by which such bids should be ranked.* * *

4. Section 770.6 is amended by adding new paragraphs (d), (e), and (f) to read as follows:

§ 770.6 Miscellaneous provisions.

* * * * *

(d) When any person who had an interest as a producer in the commodity or would have had an interest in the commodity as a producer if the commodity had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after a contract has been executed, any payment in kind which is due and owing shall be divided between the predecessor and successor on such basis as the predecessor, successor, and the Department agree is fair and equitable, the contract shall be revised accordingly, and the successor shall sign the revised contract.

(e) Assignments with respect to quantities of a commodity which can be received by a producer as payment in kind will be recognized by the Department only if such assignment is made on Form CCC-479, Assignment of Payment-In-Kind, executed by the assignor and assignee, and filed with the county committee.

(f) Except as provided in paragraph (e) of this section, any payment in kind or portion thereof which is due any person shall be made without regard to questions of title under State law, and without regard to any claim of lien against the commodity, or proceeds thereof, which may be asserted by any creditor.

Signed at Washington, D.C., on February 28, 1983.

John R. Block,

Secretary.

[FR Doc. 83-5729 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 401; Lemon Reg. 398, Amdt. 2]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 6–12, 1983, and increases the quantity of lemons that may be shipped during the period February 13–19, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective March 6, 1983, and the amendment is effective for the period February 13–19, 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 action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), 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 the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on March 1, 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 period March 6–12, 1983. The committee reports the demand for lemons is good. The committee met by telephone on February 16, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the period February 13–19, 1983.

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 and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. 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.

1. Section 910.701 is added as follows:

§ 910.701 Lemon Regulation 401.

The quantity of lemons grown in California and Arizona which may be handled during the period March 6, 1983, through March 12, 1983, is established at 250,000 cartons.

2. Section 910.698 Lemon Regulation 398 (48 FR 5216; 7153) is revised to read as follows:

§ 910.698 Lemon Regulation 398.

The quantity of lemons grown in California and Arizona which may be handled during the period February 13, 1983, through February 19, 1983, is established at 265,000 cartons.

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

Dated: March 3, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-5832 Filed 3-3-83; 11:55 am]

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FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1983–6]

Nonpartisan Communications by Corporations and Labor Organizations

AGENCY: Federal Election Commission

ACTION: Transmittal of regulations to Congress.

SUMMARY: FEC regulations at 11 CFR 114.3 and 114.4 governing contributions and expenditures by corporations and labor organizations for nonpartisan communications have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). The revisions were initiated to incorporate into the regulations several advisory opinions which the Commission has issued in this area. The Commission has also considered public comments received in response to its Advance Notice of Proposed Rulemaking (45 FR 56349; August 25, 1980) and Notice of Proposed Rulemaking (46 FR 44964; September 8, 1981).

The revisions clarify the classes of persons to whom nonpartisan communications may be made under each section and indicate the types of communications which are permissible. They also expand the types of publications which may be distributed to the general public by corporations and labor organization to include nonpartisan voting records and voter guides. Further information on the revised regulations is contained in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463, (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulations within 30 legislative days of their transmittal, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on March 1, 1983.

Explanation and Justification of 11 CFR 114.3 and 114.4

Section 114.3 Disbursements for Communications in Connection with a Federal Election to Restricted Class.

Section 114.3(a) General.

Paragraph (a)(1) sets forth the basic rule of 2 U.S.C. 441b(b)(2)(A), which allows corporations and labor organizations to communicate with their restricted class on any subject. A corporation's restricted class includes its stockholders, executive and administrative personnel and their families. the restricted class of labor organizations has been redefined in this subsection to include the organizations' executive and administrative personnel and their families, as well as members and their families. This inclusion is consistent with the legislative intent "that unions, insofar as they are employers, stand in the same shoes as corporations."

See, generally, H.R. Conf. Rep. No. 1057, 94th Cong., 2d Sess. 64 (1976).

This paragraph also distinguishes between the communications that may be made to the restricted class and those that may be made to the general public as permitted under 11 CFR 114.4. Finally, language has been added to paragraph (a)(1) to make it clear that national banks and corporations organized pursuant to a Congressional enactment may not make contributions or expenditures for partisan communications to the general public in connection with any election, including State and local elections.

Paragraph (a)(2) clarifies the application of § 114.3 to incorporated membership organizations, incorporated trade associations, incorporated cooperatives, and corporations without capital stock. The restricted class of these organizations has been redefined to include families of members. This addition is consistent with the provisions defining the restricted classes of corporations and unions under 2 U.S.C. 441b, both of which include families.

Section 114.3(b) Reporting Partisan Communications.

This paragraph generally follows current § 114.3(b) while clarifying which disbursements for communications to the restricted class must be reported.

Section 114.3(c) Means of Making Partisan Communications.

This paragraph generally follows current § 114.3(c), but explains that the kinds of communications listed in this subsection are examples of those for which disbursements must be reported under paragraph (b).

Section 114.3(c)(1) Partisan Publications.

Paragraph (c)(1) generally follows current § 114.3(c)(1). However, paragraph (c)(1)(ii) has been revised to state that a corporation or labor organization may use brief quotations from speeches or other materials prepared by a candidate in expressing its own views under this section.

Section 114.3(c)(2) Partisan Candidate and Party Appearances.

Paragraph (c)(2) expands current § 14.3(c)(2) by eliminating the requirements that a meeting at which a candidate or party representative appears to address members of the sponsor's restricted class be one that is "regularly scheduled" and "primarily held for other purposes." In addition, this paragraph now permits the presence of employees who are outside the restricted class, a limited number of invited guests and observers, and representatives of the news media at such meetings. At the Commission's public hearing on these regulations the presence of such persons was described as a necessary element of such meeting and, therefore, the Commission was urged to provide an exception for them under this section. The Commission notes, however, that this provision is limited to those employees necessary to administer the meeting. Similarly, the presence of invited guests and observers is limited to speakers, recipients of awards and other persons specially invited to attend such a meeting and is not intended to permit a sponsor to invite large numbers of persons outside the solicitable class, such as rank and file employees of a corporation, whose presence would otherwise trigger the rules governing nonpartisan appearances under § 114.4.

Section 114.3(c)(3) Partisan Phone Banks.

Paragraph (c)(3) generally follows current § 114.3(c)(3).

Section 114.3(c)(4) Partisan Registration and Get-Out-The-Vote Drives.

Paragraph (c)(4) generally follows current § 114.3(c)(4).

Section 114.4 Expenditures for Communications in Connection With a Federal Election to the Restricted Class and the General Public.

Section 114.4(a) Nonpartisan Communications by a Corporation or Labor Organization to its Restricted Class.

Section 114.4(a)(1) General.

Paragraph (a)(1)(i) makes clear that corporations and labor organizations may make the nonpartisan communications permitted under this section just to their restricted class if they so choose. It also clarifies the distinction between this section and § 114.3, which describes communications that may only be made to the restricted class. As in § 114.3, this section adds "executive and administrative personnel" to the restricted class of labor organizations.

Paragraph (a)(1)(ii) was added to clarify the application of this section to incorporated membership organizations, incorporated trade associations, incorporated cooperatives and corporations without capital stock. These organizations are treated as corporations for the purpose of making the communications to the general public permitted under §114.4 (b) and (c). As in § 114.3, the restricted class of these organizations has been expanded to include families of members.

Section 114.4(a)(2) Nonpartisan Candidate and Party Appearances on Corporate Premises or at a Meeting, Convention or Other Function.

This section generally follows current § 114.4(b)(1) but has been revised to include meetings, conventions or other functions sponsored by the corporation, regardless of whether they are held on corporate premises. Also, the category of Presidential and Vice Presidential candidates that may request to appear at such meetings is more specifically defined under paragraph (a)(2)(ii) than in the current regulations to reduce the burden on sponsoring organizations that must provide a forum under this rule.

It should be noted that the operation of this subsection involves appearances in connection with a federal election. Such appearances can be distinguished from those in which an incumbent, who may also be a "candidate" under the Act, is requested to appear in his or her capacity as an officeholder at a public meeting sponsored by a corporation or labor organization. If the discussion at the meeting is limited to issues of concern to the sponsoring organization or its industry and avoids any reference to campaign activity, the sponsor may finance the meeting without triggering the "equal opportunity to appear" requirements of this paragraph. *See* e.g., Advisory Opinion 1980–22.

Section 114.4(a)(3) Nonpartisan Candidate and Party Appearances on Labor Organization Premises or at a Meeting, Convention or Other Function.

This section generally follows current § 114.4(b)(2) and, like § 114.4(a)(2), has been expanded to include nonpartisan candidate and party appearances at meetings, conventions or other functions sponsored by the labor organization which are not held on its premises.

Section 114.4(b) Nonpartisan Communications by Corporations and Labor Organizations to the General Public.

Section 114.4(b)(1) General.

This paragraph clarifies that the communications described in § 114.4(b) may be made to the general public. It also permits the sponsor of a communication made under this section to identify itself or include its logo on materials prepared and distributed under this section, consistent with the Commission's decision in Advisory Opinion 1980–55.

Section 114.4(b)(2) Nonpartisan Registration and Voting Communications.

This paragraph has been added to incorporate the Commission's decision in Advisory Opinion 1980–20 into the regulations. It broadens the class of persons to whom a nonpartisan registration or voting communication may be made to include members of the general public. Under current § 114.4(c)(1), such communications are limited to employees of the corporation or labor organization.

Paragraph (b)(2)(i) contains three factors that the Commission may consider in determining whether a communication made under this section is nonpartisan. The first two factors generally follow current § 114.4(c)(1)(ii) but permit the list of candidates, if included, to name only those running for a particular seat or office rather than requiring the sponsor to print all the candidates on the official ballot. The third factor generally follows current § 114.4(c)(1)(i).

Paragraph (b)(2)(ii) expands the list of media through which a communication may be made under this section from that set forth in current § 114.4(c)(1).

Section 114.4(b)(3) Official Registration and Voting Information.

This paragraph generally follows the provisions of current § 114.4(c)(2).

Paragraph (b)(3)(iii) has been included consistent with the Commission's decision in Advisory Opinion 1980–55. That paragraph provides that a corporation or labor organization may donate funds to State or local election administrators to pay for the printing and distribution costs of official registration materials and voter information.

Section 114.4(b)(4) Voting Records.

This paragraph permits corporations and labor organizations to prepare and distribute nonpartisan voting records which contain a factual recital of an incumbent's or candidate's vote on bills and other measures. The preparation and distribution of such voting records under this paragraph may not be for the purpose of influencing a Federal election.

Section 114.4(b)(5) Voter Guides.

Under this paragraph, corporations and labor organizations may prepare and distribute nonpartisan voter guides which describe a candidate's position on campaign issues. Corporations and labor organizations may submit questions to candidates on one or more campaign issues and then print their responses. To ensure the nonpartisanship of such publications, this paragraph lists six factors which the Commission may consider in determining whether a particular voter guide is nonpartisan. These factors are intended to be illustrative, not exhaustive, and are based in part upon factors articulated by the Internal Revenue Service in Revenue Rulings 78–248 and 80–282. The first factor in paragraph (b)(5)(i) is whether the questionnaires are sent to all candidates running for a particular office. With regard to Presidential and Vice Presidential candidates however, only those candidates seeking a major party's nomination or who are on the general election ballot in enough States to win a majority of the electoral votes need be included. While permitting the sponsoring organization to impose restrictions on the length of the candidates' responses, paragraph (b)(5)(ii) requires that the sponsor reprint the candidates' responses

without change or additional comment. If the candidates' responses exceed the stated word limit, the sponsor may choose to print the responses either in their entirety or after deleting that part of each response which exceeds the word limit.

Furthermore, under paragraph (b)(5)(iii), the Commission may consider whether the wording of the questions is slanted to suggest the sponsor's viewpoint on any issue. The next factor, in paragraph (b)(5)(iv), concerns whether the voter guide expresses an editorial opinion or indicates support for or opposition to any candidate or political party. Paragraph (b)(5)(v) would permit the inclusion of biographical information on each candidate in the voter guide, such as schools attended, degrees earned, past employment and any office held. The sponsoring organization would also be allowed to limit the number of words on this information. Finally, paragraph (b)(5)(vi) concerns whether the voter guide is distributed in the geographic area in which the sponsoring organization normally operates.

Section 114.4(c) Nonpartisan Registration and Get-Out-The-Vote Drives.

Section 114.4(c)(1) Requirements for Conducting Nonpartisan Drives.

This paragraph generally follows current § 114.4(d). References to civic and nonprofit organizations in the current provisions of § 114.4(d) have been changed in the revised regulations to "nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3) or (4) and which does not support, endorse or oppose candidates or political parties." In addition, this subsection now permits co-sponsorship by a State or local election agency. To meet the requirement that the drive be "conducted" by the tax-exempt organization or election agency, one or more persons from such co-sponsors must participate in the administration of the drive. This requirement does not preclude, however, the presence of corporate or labor organization personnel or members to assist in the activity. Paragraph (c)(1)(ii) allows corporations and labor organizations to set up a table or rack on their own premises for distributing official voting information without co-sponsorship with a tax-exempt organization.

Section 114.4(c)(2) Donation of Funds.

This paragraph incorporates the Commission's decision in Advisory Opinion 1980–55 into the regulations by providing that corporations and labor organizations may donate funds to State or local election administrators and nonpartisan tax-exempt organizations to defray the costs of registration and voting drives conducted by such officials and organizations.

Section 114.4(c)(3) Use of Personnel and Facilities.

This paragraph generally follows the provisions of current § 114.4(d)(3).

Section 114.4(c)(4) When Co-sponsorship Not Required.

This paragraph has been added to incorporate the Commission's decision in Advisory Opinion 1980–45. Pursuant to this subsection, a nonpartisan tax-exempt organization may conduct registration and voting drives without the need for a co-sponsor.

Section 114.4(c)(5) Identification of Drive Sponsors.

This paragraph requires that any materials produced for use in connection with a registration or get-out-the-vote drive aimed at the general public contain the names of all the sponsors of the drive.

Section 114.4(d) Incorporated Membership Organizations, Incorporated Trade Associations, Incorporated Cooperatives and Corporations Without Capital Stock.

This paragraph permits corporations without capital stock, and incorporated membership organizations, trade associations and cooperatives to invite candidates, their representatives or the representatives of political parties to address the members or employees of the organization subject to the requirements of § 114.4(a)(2).

Conforming Amendments

Several conforming amendments have been made to other sections of Part 114. These amendments reflect the addition of a labor organization's executive and administrative personnel and the families of members of a membership organization to the restricted class of each type of organization.

List of Subjects in 11 CFR Part 114

Business and industry, Elections, Labor.

11 CFR Part 114 is amended as follows:

PART 114—[AMENDED]

1. By revising §§ 114.3 and 114.4 (a)–(d) to read as follows:

§ 114.3 Disbursements for communications in connection with a Federal election to restricted class.

(a) *General.* (1) A corporation may make communications including partisan communications to its stockholders and executive or administrative personnel and their families on any subject. A labor organization may make communications including partisan communications to its members and executive or administrative personnel and their families on any subject. Corporations and labor organizations may also make the nonpartisan communications permitted under 11 CFR 114.4 to their restricted class or any part of that class. No corporation or labor organization may make contributions or expenditures for partisan communications to the general public in connection with a federal election and no national bank or corporation organized by authority of any law of Congress may make contributions or expenditures for partisan communications to the general public in connection with any election to any political office including any State or local office.

(2) An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may communicate with its members and executive or administrative personnel, and their families, as permitted in 11 CFR 114.3(a) (1) and (c), and shall report disbursements for partisan communications as required by 11 CFR 100.8(b)(4) and 104.6.

(b) *Reporting Partisan Communications.* Disbursements for partisan communications made by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or administrative personnel and their families shall be reported in accordance with 11 CFR 100.8(b)(4) and 104.6 if the communications expressly advocate the election or defeat of a clearly identified candidate.

(c) *Means of Making Partisan Communications.* The means of making partisan communications for which disbursements must be reported under 11 CFR 114.3(b) include, but are not limited to, the examples set forth in 11 CFR 114.3(c) (1) through (4).

(1) *Partisan Publications.* Printed material of a partisan nature may be distributed by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or

administrative personnel and their families, provided that:

(i) The material is produced at the expense of the corporation or labor organization; and

(ii) The material constitutes a communication of the views of the corporation or the labor organization, and is not the republication or reproduction in whole or in part, of any broadcast, transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents. A corporation or labor organization may, under this section, use brief quotations from speeches or other materials of a candidate that demonstrate the candidate's position as part of the corporation's or labor organization's expression of its own views.

(2) *Partisan Candidate and Party Appearances.* A corporation may allow a candidate or party representative to address its stockholders and executive or administrative personnel, and their families, at a meeting, convention or other function of the corporation. A labor organization may allow a candidate or party representative to address its members and executive or administrative personnel, and their families, at a meeting, convention or other function of the labor organization. Employees outside the restricted class of the corporation or labor organization who are necessary to administer the meeting, limited invited guests and observers, and representatives of the news media may also be present during a candidate or party representative appearance under this section. The candidate or party representative may ask for contributions to his or her campaign or party, or ask that contributions to the separate segregated fund of the corporation or labor organization be designated for his or her campaign or party. The incidental solicitation of persons outside the corporation's or labor organization's restricted class who may be present at the meeting as permitted by this section will not be a violation of 11 CFR 114.5(g).

(3) *Partisan Phone Banks.* A corporation may establish and operate phone banks to communicate with its stockholders and executive or administrative personnel, and their families, urging them to register and/or vote for a particular candidate or candidates, and a labor organization may establish and operate phone banks to communicate with its members and executive or administrative personnel, and their families, urging them to register and/or vote for a particular candidate or candidates.

(4) *Partisan Registration and Get-Out-The-Vote Drives.* A corporation may conduct registration and get-out-the-vote drives aimed at its stockholders and executive or administrative personnel, and their families, or a labor organization may conduct registration and get-out-the-vote drives aimed at its members and executive or administrative personnel, and their families. Registration and get-out-the-vote drives include providing transportation to the polls. Such drives may be partisan in that individuals may be urged to register with a particular party or to vote for a particular candidate or candidates, but assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

§ 114.4 Expenditures for communications in connection with a Federal election to the restricted class and the general public.

(a) *Nonpartisan Communications by a Corporation or Labor Organization to its Employees or its Restricted Class.* (1) *General.* (i) A corporation may make the nonpartisan communications permitted under 11 CFR 114.4 (b) and (c) to its stockholders, executive or administrative personnel, other employees, and their families. A labor organization may make such communications to its members, executive or administrative personnel, other employees, and their families. Communications which a corporation or labor organization may make only to its solicitable class are found at 11 CFR 114.3.

(ii) An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may make the communications permitted under 11 CFR 114.4 (b) and (c) to its members, executive or administrative personnel, other employees, and their families, as provided by 11 CFR 114.4(d). The organizations covered under this section will be treated as corporations for the purpose of making communications to the general public under 11 CFR 114.4 (b) and (c).

(2) *Nonpartisan Candidate and Party Appearances on Corporate Premises or at a Meeting, Convention or Other Function.* Corporations may permit candidates, candidates' representatives or representatives of political parties on corporate premises or at a meeting, convention, or other function of the corporation to address or meet stockholders, executive or administrative personnel, and other employees of the corporation, and their families, under the conditions set forth in 11 CFR 114.4(a)(2) (i) through (v).

(i) If a candidate for the House or Senate or a candidate's representative is permitted to address or meet employees, all candidates for that seat who request to appear must be given the same opportunity to appear;

(ii) If a Presidential or Vice Presidential candidate or candidate's representative is permitted to address or meet employees, all candidates for that office who are seeking the nomination of a major party or who are on the general election ballot in enough States to win a majority of the electoral votes and who request to appear must be given the same opportunity to appear;

(iii) If representatives of a political party are permitted to address or meet employees, representatives of all political parties which had a candidate or candidates on the ballot in the last general election or which are actively engaged in placing or will have a candidate or candidates on the ballot in the next general election and who request to appear must be given the same opportunity to appear;

(iv) A corporation, its stockholders, executive or administrative personnel, or other employees of the corporation or its separate segregated fund shall make no effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party in conjunction with any appearance by any candidate or party representative under this section; and

(v) A corporation, its stockholders, executive or administrative personnel or other employees of the corporation or its separate segregated fund shall not, in conjunction with any candidate or party representative appearance under this section, endorse, support or oppose any candidate, group of candidates or political party.

(3) *Nonpartisan Candidate and Party Appearances on Labor Organization Premises or at a Meeting, Convention or Other Function.* A labor organization may permit candidates, candidates' representatives or representatives of political parties on the labor organization's premises or at a meeting, convention, or other function of the labor organization to address or meet members, executive or administrative personnel, and other employees of the labor organization, and their families, if the conditions set forth in 11 CFR

114.4(a)(2) (i) through (iii) and 11 CFR 114.4(a)(3) (i) and (ii) are met.

(i) An official, member, or employee of a labor organization or its separate segregated fund shall not make any effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party representative under this section.

(ii) An official, member, or employee of a labor organization or its separate segregated fund shall not, in conjunction with any candidate or party representative appearance under this section, endorse, support or oppose any candidate, group of candidates or political party.

(b) *Nonpartisan Communications by Corporations and Labor Organizations to the General Public.*—(1) *General.* A corporation or labor organization may make the communications described in 11 CFR 114.4(b) (2) through (5) to the general public. The corporation or labor organization may include its logo or otherwise identify itself as the sponsor of the communication.

(2) *Nonpartisan Registration and Voting Communications.* A corporation or labor organization may make nonpartisan registration and get-out-the-vote communications to the general public.

(i) For purposes of 11 CFR 114.4(b)(2), the following are factors that the Commission may consider in determining whether a registration or get-out-the-vote communication is nonpartisan:

(A) It neither names nor depicts any particular candidate(s) or it names or depicts all candidates for a particular Federal office without favoring any candidate(s) over any other(s);

(B) It names no political party(s) except that it may include the political party affiliation of all candidates named or depicted under 11 CFR 114.4(b)(2)(i)(A);

(C) It is limited to urging acts such as voting and registering and to describing the hours and places of registration and voting.

(ii) A corporation or labor organization may make communications permitted under this section through posters, billboards, broadcasting media, newspapers, newsletters, brochures, or similar means of communication with the general public.

(3) *Official Registration and Voting Information.* (i) A corporation or labor organization may distribute to the general public, or reprint in whole and distribute to the general public, any registration or voting information, such as instructional materials, which has been produced by the official election administrators.

(ii) A corporation or labor organization may distribute official registration-by-mail forms to the general public if registration by mail is permitted by the applicable State law.

(iii) A corporation or labor organization may donate funds to State or local agencies responsible for the administration of elections to help defray the costs of printing or distributing registration or voting information and forms.

(iv) The information and forms referred to in 11 CFR 114.4(b)(3) (i) through (iii) must be distributed in a nonpartisan manner, and the corporation or labor organization may not, in connection with the distribution, endorse, support, or otherwise promote registration with or voting for a particular party or candidate.

(4) *Voting Records.* A corporation or labor organization may prepare and distribute to the general public the nonpartisan voting records of Members of Congress as long as the preparation and distribution is not for the purpose of influencing a Federal election. For the purpose of this section, a nonpartisan voting record that may be distributed is a publication which describes in a nonpartisan manner bills and other legislative measures voted on by Congress and which states the factual record of each officeholder's votes on such bills and measures.

(5) *Voter Guides.* A corporation or labor organization may prepare and distribute to the general public nonpartisan voter guides consisting of questions posed to candidates concerning their positions on campaign issues and the candidates' responses to those questions. The following are factors that the Commission may consider in determining whether a voter guide is nonpartisan:

(i) The questions are directed to all of the candidates for a particular seat or office, giving the candidates equal time to respond, except that in the case of Presidential and Vice Presidential candidates the questions may be directed only to those candidates seeking the nomination of a major party or to those appearing on the general election ballot in enough States to win a majority of the electoral votes;

(ii) The voter guide reprints verbatim the responses of each candidate to whom questions were sent, without any additional comment, editing, or emphasis, although the sponsoring organization may impose limitations on the number of words per response when the questions are initially sent to the candidates for their comments;

(iii) The wording of the questions presented does not suggest or favor any position on the issues covered;

(iv) The voter guide expresses no editorial opinion concerning the issues presented nor does it indicate any support for or opposition to any candidate or political party;

(v) The sponsor may ask each candidate to provide biographical information such as education, employment positions, offices held, and community involvement and may impose a limitation on the number of words per submission; and

(vi) The voter guide is made available to the general public in the geographic area in which the sponsoring organization normally operates.

(c) *Nonpartisan Registration and Get-Out-The-Vote Drives.*—(1) *Requirements for Conducting Nonpartisan Drives.* (i) A corporation or labor organization may conduct nonpartisan voter registration drives which are not limited to its restricted class if the conditions in paragraphs (c)(1)(i) (A) through (C) of this section are met. A corporation or labor organization may conduct nonpartisan get-out-the-vote drives, such as by transporting people to the polls, which drives are not limited to its restricted class if the conditions of paragraphs (c)(1)(i) (A) through (C) of this section are met.

(A) The corporation or labor organization shall jointly sponsor the drives with a nonprofit organization which is exempt from Federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose candidates or political parties, or with a State or local agency which is responsible for the administration of elections;

(B) The activities shall be conducted by the tax-exempt organization or by persons authorized by the State or local agency; and

(C) These services shall be made available without regard to the voter's political preference.

(ii) For the purposes of 11 CFR 114.4(c)(1)(i)(B), a corporation or labor organization which provides space on the corporation's or labor organization's premises for a table, rack or booth from which official registration or voting information is distributed to the general public, and which provides its employees or members to aid in the distribution of such materials, shall not be considered to be "conducting" a registration or voting drive.

(2) *Donation of Funds.* A corporation or labor organization may donate funds to be used for nonpartisan registration

drives to State or local agencies responsible for the administration o elections and to nonprofit organizati which are exempt from Federal taxation under 26 U.S.C. 501(c) (3) or (4) and which do not support, endorse or oppose candidates or political parties.

(3) *Use of Personnel and Facilities.* A nonpartisan tax-exempt organization, or person authorized by a State or local agency, in conducting nonpartisan registration and get-out-the-vote activities, may utilize the employees and facilities of a corporation or the employees or members and facilities of a labor organization.

(4) *When Co-Sponsorship Not Required.* A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose any candidates or political parties may conduct nonpartisan voter registration and get-out-the-vote activities on its own without a co-sponsor.

(5) *Identification of Drive Sponsors.* All materials prepared for distribution to the general public in connection with the registration or voting drive shall include the full names of all drive sponsors.

(d) *Incorporated Membership Organizations, Incorporated Trade Associations, Incorporated Cooperatives and Corporations Without Capital Stock.* An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may permit candidates, candidates' representatives or representatives of political parties to address or meet members and employees of the organization, and their families, on the organization's premises or at a meeting, convention or other function of the organization, provided that the conditions set forth in 11 CFR 114.4(a)(2) (i) through (v) are met.

(e) *Nonpartisan Candidate Debates.*

* * * * *

Conforming Amendments

2. By revising §§ 114.1 (a)(2)(i), (a)(2)(ii), (c), and (c)(2)(iv) to read as follows:

§ 114.1 Definitions.

(a) * * *

(2) * * *

(i) Communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or administrative personnel, and their families, on any subject;

(ii) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and executive or administrative personnel, and their families;

* * * * *

(b) * * *

(c) "Executive or administrative personnel" means individuals employed by a corporation or labor organization who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) * * *

(2) * * *

(iv) Individuals who may be paid by the corporation or labor organization, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-1, of the corporation or labor organization for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, section 3402.

* * * * *

3. By revising § 114.5(g) (2) and (1) as follows:

§ 114.5 Separate segregated funds.

* * * * *

(g) * * *

(2) A labor organization, or a separate segregated fund established by a labor organization is prohibited from soliciting contributions to such a fund from any person other than its members and executive or administrative personnel, and their families.

* * * * *

(1) *Methods permitted by law to labor organizations.* Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members and executive or administrative personnel.

4. By revising § 114.7 (a), (e) and (h) as follows:

§ 114.7 Membership organizations, cooperatives or corporations without capital stock.

(a) Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members and executive or administrative personnel, and their families, of the organization, cooperative, or corporation without capital stock.

* * * * *

(e) There is no limitation upon the number of times an organization under this section may solicit its members and executive or administrative personnel, and their families.

* * * * *

(h) A membership organization, cooperative, or corporation without capital stock may communicate with its members and executive or administrative personnel, and their families, under the provisions of § 114.3 of this part.

* * * * *

5. By revising § 114.8 (h) and (i) as follows:

§ 114.8 Trade associations.

* * * * *

(h) *Communications other than solicitations.* A trade association may make communications, other than solicitations, to its members and their families under the provisions of § 114.3 of this part. When making communications to a member which is a corporation, the trade association may communicate with the representatives of the corporation with whom the trade association normally conducts the association's activities.

(i) *Trade association employees.* (1) A trade association may communicate with its executive or administrative personnel and their families under the provisions of § 114.3 of this part; a trade association may communicate with its other employees under the provisions of § 114.4 of this part.

(2) A trade association may solicit its executive or administrative personnel and their families under the provisions of § 114.5(g) of this part; a trade association may solicit its other employees under the provisions of § 114.6 of this part.

Dated: March 1, 1982.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-5899 Filed 3-3-83; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 270, 273, 284 and 340

[Docket No. RM77-22-004]

Rate of Interest on Amounts Held Subject to Refund for Oil Pipelines and Elimination of Undertaking Requirements for Gas Pipelines and Producers

Issued February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purposes of further consideration.

SUMMARY: The Federal Energy Regulatory Commission (Commission) grants rehearing for the limited purpose of further consideration of a petition for rehearing and clarification, and a petition for reconsideration of Order No. 273. Order No. 273 is a final rule which was issued December 28, 1982 (48 FR 1279, January 12, 1983). It establishes regulations respecting refund payments with interest by oil pipeline companies and eliminates undertaking requirements for natural gas pipelines and producers.

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

SUPPLEMENTARY INFORMATION: 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 provided the requirements for refund payments, with interest, by oil pipeline companies under the Commission's jurisdiction. The refund interest rate is the prime rate charged by commercial banks for short-term business loans. It applies to all amounts held on or after the effective date of this final rule, including those in the *Trans Alaska Pipeline System (TAPS)* case (Docket No. OR78-1). In addition, this final rule provided for the compounding of interest rates on a quarterly basis and provided the procedures for refunds in the case of joint tariffs. In regard to natural gas pipelines and producers, the final rule revised the requirements for a motion and eliminated the requirements for an undertaking that must be complied with before a suspended rate could become effective.

On January 27, 1983, the State of Alaska and the owners of the Trans Alaska Pipeline System (TAPS) filed, respectively, a petitions for rehearing and clarification of Order No. 273, and a petition for reconsideration of that rule. In order to have sufficient time to consider the issues raised in these petitions, the Commission grants rehearing of Order No. 273 solely for the purpose of further consideration.

The Commission Orders:

Rehearing of Order No. 273 is granted for the limited purpose of further consideration of the issues raised in the petition for rehearing and reconsideration. This action does not constitute a grant or denial of the petitions on their merits in whole or part. As provided in § 385.713(d) of the Commission's regulations, no answers to these petitions will be entertained by the Commission because this Order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5507 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201, 210 and 211

Practice and Procedure; Clarification

AGENCY: United States International Trade Commission.

ACTION: Interim rules; amendment and clarification; request for comments.

SUMMARY: On June 10, 1982, the Commission published amendments to Part 210 of its Rules of Practice and Procedure (19 CFR Part 210) providing procedures in investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) for initial determinations by the presiding officer and discretionary Commission review. 47 FR 25134. Since the amended rules have been in effect it has come to the Commission's attention that certain provisions require alteration in order better to effectuate the smooth functioning of the new procedures. These rules are effective as of the date of publication as interim rules pending the receipt of public comments and the issuance of final rules.

EFFECTIVE DATES: March 4, 1983. Comments will be considered if received within thirty days of publication of this notice. The procedures amended by these interim rules are applicable only to section 337 investigations instituted subsequent to June 10, 1982.

ADDRESS: Comments should conform with Commission rule 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202-523-0819.

SUPPLEMENTARY INFORMATION: Authority for adoption of these interim rules is contained in 19 U.S.C. 1335 and the Administration Procedure Act, 5 U.S.C. 551, et seq.

In accordance with the Regulatory Flexibility Act, it is hereby certified that these interim rules will not have a significant economic impact on a substantial number of small entities. These rules are intended only to refine previously adopted procedural rules that are intended to make it less costly and time consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

Explanation of Amendments

Since the effective date of the Commission's amended rules establishing the initial determination procedures for section 337 investigations, it has become apparent that certain revisions to those procedures are necessary to effectuate them fully. Four principal changes are made in the present amendements: (1) Clarification that the Federal agencies specified in 19 U.S.C. 1337(b)(2) and § 210.53(e) of the Commission's Rules of Practice and Procedure, as well as parties, will be entitled to an additional three days for taking action in response to documents served by mail; (2) provision for making a record on, and consideration by the presiding officer of, the public interest with respect to motions for termination on the basis of an agreement or consent order; (3) application of the initial determination procedures to terminations by agreement or consent order under § 210.51 (c) and (d); and (4) lengthening of the period in which the Commission may order review of initial determinations not concerning permanent relief to the same 30-day period now provided for initial determinations on issues relating to permanent relief.

Section 201.16 Service of process and other documents.

Subsection (d) is amended to clarify that the Federal agencies that the Commission is required to consult with and seek advice from, 19 U.S.C. 1337(b)(2) and § 210.53(e), are entitled to three additional days in which to respond to a document served upon them by mail. This clarification is necessary because of the short time limits for submission of agency comments on initial determinations under § 210.53(e).

Section 210.14 Commission action, public interest factor, and bonding.

While subsection (b) continues the Commission practice of not permitting discovery on the public interest issue, subsection (b) is amended to allow the presiding officer to take information and to consider and make findings regarding the effect on the public interest of a proposed settlement by agreement of the parties on a consent order. This change is deemed advisable because prior practice involving comment on proposed agreement or consent order terminations by the public and other Federal agencies has not always yielded as fully developed a record on the public interest factors as is desirable.

Section 210.51 Termination of investigation.

Subsection (c) is amended in order to render procedures on motions for termination by licensing or other agreement consistent with the initial determination process. This change to the more expeditious initial determination rules will not adversely affect the public interest. Concerned Federal agencies will continue to be afforded an opportunity to comment, as will nonmoving parties to the investigation and the public at large. The Commission believes that these opportunities for comment, together with the explicit public interest findings by the presiding officer now provided for in § 210.14, insure adequate consideration of the public interest in deciding motions for termination by licensing or other agreement.

Section 210.53 Initial determination.

Experience has demonstrated that 15 days is too short a time for Commission consideration of initial determinations under § 210.53 (b) and (c) regarding issues other than permanent relief. Consequently, subsection (h)(1) has been revised and subsection (h)(2) removed in order to provide a 30-day review period for all initial determinations. The amended rule would still allow a more expedited review if required by the circumstances of a given investigation.

Section 210.54 Petition for review.

Section 210.55 Commission review on its own motion.

Paragraph (b) of § 210.54 and § 210.55 have been revised to eliminate references to § 210.53(h)(2), which has been deleted by these amendments.

Section 211.20 Opportunity to submit proposed consent order.

Section 211.21 Settlement by consent.

Paragraph (b) of § 211.20 and all three paragraphs of § 211.21 are amended in order to render procedures on motions for termination by consent order agreement consistent with the initial determination process. This change to the more expeditious initial determination rules will not adversely affect the public interest. Concerned Federal agencies will continue to be afforded an opportunity to comment, as will nonmoving parties to the investigation and the public at large. The Commission believes these opportunities for comment, together with the explicit public interest findings by the presiding officer now provided for in § 210.14, insure adequate consideration of the public interest in deciding motions for termination by consent order agreement.

List of Subjects

19 CFR Part 201

Administrative practice and procedure, Freedom of information, Privacy, Seals and insignia, Sunshine Act, Classified information, Confidential business information, Investigations, Lawyers.

19 CFR Parts 210 and 211

Administrative practice and procedure, Customs duties and inspection, Imports, Investigations.

PART 201—[AMENDED]

19 CFR Part 201 is amended as set forth below.

1. In § 201.16, paragraph (d) is revised to read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(d) *Additional time after service by mail.* Whenever a party or Federal agency or department has the right or is required to do some act or take some proceedings within a prescribed period after the service of a document upon it and the document is served upon it by mail, three (3) days shall be added to the prescribed period, except that when mailing is to a person located in a foreign country, ten (10) days shall be added to the prescribed period.

PART 210 [AMENDED]

19 CFR Part 210 is amended as set forth below.

1. In § 210.14 paragraph (b) is revised to read as follows:

§ 210.14 Commission action, public interest factor, and bonding.

* * * * *

(b) Unless otherwise ordered by the Commission, the presiding officer shall not take evidence or other information or hear arguments from the parties and other interested persons with respect to the subject matter of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section. However, with regard to settlements by agreement or consent order under § 210.51(c) and (d), the parties may file statments regarding the impact of the proposed settlement on the public interest, and the presiding officer may in his discretion hear argument, although no discovery may be taken with respect to issues relating solely to the public interest. Thereafter, the presiding officer shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

2. In § 210.51 paragraphs (c)(1) and (c)(2) are revised to read as follows:

§ 210.51 Termination of investigation.

* * * * *

(c) *Settlement by licensing or other agreement.* (1) An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a licensing or other agreement entered into between the complainant (all of the complainants if there is more than one) and one or more of the respondents. A motion for termination by such parties shall contain copies of the licensing or other agreement and any agreements supplemental thereto and an affidavit executed by the parties stating that there are no other agreements, written or oral, expressed or implied, between such parties concerning the subject matter of the investigation. If the licensing or other agreement contain confidential business information within the meaning of § 201.6 of the Commission's rules, a copy of the

agreement with such information deleted shall accompany the motion.

(2) The motion, licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with an initial determination regarding the motion for termination. If the licensing or other agreement of the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission simultaneously with the confidential versions of such documents. The Commission shall promptly publish a notice in the **Federal Register** stating that an initial determination has been received terminating the respondent or respondents in question on the basis of a licensing or other agreement, that nonconfidential versions of the initial determination and the agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within ten (10) days of the date of publication of the notice in the **Federal Register.** An order of termination based upon such licensing or other agreement shall not constitute a determination as to violation of section 337.

* * * * *

(3). In § 210.53, paragraph (h) is revised to read as follows:

§ 210.53 Initial determination.

* * * * *

(h) *Effect.* An initial determination shall become the determination of the Commission thirty (30) days after the service thereof, unless the Commission, within thirty (30) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55, or by order shall have changed the effective date of the initial determination.

* * * * *

4. In § 210.54, paragraph (b)(1) is revised to read as follows:

§ 210.54 Petition for review.

* * * * *

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review within thirty (30) days of the filing of the initial determination, or by such other time as the Commission may order.

* * * * *

5. § 210.55 is revised to read as follows:

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(h), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. The standards for granting review of an initial determination are set forth in § 210.54(a)(2). In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has directed review on its own initiative shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

PART 211—[AMENDED]

19 CFR Part 211 is amended as set forth below.

1. In § 211.20, paragraph (b) is revised to read as follows:

§ 211.20 Opportunity to submit proposed consent order.

* * * * *

(b) *Subsequent to institution of an investigation.* In investigations under section 337, a proposal to settle a matter by consent shall be submitted as a motion to the presiding officer to terminate an investigation under § 210.51 together with a consent order agreement which incorporates a proposed consent order. If the consent order agreement contains confidential business information within the meaning of § 201.6 of the Commission's rules, a copy of the agreement with such information deleted shall accompany the motion. The proposed agreement shall comply with the requirements of § 211.22. At any time prior to commencement of a hearing as provided in § 210.41(a)(1), the motion may be filed jointly by all of the following: (1) All private complainants, (2) the Commission investigative attorney, and (3) one or more respondents. However, upon request and for good cause shown, the presiding officer may consider such a motion during or after a hearing. The filing of the motion shall not stay proceedings before the presiding officer unless the presiding officer so orders. The presiding officer shall promptly file with the Commission an initial determination regarding the motion for termination. If the initial determination contains confidential business information, a copy of the initial determination with such information deleted shall be filed with the Commission simultaneously with the filing of the confidential version of the initial determination. The Commission shall promptly publish a notice in the **Federal Register** stating that an initial determination has been received terminating the respondent or respondents in question on the basis of a consent order agreement, that nonconfidential versions of the initial determination and consent order agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within ten (10) days of the date of publication of the notice in the **Federal Register.** Pending disposition by the Commission of a consent order agreement, a party may not, absent good cause shown, withdraw from the agreement once it has been submitted pursuant to this section.

2. Section 211.21 is revised to read as follows:

§ 211.21 Settlement by consent.

(a) After the initial determination on the motion for termination based on a consent order agreement has been filed with the Commission, the Commission shall promptly serve copies of the nonconfidential version of the initial determination and the proposed consent order agreement on the Department of Health and Human Services, the Department of Justice, and the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

(b) The Commission, after considering the effect of the consent order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers in the manner provided by § 210.14(a)(4), shall dispose of the initial determination according to the procedures of §§ 210.54–210.56. An order of termination based upon a consent order agreement shall not constitute a determination as to violation of section 337. The Commission shall publish in the **Federal Register** and serve on all parties notice of its action together with a statement of reasons in support thereof. Should the Commission reject the proposed agreement and deny the motion, the parties are in no way bound by their

proposal in later actions before the Commission.

Issued: February 25, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-5280 Filed 3-3-83; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 77N-0331]

Nine Natural Cheeses; Revision Based on International Standards of Identity

Correction

In FR Doc. 83-1842, beginning on page 2736 in the issue of Friday, January 21, 1983, make the following correction.

On page 2739, first column, twentieth line from the bottom of the page, "expended" should read "expanded".

BILLING CODE 1505-01-M

21 CFR Part 176

[Docket No. 82F-0174]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of diethylene glycol dibenzoate as a plasticizer in polymeric substances used in the manufacture of paper and paperboard for direct contact with dry food. This action responds to a petition by Velsicol Chemical Corp.

DATES:

Effective March 4, 1983.

Objections by April 4, 1983.

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

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

SUPPLEMENTARY INFORMATION: In a notice in the **Federal Register** of July 13, 1982 (47 FR 30291), FDA announced that a food additive petition (FAP 2B3632) had been filed by Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611, proposing that the food additive regulations be amended to provide for the safe use of 2,2'-oxybis(ethanol) dibenzoate as a plasticizer in polymeric substances in the manufacture of paper and paperboard for use in direct contact with dry food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. The agency believes that the common name of the additive, diethylene glycol dibenzoate, should be listed in the regulation rather than the less familiar CAS name 2,2'-oxybis(ethanol)dibenzoate, which was used in the filing notice.

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

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

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* *
Diethylene glycol dibenzoate (CAS Reg. No. 120-55-8).	For use only as a plasticizer in polymeric substances.
* * *	*

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

Effective date. This regulation shall become effective March 4, 1983.

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

Dated: February 25, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-5358 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 81F-0332]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Lubricants With Incidental Food Contact

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an antioxidant in lubricants that have incidental food

contact. This action responds to a petition by the Ciba-Geigy Corp.

DATES: Effective March 4, 1983; objections by April 4, 1983.

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

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice in the **Federal Register** of November 24, 1981 (46 FR 57647), FDA announced that a petition (FAP 1B3583) had been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10352 (formerly Ardsley, NY 10502), proposing that the food additive regulations be amended to provide for the safe use of thiodiethylenebis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant in lubricants that have incidental food contact.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

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

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

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3570(a)(3) by inserting a new item alphabetically in the list of substances, to read as follows:

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

§178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * *	* * *
Thiodiethylenebis(3,5-di-*tert*-butyl-4-hydroxy-hydro-cinnamate) (CAS Reg. No. 41484-35-9).	For use as an antioxidant at levels not to exceed 0.5 percent by weight of the lubricant.

* * * * *

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

Effective date. This regulation shall become effective March 4, 1983.

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

Dated: Feburary 23, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-5199 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Chewable Tablets

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 by International Multifoods Corp. providing for safe and effective use of 120-milligram diethylcarbamazine citrate chewable tablets for prevention of heartworm disease and control of ascarid infections in dogs, and treatment of ascarid infections in dogs and cats. The firm also holds approval for use of tablets containing 60 and 180 milligrams of diethylcarbamazine citrate for the same conditions of use.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: International Multifoods Corp., 1200 Multifoods Bldg., 8th and Marquette Sts., Minneapolis, MN 55402, filed supplemental NADA 118–032 which provides for use of 120-milligram diethylcarbamazine citrate chewable tablets for prevention of heartworm disease (*Dirofilaria immitis*) in dogs, as an aid in control of ascarids (*Toxocara canis*) in dogs, and as an aid in the treatment of ascarid infections in dogs and cats (*T. canis* and *Toxascaris leonina*, respectively). The supplement is approved and the regulations are amended to reflect the approval.

The firm currently holds approval for use of tablets containing 60 and 180 milligrams of diethylcarbamazine citrate for the same conditions of use.

Approval of this supplement does not change the approved conditions of use of the drug. It merely provides for a tablet containing a drug concentration which facilitates dosing those animals that are intermediate in size to those for whom the 60- and 180-milligram tablets are designed. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original application.

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 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.622c is amended by revising paragraph (b)(4) to read as follows:

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

§ 520.622c Diethylcarbamazine citrate chewable tablets.

* * * * *

(b) * * *

(4) For 012516, use of 60-, 120-, or 180-milligram tablets as in paragraph (c)(2)(i) of this section.

* * * * *

Effective date. March 4, 1983.

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

Dated: February 28, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-5477 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is adding a new subsection to its pre-release review procedures to permit the administrative hearing examiner to act for the Regional Commissioner in converting a presumptive parole date to an effective parole date where there is no finding of misconduct nor any allegation of new criminal conduct and no other modification of the release date appears warranted. This procedure is intended to expedite case processing.

EFFECTIVE DATE: April 4, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, United States Parole Commission, Office of the General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Tel: (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is amending its procedures for pre-release reviews to allow the administrative hearing examiner to act for the Regional Commissioner to convert a presumptive parole date to an effective parole date where there has not been a finding of misconduct by an institutional disciplinary committee or any allegation of new criminal conduct and no other modification of the release date appears warranted.

This procedural change is intended to relieve the Regional Commissioner of the administrative burden of reviewing a case where there has been no change since the Commissioner last reviewed the case. The revision is expected to increase efficiency of case processing and thereby reduce costs; it makes no substantive change in the standard of review utilized by the Commission in converting presumptive parole dates to effective parole dates.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.14(b)(4) is added as follows:

§ 2.14 Subsequent proceedings.

* * * * *

(b) * * *

(4) Where: (i) There has been no finding of misconduct by an Institutional Disciplinary Committee nor any allegation of criminal conduct since the last hearing; and (ii) no other modification of the release date appears warranted, the administrative hearing examiner may act for the Regional Commissioner under paragraph (b)(2) of this section to approve conversion of the presumptive parole date to an effective date of parole.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: February 18, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-5579 Filed 3-3-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its procedures for reviewing travel requests by parolees to allow designated Commission staff to approve or disapprove such requests in certain cases rather than have all such cases referred to the Regional Commissioner. This change is intended to make the Commission's procedures more flexible and expedite case processing.

EFFECTIVE DATE: April 4, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, United States Parole Commission, Office of the General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Tel: (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is amending its rule at 28 CFR 2.41 to allow designated Commission staff to review requests by parolees to travel in certain cases. This procedural change is intended to reduce the Regional Commissioner's workload and give the Commission added administrative flexibility in reviewing travel requests thereby increasing efficiency and reducing costs.

Lists of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.41 is amended by revising the introductory text of paragraph (a), and paragraph (b) as follows:

§ 2.41 Travel approval.

(a) The probation officer may approve travel outside the district without approval of the Commission in the following situations:

* * * * *

(b) Specific advance approval by the Commission is required for other travel outside the district, including any travel outside the contiguous forty-eight states, employment requiring recurring travel

more than fifty miles outside the district (except employment at offshore locations), and vacation travel outside the district exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: February 18, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-5578 Filed 3-3-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of Permanent Program Amendments From State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 914 by removing certain conditions of approval of the Indiana permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana has submitted provisions to OSM which satisfy conditions found at 30 CFR 914.11 (a)(1), (a)(2) in part, (a)(3)–(5), (b)(1), (b)(3) in part, (b)(4)–(6), (c), (d), (e), (f), (g)(2), and (i) of the Secretary's approval of July 26, 1982 (47 FR 32071–32108). Indiana has also requested additional time to meet part of condition (b)(3), as explained later in this notice. This document also amends 30 CFR Part 914 by amending the Secretary's approval of other amendments to Indiana's regulations that were submitted as program amendments under the provisions of 30 CFR 732.17.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Secretary of the Interior has determined that the modifications to the Indiana program satisfy conditions (a)(1), (a)(2) in part, (a)(3)–(5), (b)(1), (b)(3) in part, (b)(4)–(6), (c), (d), (e), (f), (g)(2), and (i) of the Secretary's approval, and that the additional modifications meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has removed these conditions from his approval of the Indiana program and approved the additional modifications. The Secretary has also decided to extend the deadline to July 1, 1983, to allow Indiana to meet the remaining parts of conditions (a)(2) and (b)(3).

Part 914 of 30 CFR Chapter VII is being amended to implement this decision.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program and the Secretary's Conditions of Approval

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32108).

The nine minor conditions of approval agreed to by the Secretary and the State of Indiana are set forth below:

Condition (a) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require productivity levels for post-mining land use as required by 30 CFR 817.111(b);

(2) Require the design criteria for diversions as required by 30 CFR 816.43 and 817.43;

(3) Provide criteria for steep slope mining and variance from approximate original contour in a manner no less effective than the requirements of 30 CFR 826.15 and assure that no general variance for approximate original contour will be allowed;

(4) Delete the provisions for hilltop removal found in 310 IAC 12–5–149, and assure that no permits for hilltop removal are granted; and

(5) Require the protection of fish and wildlife in a manner no less effective than that required by 30 CFR 816.97 (a), (c), and (d) and 817.97 (a), (c), and (d).

Condition (b) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require a plan for control and treatment of surface and ground water drainage and impose ground water limits on pollutants in the discharges as required by 30 CFR 780.21(b);

(2) Require that each permit application require the applicant to certify that all reclamation fees due under 30 CFR 870.12 have been paid;

(3) Require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities including all the information required by 30 CFR 778.19 and 782.19;

(4) Require the narrative analysis of "the known history of any previous uses before mining," as required by 30 CFR 779.22 and 30 CFR 783.22;

(5) Require information concerning utility and capacity of reclaimed land for all lands, and not just those where an alternative land use is proposed as required by 30 CFR 780.23;

(6) Provide criteria for permit requirements for steep slope mining and variance from approximate original contour in a manner no less effective than 30 CFR 785.16.

Condition (c) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that the notice of intent to explore, when less than 250 tons of coal will be removed, include a description of the practices proposed to be followed to protect the environment as required by 30 CFR 776.11(b)(6);

(2) Require that core drilling and drilling of boreholes during coal exploration activities be conducted in accordance with Section 512(a)(2) of SMCRA and in a manner no less effective than 30 CFR 815.15(j).

Condition (d) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that the criteria for the determination that a pattern of violations exists or has existed meet the requirements of 30 CFR 843.13 and require that lack of diligence be considered with regard to unwarranted failure to comply;

(2) Require that the conference officer have the authority to increase a penalty as required by 30 CFR 845.18(b)(3);

Condition (e) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require the replacement of a bond for long term operations 120 days prior to the expiration of the existing permit as required by 30 CFR 801.13(b);

(2) Change the phrase "suspension of revocation" to "suspension or revocation" in Indiana rule 310 IAC 12–4–10(e)(1) to correct the typographical

error and make the Indiana rule no less effective than 30 CFR 806.12(e)(6)(i);

(3) Require that the advertisement published by the bond release applicant contain notice of the public right of participation as required by 30 CFR 807.11(b)(7).

Condition (f) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that no extension of an abatement period will be allowed unless it meets the criteria of 30 CFR 843.12(f), and

(2) Require the issuance of a cessation order where the operation fails to meet an interim step in abatement as required by 30 CFR 843.12(d).

Condition (g) requires Indiana to submit:

(1) Copies of a statutory amendment or to otherwise amend its program to require that a petitioner would only have to present evidence which would "tend to establish allegations of fact," to be in accordance with Section 522(c) of SMCRA and no less effective than 30 CFR 764.13(b)(2), and

(2) Copies of promulgated rules or otherwise amend its program to require that the Director of the Indiana Department of Natural Resources (IDNR) must use the information in the data base and inventory system in reaching decisions to designate lands unsuitable as required by 30 CFR 764.19, and to provide for the right for any person to intervene up to within three days prior to the hearing as required by 30 CFR 764.16(c).

Condition (h) requires Indiana to submit statutory amendments or otherwise amend its program to:

(1) Provide for the award of attorney and expert witness fees in surface mining related common law damage actions as required by Section 510(f) of SMCRA, and

(2) Provide for administrative review of a permit or any final decision of the regulatory authority in accordance with the provisions of Section 514(c) of SMCRA and in a manner no less effective than the requirements of 30 CFR Part 787.

Condition (i) requires Indiana to submit copies of promulgated rules or otherwise amend its program to provide for justification of positions exempted from conflict of interest requirements and make its provision no less effective than 30 CFR 705.11(d).

In accepting the Secretary's conditional approval, Indiana agreed to satisfy conditions (a), (b)(1), (b)(3)–(6), (c), (d), (e), (f), (g)(2), and (i) by December 31, 1982.

Condition (b)(2) was removed by the Secretary on December 17, 1982 (47 FR 56493–56494).

Conditions (g)(1) and (h) require legislative action and are scheduled to be met by September 30, 1983.

II. Discussion of the Amendments and Deadline Extension for One Condition

On December 9, 1982, OSM received a set of regulation amendments from the IDNR intended to meet conditions (a)(1), (a)(2) in part, (a)(3)–(5), (b)(1), (b)(3) in part, (b)(4)–(6), (c), (d), (e), (f), (g)(2), and (i). See IN–291.

In the State's transmittal letter the Director, IDNR, stated that due to an error the revisions to Indiana rule 310 IAC 12–3–63 were omitted. Those changes were necessary to comply with the part of condition (b)(3) requiring each underground permit application to contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities, as required by 30 CFR 782.19.

The Director, IDNR, also indicated that the required state procedure to make those changes was initiated on November 19, 1982, with an anticipated promulgation date as early as May 30, 1983.

Additionally, the proposed modification contained changes to seven other State rules that were not related to the conditions of approval. These rules are: 310 IAC 12–3–1, 12–3–21, 12–3–59, 12–3–81, 12–3–102, 12–5–24, and 12–5–90.

OSM published a notice in the Federal Register on December 27, 1982, announcing receipt of the amendment and inviting public comment on whether the proposed program modifications corrected the deficiencies (47 FR 57511–57513). The Secretary's notice also requested comments on the other proposed amendments to Indiana's rules and on OSM's proposed July 1, 1983, deadline extension for Indiana to meet the remaining part of condition (b)(3). The public comment period ended January 26, 1983. A public hearing scheduled for January 17, 1983, was not held because no one expressed a desire to present testimony.

On February 16, 1983, the Administrator of the Environmental Protection Agency gave her written concurrence on the December 9, 1982, amendments to the Indiana program.

III. Secretary's Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Indiana on December 9, 1982, meet the requirements of SMCRA and 30 CFR Chapter VII as set forth below.

A. Findings on Conditions

1. Condition (a)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, Indiana rule 310 IAC 12–5–123(b) did not address productivity levels for post-mining land use (See Finding 13.8, 47 FR 32075). The Secretary now finds that Indiana has amended rule 310 IAC 12–5–123(b) to require that all revegetation be carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved post-mining land use. Accordingly, the Secretary finds that Indiana rule 310 IAC 12–5–123(b) is no less effective than 30 CFR 817.111(b).

2. Condition (a)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules omitted the design criteria for diversions (see Finding 13.9, 47 FR 32075). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–5–18 and 12–5–84 to contain design criteria for diversions in a manner no less effective than 30 CFR 816.43 and 817.43.

The Secretary notes that Finding 13.9 of the Secretary's notice of conditional approval of the Indiana program states that Indiana rules 310 IAC 12–5–19 and 12–5–85 should also be amended to require design criteria for stream channel diversions. While the intent of the Secretary's finding was to ensure that the Indiana rules provided design criteria that are no less effective than 30 CFR 816.44 and 817.44, condition (a)(2) did not clearly state this requirement. The Secretary now finds that Indiana rules 310 IAC 12–5–19 and 12–5–85 need to be amended to include the design criteria for stream channel diversions in order to be no less effective than 30 CFR 816.44 and 817.44.

3. Condition (a)(3)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not provide the criteria for steep slope mining and variances from approximate original contour found at 30 CFR 826.15 (See Finding 13.15, 47 FR 32076). The Secretary now finds that Indiana has amended rule 310 IAC 12–5–152 to contain provisions which are no less effective than 30 CFR 826.15.

4. Condition (a)(4)

The Secretary found that in the Indiana program conditionally approved

on July 26, 1982, the Indiana rules allowed for a "hilltop removal" exemption from the approximate original contour requirements and that the exemption was not provided for under the Federal rules (See Finding 13.16, 47 FR 32076). The Secretary now finds that Indiana has repealed rule 310 IAC 12–5–149 so as to disallow the "hilltop removal" exemption. The Indiana program is now no less effective than the Federal rules.

5. Condition (a)(5)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not contain provisions specified in 30 CFR 816.97(a), (c) and (d) and 817.97(a), (c) and (d) concerning the protection of fish and wildlife, including requirements that the best technology currently available be used to minimize adverse impacts (See Finding 13.17, 47 FR 32076).

The Secretary now finds that Indiana has amended its rules at 310 IAC 12–5–51 and 12–5–115 to meet the requirements of 30 CFR 816.97 and 817.97, except that Indiana has omitted the language of 30 CFR 816.97(d)(2) and 817.97(d)(2) concerning the disruption of wildlife migratory routes by fencing. The Secretary finds this omission acceptable because no large animal migratory trails exist in Indiana according to the Director, IDNR. *See* IN–0268. Thus, the Secretary finds Indiana rules 310 IAC 12–5–51 and 12–5–115 no less effective than 30 CFR 816.97 and 817.97.

6. Condition (b)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require a plan for control and treatment of surface and ground water drainage and did not impose ground water limits on pollutants in the discharges, as required by 30 CFR 780.21(b) (See Finding 14.16, 47 FR 32078). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–47(b) to include these provisions in a manner no less effective than 30 CFR 780.21(b).

7. Condition (b)(3)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules omitted a requirement that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities including all the information required by 30 CFR 778.19 and 782.19 (See Finding 14.23, 47 FR 32079). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–25 to meet the requirements of 30 CFR 778.19, but that Indiana did not amend rule 310 IAC 12–3–63 to meet the requirements of 30 CFR 782.19.

8. Condition (b)(4)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require the narrative analysis of the known history of any previous uses of the land before mining, as required by 30 CFR 779.22 and 783.22 (See Finding 14.24, 47 FR 32079). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–37(a) and 12–3–74(a) to include these requirements in a manner no less effective than 30 CFR 779.22 and 783.22.

9. Condition (b)(5)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require information concerning utility and capacity of reclaimed land for all lands, and not just those where an alternative land use is proposed, as required by 30 CFR 780.23 (See Finding 14.25, 47 FR 32079). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–48 to include these requirements in a manner no less effective than 30 CFR 780.23.

10. Condition (b)(6)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not provide the same criteria for permit requirements for steep slope mining and variance from approximate original contour as prescribed by 30 CFR 785.16 (See Finding 14.26, 47 FR 32079–32080). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–97 to include these requirements in a manner no less effective than 30 CFR 785.16.

11. Condition (c)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require that the notice of intent to explore, when less than 250 tons of coal will be removed, include a description of the practices proposed to be followed to protect the environment, as required by 30 CFR 776.11(b)(6) (See Finding 15.2, 47 FR 32080). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–3–12(c)(2) to include these requirements in a manner no less effective than 30 CFR 776.11(b)(6).

12. Condition (c)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require that core drilling and drilling of boreholes during coal exploration activities be conducted in accordance with Section 512(a)(2) of SMCRA and in a manner no less effective than 30 CFR 815.15(j) (See Finding 15.4, 47 FR 32080). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–5–3 to require all coal exploration be conducted in a manner that meets the performance standards. Therefore, the Secretary finds that Indiana rule 310 IAC 12–5–3 contains provisions which are consistent with Section 512(a)(2) of SMCRA and no less effective than 30 CFR 815.15(j).

13. Condition (d)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1983, the Indiana rules did not specify the criteria for the determination that a pattern of violations exists, or has existed, as required by 30 CFR 843.13 and did not require that lack of diligence be considered with regard to unwarranted failure to comply (See Finding 17.13, 47 FR 32081). The Secretary now finds that Indiana has amended rule 310 IAC 12–6–6.5 to include these requirements in a manner no less effective than 30 CFR 843.13.

14. Condition (d)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not specify that the conference officer have the authority to increase a penalty, as required by 30 CFR 845.18(b)(3) (See Finding 17.15, 47 FR 32082). The Secretary now finds that Indiana has amended rule 310 IAC 12–6–16(b)(3)(ii) to allow the conference officer to raise a penalty. Thus, the Indiana rule is no less effective than 30 CFR 845.18(b)(3).

15. Condition (e)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require the replacement of a bond for long term operations 120 days prior to the expiration of the existing permit, as required by 30 CFR 801.13(b) (See Finding 18.5, 47 FR 32082). The Secretary now finds that Indiana has amended its rules at 310 IAC 12–4–5 to include these requirements in a manner no less effective than 30 CFR 801.13(b).

16. Condition (e)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules contained a typographical error which could have a substantive effect (See Finding 18.9, 47 FR 32083). Indiana has corrected the phrase "suspension of revocation" to read "suspension or revocation" in Indiana rule 310 IAC 12-4-10(e)(1). The Indiana rule is now no less effective than 30 CFR 806.12(e)(6)(i).

17. Condition (e)(3)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require that the advertisement published by the bond release applicant contain notice of the public right of participation, as required by 30 CFR 807.11(b)(7) (See Finding 18.12, 47 FR 32083). The Secretary now finds that Indiana has amended its rules at 310 IAC 12-4-16 to contain this requirement in a manner no less effective than 30 CFR 807.11(b)(7).

18. Condition (f)(1)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules allowed an extension of the period for abatement under a notice of violation beyond ninety days under certain circumstances not allowed under 30 CFR 843.12 (See Finding 19.3, 47 FR 32084). Indiana has amended its rules at 310 IAC 12-6-6(f) to limit an extension of the period for abatement to those circumstances allowed under the Federal rules.

Indiana rule 310 IAC 12-6-6(f)(4) states that the abatement period may be extended beyond 90 days where climate conditions preclude abatement within 90 days, or where, due to climate conditions, abatement within 90 days clearly:

(i) Would cause more environmental harm than it would prevent; or

(ii) Requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act (MSHA).

Taken literally, the Indiana rule could be interpreted to tie the provisions to meet MSHA requirements in paragraph (4)(ii) to climate conditions. The Secretary notes that the Federal rules at 30 CFR 843.12(f)(4) contained identical language at the time Indiana drafted its rule, but that the Federal rules have since been clarified to separate the requirements to meet MSHA standards from climate conditions (See 47 FR 35638, August 16, 1982). The Secretary has reviewed the Indiana rule in light of the changes made to the Federal counterpart and finds Indiana's rule acceptable with the understanding that Indiana will interpret and apply its rule so as to distinguish the requirement to meet MSHA standards from climate conditions in a manner no less effective than 30 CFR 843.12(f) (4) and (5).

Accordingly, the Secretary now finds that Indiana has amended its rules at 310 IAC 12-6-6(f) to limit an extension of the period for abatement to those circumstances allowed under the Federal rules. Indiana rule 310 IAC 12-6-6(f) is now no less effective than 30 CFR 843.12.

19. Condition (f)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require the issuance of a cessation order where the operator fails to meet an interim step in abatement, as required by 30 CFR 843.12(d) (See Finding 19.3, 47 FR 32084). The Secretary now finds that Indiana has amended its rules at 310 IAC 12-6-6(d) to meet this requirement in a manner no less effective than 30 CFR 843.12(d).

20. Condition (g)(2)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require that the Director of the Indiana Department of Natural Resources must use the information in the data base and inventory system in reaching decisions to designate lands unsuitable, as required by 30 CFR 764.19, and to provide for the right for any person to intervene up to within three days prior to the hearing, as required by 30 CFR 764.16(c) (See Finding 21.3, 47 FR 32085). The Secretary now finds that Indiana has amended its rules at 310 IAC 12-2-7 and 12-2-9 to meet these requirements in a manner no less effective than 30 CFR 764.19 and 764.16(c).

21. Condition (i)

The Secretary found that in the Indiana program conditionally approved on July 26, 1982, the Indiana rules did not require the State to provide for the justification of positions exempted from conflict of interest requirements in order to meet the requirements of 30 CFR 705.11(d) (See Finding 23, 47 FR 32087). The Secretary now finds that Indiana has amended its rules at 310 IAC 12-7-4(f) to meet this requirement in a manner no less effective than 30 CFR 705.11(d).

B. Findings on Other Amendments

1. Indiana rule 310 IAC 12-3-1 has been amended by Indiana to clarify the requirements for continued operation under interim permits within the permanent regulatory program. The Secretary finds Indiana rule 310 IAC 12-3-1 to be no less effective than 30 CFR 771.11 and 771.13.

2. Indiana rules 310 IAC 12-3-21 and 12-3-59 have been amended to allow any person the right to inspect the documents upon which a permit applicant bases his or her right to mine. The Secretary finds Indiana rules 310 IAC 12-3-21(b)(4) and 12-3-59(b)(4) to be no less effective than 30 CFR 778.15 and 782.15.

3. Indiana rule 310 IAC 12-3-81 has been amended to reference the performance standards for water quality standards and effluent limitations pertaining to underground mining. The Secretary finds Indiana rule 310 IAC 12-3-81 to be no less effective than 30 CFR 784.14.

4. Indiana rule 310 IAC 12-3-102(c) has been amended to set forth the permitting and performance standard compliance requirements for in situ processing activities. The Secretary finds Indiana rule 310 IAC 12-3-102(c) to be no less effective than 30 CFR 785.22(c).

5. Indiana rules 310 IAC 12-5-24 and 12-5-90 have been amended to require a routine inspection of all dams and embankments meeting the size or other criteria of 30 CFR 77.216(a) by a qualified registered professional engineer, or by someone under the supervision of a qualified registered professional engineer. The Secretary finds Indiana rules 310 IAC 12-5-24(f) and 12-5-90(f) to be no less effective than 30 CFR 816.49(f) and 817.49(f).

C. Non-substantive Corrections to Indiana's Regulations

Indiana has revised certain parts of its rules to make non-substantive, primarily typographical, changes. The Secretary finds the corrections consistent with SMCRA and 30 CFR Chapter VII.

IV. Public Comments

The response to public comments received are set forth below.

1. The Bureau of Mines commented that the phrase "to the extent possible" should be removed from Indiana rules 310 IAC 12-5-51 (a) and (d) and 12-5-115 (a) and (d). As used in the Indiana rules, the phrase "to the extent possible" applies to the requirement that the best technology currently available be used to minimize disturbances to fish and wildlife. The Secretary will not require

Indiana to delete the phrase because the identical language is also used in the Federal rules at 30 CFR 816.97 (a) and (d) and 817.97 (a) and (d). Thus, Indiana's provisions are no less effective than the Federal rules.

2. The Mine Safety and Health Administration (MSHA) commented that Indiana rule 310 IAC 12–5–18(f) which sets forth hydrologic balance requirements for diversions omits an MSHA requirement that the regulatory authority grant approval prior to diverting water underground. The Secretary notes that Indiana's rule was approved in the July 26, 1982, conditional approval of the Indiana program and has not been changed since then. Indiana rule 310 IAC 12–5–18(f) meets all of the requirements of 30 CFR 816.43(g); accordingly, no further change is required.

3. MSHA commented that Indiana rule 310 IAC 12–5–24(f) requires dams and embankments to be inspected by a qualified registered professional engineer, or someone under the supervision of a qualified registered professional engineer, whereas MSHA requires the site to be inspected only by "the qualified person". Indiana rule 310 IAC 12–5–24(f) includes the language of 30 CFR 816.49(f) which requires such sites to be inspected by a qualified registered professional engineer, or by someone under the supervision of a qualified registered professional engineer. Thus, Indiana rule 310 IAC 12–5–24(f) is no less effective than 30 CFR 816.49(f); therefore, no further change is required.

4. MSHA commented that Indiana rule 310 IAC 12–5–24(i) requires all modifications to design plans to be sent to the Director, IDNR, whereas MSHA also requires that such modifications be approved prior to construction on these sites. Indiana rule 310 IAC 12–5–24(i) states, in part, that the Director, IDNR, shall approve the plans before modifications begin. The Indiana rule is no less effective than 30 CFR 816.49(i); therefore, no further change is required.

5. Several comments were received which expressed support for the approval of Indiana's December 9, 1982, program amendments. Additionally, acknowledgements were received from the following government agencies.

Department of the Interior

Bureau of Land Management, Bureau of Mines, Bureau of Reclamation, Fish and Wildlife Service, National Park Service

Department of Agriculture

Science and Education, Soil Conservation Service

Department of the Army

U.S. Army Corps of Engineers

Department of Labor

Mine Safety and Health Administration

Council on Environmental Quality

The disclosure of government agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Secretary's Decision

Accordingly, the Secretary, based on the above findings, is approving the December 9, 1982, amendments to the Indiana program and is removing conditions (a)(1), (a)(2) in part, (a)(3)–(5), (b)(1), (b)(3) in part, (b)(4)–(6), (c), (d), (e), (f), (g)(2) and (i).

The Secretary is modifying condition (a)(2) to require Indiana to add to its rules the design criteria for stream channel diversions required by 30 CFR 816.44 and 817.44 for the reasons set forth above in the finding for condition (a)(2). The Secretary is giving Indiana until July 1, 1983, to amend its rules to meet this condition. Indiana has agreed to make the necessary changes to its rules by July 1, 1983. See IN–0316. This deficiency is considered minor because of the short period of time involved for the State rule to be amended.

With respect to condition (b)(3), the Secretary is extending, until July 1, 1983, the deadline for Indiana to meet the remaining part of the condition concerning the requirements of 30 CFR 782.19. The Secretary has decided that this deficiency remains minor because the State's underground mining permit application requires the identification of all other necessary licenses and permits, and because Indiana is proceeding to correct the deficiency. Indiana has agreed to make the necessary changes to its rules by July 1, 1983. See IN–0316.

VI. Procedural Matters

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.

National Environmental Policy Act. The Secretary had determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need by prepared on this rulemaking.

Executive Order 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 does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

List of Subjects in 30 CFR Part 914

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

Accordingly, Part 914 of Title 30 is amended as set forth herein.

Dated: February 28, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 914—INDIANA

1. The authority citation for Part 914 is:

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

2. 30 CFR 914.10 is revised to read as follows:

§ 914.10 State regulatory program approval.

(a) The Indiana State program, as submitted on March 3, 1980, as amended and clarified on June 4, 1980, as resubmitted on September 28, 1981, and clarified on December 8, 1981, April 8, 1982, May 18–19, 1982, and May 26, 1982, is conditionally approved, effective July 29, 1982. Beginning on that date, the Indiana Department of Natural Resources shall be deemed the regulatory authority in Indiana for all surface coal mining and reclamation operations and all coal exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Indiana permanent regulatory program. Beginning on December 17, 1982, the program includes program amendments submitted on September 1, 1982. Beginning on March 4, 1983, the program includes program amendments submitted on December 9, 1982.

(b) Copies of the approved program, together with copies of the letter of the Department of Natural Resources agreeing to the conditions of 30 CFR 914.11, are available at:

Office of Surface Mining, 1100 L Street, NW., Room 5315, Washington, DC 20240
Office of Surface Mining, 46 East Ohio Street, Indianapolis, Indiana 46204
Indiana Department of Natural Resources, 309 W. Washington Street, Suite 202, Indianapolis, Indiana 46204

3. Section 914.11 is amended by removing and reserving paragraphs (a)(1), (a)(3) through (a)(5), (b)(1), (b)(2), (b)(4) through (b)(6), (c)(1) and (c)(2), (d)(1) and (d)(2), (e)(1) through (e)(3), (f)(1) and (f)(2), (g)(2), and (i). Also, the introductory text of paragraphs (a) and (b) and paragraphs (a)(2) and (b)(3) are revised to read as follows:

§ 914.11 Conditions of State regulatory program approval.

* * * * *

(a) Termination of the approval found in § 914.10 will be initiated on July 1, 1983, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

* * * * *

(2) Required the design criteria for stream channel diversions as required by 30 CFR 816.44 and 817.44.

* * * * *

(b) Termination of the approval found in § 914.10 will be initiated on July 1, 1983, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

* * * * *

(3) Require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities including all the information required by 30 CFR 782.19.

* * * * *

[FR Doc. 83-5684 Filed 3-3-83; 8:45 am]
BILLING CODE 4310-05-M

PANAMA CANAL COMMISSION

35 CFR Part 103

Panama Canal Transit Booking System

AGENCY: Panama Canal Commission.

ACTION: Final rule; revocation of interim rule.

SUMMARY: This rule announces permanent implementation of a transit booking system which will be available on a voluntary basis to all Canal customers. The intent of the rule is to provide improved service to users and to increase Canal efficiency. The effect of this action is to implement a system in which a limited number of vessels may be provided with more timely transit of the Canal, upon payment of a special charge. This document also revokes the interim rule of January 21, 1982, as the test of the transit booking system and the comment period have been completed.

EFFECTIVE DATE: April 4, 1983.

FOR FURTHER INFORMATION CONTACT:

Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004, Telephone (202) 724-0104;

Captain George T. Hull, Marine, Director, Panama Canal Commission, Telephone: (Republic of Panama) 52-7917.

SUPPLEMENTARY INFORMATION: On December 4, 1980, the Panama Canal Commission published a notice of proposed rulemaking in the **Federal Register** (45 FR 80313) proposing to amend its regulations concerning the order of passage of vessels through the Panama Canal, by establishing and testing a new plan for scheduling vessels. The plan involved scheduling vessel transits based upon reservations and advance notice of expected arrival time. On January 30, 1981, the Canal Commission published an interim rule in the **Federal Register** (46 FR 9942) in order to establish the terms under which there was to be conducted a test of the plan for scheduling vessels passing through the Canal. During a 32-day comment period, comments were received from fourteen interested parties. Those comments were considered and discussed in the notice announcing the interim rule.

On May 11, 1981, the Canal Commission determined that the test of the proposed transit booking system should be suspended, as it had proven to be unsuccessful in the manner in which it was then implemented. On December 8, 1981, the Canal Commission published a proposed rule in the **Federal Register** (46 FR 60013) proposing a revised transit booking system, taking into account the agency's experience with the reservation system that was tested under the January 30, 1981, interim rule. The proposed rule announced a test of the revised system, to begin in January 1982, and solicited comments from interested parties. On January 21, 1982, the Canal Commission published in the **Federal Register** (47 FR 2991) a revocation of the expired interim rule of January 30, 1981 and announced a new interim rule, to be tested during a period of 120 days. As a result of comments received from interested parties during the comment period (December 8, 1981, through January 7, 1982), the new interim rule announced further changes in the proposed system.

The test of the transit booking system, which began on January 25, 1982, was interrupted on February 2 because of traffic congestion unrelated to booking. The test resumed March 15 and was continued to its successful completion on July 7, 1982. In conducting the test, both objective test data and subjective comments (obtained by means of a questionnaire sent to Canal users) were collected. Following an evaluation and consideration of the data and comments obtained during the test of the new system, the Commission Administrator, on December 27, 1982, recommended that the agency's nine-member Board consider favorably the adoption of the transit booking system on a permanent basis. At its quarterly meeting in January 1983, the Board unanimously approved putting into effect the new system on or about April 1, 1983.

The purpose of this rule is to implement, on a permanent basis a revised system concerning the scheduling of vessels passing through the Panama Canal. This document also revokes the January 21, 1981 interim rule concerning the test of the booking system. The former practice was to use the time of arrival of a vessel at either terminus of the Canal as consideration for fixing the order in which the vessel would be placed in the daily transit schedule. Deviations from that sequence were due generally to considerations of safety, the capacity of the locks and channel, and the availability of equipment and personnel. There has been also a longstanding rule that preference be given to passenger vessels and to the warships of all nations. In addition, pursuant to the 1977 Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, the warships of the United States and the Republic of Panama may be given even more expeditious handling than other warships.

The Panama Canal Transit Booking System modifies the practice of scheduling vessel transit by time of arrival and enables vessels to obtain a timely transit with the payment of a fee. The system allows for a limited number of openings to be available for booking each day and, in addition, imposes a cancellation charge that becomes progressively higher as the reservation date draws nearer, and a fee forfeiture penalty for booked vessels that do not transit as scheduled. Under the booking system, there are two periods during which reservations can be made for any given day. The preference for passenger

vessels and warships has not been altered.

The scheduling of vessel transits based upon reservations should result in a traffic pattern in which there is less variation from day to day in the number of arrivals. Such uniformity can increase Canal efficiency by making possible a more nearly continuous flow of vessel traffic. The change in the scheduling system should reduce the waiting time for vessels at the Canal. For those using the booking system, it should obviate the need for steaming at higher speed merely to obtain a rise to a higher position in the transit schedule. Fuel consumption should be reduced in such cases.

During a course of the second test, and until 30 days following its conclusion, comments were once again solicited from interested parties. In addition, a questionnaire [submitted to the Office of Management and Budget (see 47 FR 26264) and approved for information collection under the Paperwork Reduction Act of 1980] was sent to those operators whose vessels transit the Canal. A total of 108 questionnaires were returned and the comments contained therein, along with the other written comments received from interested parties, were analyzed and given careful consideration by the Commission.

The subject of the amount of the booking fee generated the most comments. As a result of earlier comments, in January 1982, the fee had been reduced from $0.35 to $0.26 per Panama Canal gross ton. The weighted average of all respondents to the recent questionnaire suggested reducing the fee an additional $0.09 to $0.17 per Panama Canal gross ton. While the Commisson acknowledges the views of respondents, it considers it necessary to retain a booking fee that will provide a degree of control over the system and prevent over subscription. Furthermore, a sizeable reduction in the fee is likely to avert the system's utility to those Canal users for whom the system was designed (operators with the greatest need for timely transit), and it could prove unpopular with non-users who either want no booking system or prefer that the fee be high for those who use it. The fee of $0.23 per Panama Canal gross ton was selected since it addresses the needs of Canal users, is representative of the threshold at which the users recognize the utility of the system, and assures sufficient control over the system. Accordingly, this rule fixes the amount of the fee for use of the system at that figure.

Some comments suggested that the system discriminates by nationality, type of vessel, and geographic location (short-haulers versus long-haulers). The test system was structured to include participation by everyone. Results show an even distribution of usage by nationality, type of vessel, and geographic location of last port of call. During the 4-month test, vessels of 40 nations utilized the system. Data by type of vessel indicates no evidence of discrimination; differences in utilization are attributable to chance occurrence. The system also provides more than half (56 percent) of the bookings during the second period in order to preclude potential problems for short-haulers. Test data show that a high percentage of bookings were made by vessels sailing from a port approximately one day away from the Panama Canal. In summary, the key elements required to book a vessel are efficient operations and advance planning on the part of Canal users, and there is no apparent discrimination by location, nationality, or vessel type.

The booking system rules contain a general provision that the Commission may suspend or discontinue the system, in whole or in part, if necessary for the safe or efficient operation of the Canal. The Marine Director's notice to shipping concerning specific details of the system provides that the Commission may suspend acceptance of booking whenever the backlog of waiting ships exceeds ninety vessels. Comments received were almost evenly divided between those who preferred no suspension of the system at ninety vessels and those that agreed with that determination. The rule, however, was incorporated into the system as a safeguard against unforeseen circumstances.

Many comments were made concerning the number of bookings and their allocation between large and small vessels. The comments indicated overall satisfaction with the allocation proposed. There is also ample reason for limiting the number of daily booking openings to a maximum of 16 because it helps maintain, within an acceptable range, the differences in Canal water time between participants and nonparticipants in the system.

Other comments from interested parties showed substantial agreement with the $1,500 minimum booking fee and with the length and number of the time periods during which a vessel could be booked for transit. Additional comments concerning the midnight arrival requirement and the substitution of one booked vessel for another were previously addressed in the interim rule for January 21, 1982 (47 FR 2991).

Favorable comments submitted during and subsequent to the test indicate that the system enhanced customer satisfaction by helping those operators who need expeditious transit the most, without causing undue delay on others. Advantages commonly cited by operators were the ability to maintain reliable schedules, to reduce the investment in the fleet, to minimize fuel consumption, and to compete favorably with landbridges and other alternatives which have grown in importance over the last few years.

The Commission has determined previously that this is not a major rule as defined under Section 1(b) of Executive Order 12291, dated February 17, 1981. Furthermore, the Regulatory Flexibility Act is inapplicable since this rule concerns a Commission service and the rates to be charged for such service (5 U.S.C. 601(2)).

The information collection requirement contained in this rule (i.e., the form which is required to be completed to request a booking under § 103.8(c), or to request a cancellation under § 103.8(g)) has been reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB Control Number 3207-0001.

List of Subjects in 35 CFR Part 103

Panama Canal, Vessels, Order of transit, Advance reservations, Booking system.

Accordingly, for the reasons set forth above, the interim rule of January 21, 1982 (47 FR 2091) concerning the order of passage of vessels through the Panama Canal is revoked and Part 103 of Title 35, Code of Federal Regulations, is amended as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

1. The authority citation for Part 103 is revised to read as follows:

Authority: Section 1801 of Public Law 96-70, 93 Stat. 492; E.O. 12173, 44 FR 69271; E.O. 12215, 45 FR 36043.

2. Section 103.8 is revised to read as follows:

§ 103.8 Preference in the transit schedule; order of transiting vessels.

(a) *General.* Except as provided in § 103.9 of this part, and subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty Concerning the Permanent

Neutrality and Operation of the Panama Canal, between the United States and the Republic of Panama, vessels arriving for transit of the Canal will be placed in the transit schedule in accordance with the rules in this section.

(b) *Definitions.* As used in this section:

(1) "Booked for transit" means that a vessel has been assigned a date on which it will be moved through the Panama Canal.

(2) "Regular transit" means the movement through the Canal of a vessel that has not been booked for transit.

(c) *Transit bookings.* There will be two periods during which bookings may be made for a given date. In the first period, a limited number of bookings (not to exceed seven) will be available between 21 days and 4 days prior to the date of intended transit. In the second period, an additional number of bookings (not to exceed nine), plus any first-period bookings not taken or any bookings which have been canceled, will be available on the third and second days prior to the date of transit. The Canal authorities may cease accepting requests for bookings during times of high traffic congestion at the Canal. If there is a loss in Canal capacity, the number of bookings available may be reduced. The specific order of transit will be determined by the Canal authorities. Except as provided herein, a vessel may not transit prior to the date for which it has been booked, unless the Canal authorities determine that an early transit would promote efficiency of the Canal and would not result in delay for any regular transits. In the event that a vessel transits prior to the date for which it is booked, the fee will be retained by the Commission. Substitution of booked transits will be permitted under conditions specified by the Canal authorities.

(d) *Preference.* If, on any day during the first period, or on either day of the second period, requests exceed the number of bookings remaining available, preference for the remaining bookings will be given in the following order:

(1) First, vessels carrying primarily perishable cargoes, in the order of frequency of transit during a specified period;

(2) Second, all other vessels in the order of frequency of transit during a specified period;

(3) If, under the procedure in the preceding two paragraphs, two or more vessels are found to have an equal number of transits, then preference will be given to the vessel having transited most recently.

(e) *Fees.* The fee for booking shall be $0.23 per Panama Canal Gross Ton. The minimum fee for any vessel is $1,500.

(f) *Penalties.* (1) When a vessel that is subject to transit restrictions (e.g., clear-cut; clear-cut daylight), has been booked for transit and does not arrive at a terminus of the Canal by midnight (2400 hours) of the day prior to the intended transit, the booking fee will be forfeited. Similarly, the fee will be forfeited if a booked vessel, that is not subject to such transit restrictions, does not arrive prior to noon (1200 hours) of the day of intended transit. In either case, upon arrival, the vessel will be placed in the regular transit schedule. This forfeiture will not occur if late arrival is due to *force majeure* or delay for humanitarian purposes. The booking fee will also be forfeited if the vessel arrives on time but cannot or, at the operator's election, does not, transit as scheduled when the agency is ready to proceed. In these latter cases, the Canal authorities shall have discretion to waive the forfeiture where it is established that the delay was due to external causes that the vessel operator could not reasonably have anticipated.

(2) Failure to provide complete and accurate information on the request form may result in rejection of the booking and forfeiture of the fee.

(3) If the vessel does not begin its transit on the day for which it has been booked due to a decision by the Canal authorities, its operator thereafter, at any time prior to the day that the vessel has subsequently been scheduled to make a delayed transit, may elect to receive a refund of the fee, in which case the vessel will be listed on the regular transit schedule. In the alternative, the operator may elect to have the Commission retain the fee, in which case the vessel will be transited on a preferred basis.

(4) When a vessel booked for transit is delayed by a decision of the Canal authorities, and that delay could result in the vessel's failure to arrive on time for a subsequent transit which was booked before the delay was encountered, the vessel's agent may, within 24 hours of completion of the delayed transit, request:

(i) Change of the second booking to another date (if bookings are available on the requested date); *or*

(ii) Cancellation of the second booking, without charge, and inclusion in the regular schedule.

(5) A vessel will be deemed to have transited the Canal on the day for which it has been booked if it arrives at the first set of locks prior to 2400 hours that day and its in-transit time (ITT) is 18 hours or less. In-transit time begins when the vessel enters the first set of locks at either terminus of the Canal, and ends when the vessel departs the last set of locks at the opposite terminus. The booking fee will be refunded whenever ITT, through no fault of the vessel, exceeds 18 hours.

(g) *Cancellation.* A transit that is booked may be canceled if notice of cancellation is received by the Canal authorities at least two days prior to the day of intended transit. A charge will be assessed for such cancellations, however, in accordance with the following schedule:

Date of cancellation	Cancellation charge (the greater of)
Over 15 days prior to transit	20 percent of booking fee or $500.
15 to 11 days prior to transit	40 percent of booking fee or $750.
10 to 7 days prior to transit	60 percent of booking fee or $1,000.
6 to 2 days prior to transit	80 percent of booking fee or $1,250.

Cancellation of bookings later than two days prior to the date of intended transit will be subject to the forfeiture rule stated in paragraph (f)(1) of this section.

(h) *Regular transits.* Vessels which are not booked for transit will be dispatched through the Canal in the order determined by the Canal authorities. Priority of arrival at a terminal port does not give a vessel the right to pass through the Canal ahead of another that may arrive later; however, the time of arrival will be a consideration in fixing the order of passage. Generally, regular transits will equal or exceed one-half of the total number of vessels moved through the Canal on any given day.

(i) *Suspension.* The Canal authorities may suspend or discontinue, in whole or in part, the transit booking system established by this section if they determine that its continuation may adversely affect the safe or efficient operation of the Canal.

Dated: March 1, 1983.

Michael Rhode, Jr.,

Secretary.

[FR Doc. 83-5881 Filed 3-3-83; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2303-4]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Michigan State Implementation Plan (SIP). These revisions approve Consent Orders No. 03–1982 and 13–1982 for the General Motors (GM) Corporation, Hydra-Matic Division, and the Diamond Crystal Salt Company, respectively. These Consent Orders consist of detailed compliance schedules containing increments of progress dates for reducing particulate emissions which will help provide for attainment of the total suspended particulate (TSP) national ambient air quality standards (NAAQS) by December 31, 1982.

EFFECTIVE DATE: This action will be effective May 3, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of these revisions to the Michigan SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revisions and other materials relating to this rulemaking are available for inspection at the following addresses:

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On September 8, 1982 and September 21, 1982, the Michigan Department of Natural Resources (MDNR) submitted Consent Orders for the Hydra-Matic Division, GM Corporation (No. 03–1982), and the Diamond Crystal Salt Company (No. 13–1982) as revisions to the Michigan SIP. These Consent Orders were issued to comply with Michigan's Rule 336.331 which requires Boiler No. 5 of each plant to meet a particulate emission limit of 0.30 pound by December 31, 1982.

The Hydra-Matic Division, GM Corporation, is located in Ypsilanti Township, Washtenaw County, which is designated attainment for the NAAQS for TSP. Consent Order No. 03–1982, submitted to EPA on September 8, 1982, requires the installation of air pollution control devices to be used to control the particulate emissions from the company's Boiler No. 5. The device should meet a limit of no more than 0.30 pound of particulate matter per 1,000 pounds of exhaust gases corrected to 50 percent excess air. The Consent Order provides a compliance schedule containing increments of progress dates and a final compliance date of November 1, 1982. At this time, Boiler No. 5 is believed to be meeting the 0.30 pound mass limit.

The Diamond Crystal Salt Company is located in the City of St. Clair, County of St. Clair, which is designated attainment for TSP except for a portion of Port Huron which is designated nonattainment for the secondary NAAQS for TSP. Consent Order No. 13–1982, submitted to EPA on September 21, 1982, stipulates that a device be installed to control particulate emissions from the company's Boiler No. 5. The device should meet a limit of no more than 0.30 pound of particulate matter per 1,000 pounds of exhaust gases corrected to 50 percent excess air. The Consent Order provides a compliance schedule containing increments of progress dates and a final compliance date of December 18, 1982. To reduce particulate emissions from Boiler No. 5, the company has upgraded its existing multiclone by installing a sidestream separator with a baghouse. The baghouse is designed to cut emissions down from about 0.60 pound to under 0.30 pound mass limit. At this time Boiler No. 5 is believed to be meeting the 0.30 pound mass limit.

EPA has reviewed Consent Order No. 03–1982 for the Hydra-Matic Division, GM Corporation, and Consent Order No. 13–1982 for the Diamond Crystal Salt Company, and believes that each source has complied with the provisions of its Consent Order.

These Consent Orders will contribute to the maintenance of air quality in Washtenaw County and St. Clair County.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on May 3, 1983. However, if we receive notice by 30 days from the date of this notice that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

This notice is issued under authority of Sections 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: February 25, 1983.

Anne M. Burford,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

Section 52.1170 is amended by adding paragraphs (c)(63) and (c)(64) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(63) On September 8, 1982, the State of Michigan submitted as a SIP revision Consent Order No. 03–1982, between the Hydra-Matic Division, General Motors Corporation and the Michigan Air Pollution Control Commission. The Consent Order establishes a compliance

schedule containing increments of progress dates and a final date of November 1, 1982 for Boiler No. 5 to comply with Michigan's R336.331.

(64) On September 21, 1982, the State of Michigan submitted as a SIP revision Consent Order No. 13–1982, between the Diamond Crystal Salt and the Michigan Air Pollution Control Commission, the Consent Order establishes a compliance schedule containing increments of progress dates and a final date of December 18, 1982 for Boiler No. 5 to comply with Michigan's R336.331.

[FR Doc. 83-5586 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-3 FRL 2285-5]

Approval of Revision to Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Virginia State Implementation Plan which incorporates an alternate control program (bubble) for J. W. Fergusson and Sons, Inc. The alternate control program will result in substantially reduced volatile organic compound (VOC) emissions from J. W. Fergusson's Castlewood Road Printing Plant located in Richmond, Virginia. EPA approves this revision since it meets the requirements of section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51.

EFFECTIVE DATE: This action will be effective on May 3, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. James E. Sydnor of EPA Region III's Air Programs and Energy Branch (address below). Copies of the SIP revision and accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Mr. Raymond D. Chalmers

The Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20400

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the Region III address stated above or call 215/597-8309.

SUPPLEMENTARY INFORMATION: The Commonwealth of Virginia requested, on August 19, 1982, that EPA approve a revision to the Virginia State Implementation Plan (SIP) pertaining to J. W. Fergusson & Son's rotogravure printing plant in Richmond, Virginia. The revision incorporates into the SIP an alternative emission control program (bubble) which Virginia and J. W. Fergusson have agreed upon. Under the alternate control program J. W. Fergusson agrees to maintain its plant's total volatile organic compound (VOC) emissions at a level substantially below that permitted by the State's SIP.

J. W. Fergusson's Castlewood Road Printing Plant presently has five installed presses. The Virginia SIP sets the allowable emissions for these five presses at 463 tons of VOC per year. The Company, in the alternate control program, agrees to maintain VOC emissions from the five presses at or below 187 tons per year. The Company will accomplish this by controlling emissions from its plant's four largest presses to 157 tons per year or less using a vapor recovery system. Virginia agrees to allow the Company to operate the fifth press with the only limitation on its emissions being that it cannot operate more than 8 hours per day. This press will emit no more than 30 tons per year under this limitation.

EPA believes this SIP revision will result in substantial environmental benefit. EPA has reviewed the revision and has determined that it meets the requirements of section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51. In addition, EPA has determined that the alternative emission reduction plan was developed in accordance with EPA's Emissions Trading Statement Policy of April 7, 1982 (47 FR 15076). Accordingly, EPA approves the revision. EPA is revising 40 CFR 52.2420 as indicated below to incorporate this revision into the Virginia SIP. The public is advised that this action will be effective 60 days from the publication date of this notice. However, if EPA receives notice within 30 days that someone wishes to submit adverse or critical comments, EPA will withdraw this action and will publish subsequent notices before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)). 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 of 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7642.

Dated: February 18, 1983.

Anne B. Gorsuch,

Administrator.

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

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations, is amended by adding paragraph (c)(72) to § 52.2420 as follows:

Subpart VV—Virginia

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(72) An alternate control program for J. W. Fergusson Co.'s Castlewood Road Printing Plant in Richmond, VA submitted to EPA on August 19, 1982.

[FR Doc. 83-5586 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Docket No. 5; A-2-FRL 2308-5]

Revision to Virgin Islands Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval by the Environmental Protection Agency (EPA) of a request

from the Virgin Islands to revise its implementation plan. This action has the effect of allowing Martin Marietta Alumina (MMA) and Hess Oil Virgin Islands Corporation (HOVIC), located on the Island of Saint Croix, to continue using fuel oil with a maximum sulfur content of 1.5 percent, by weight. The current sulfur content limitation contained in the Virgin Island's regulations is 0.50 percent, by weight. However, MMA and HOVIC have been permitted to burn 1.5 percent sulfur content fuel oil under a variance which has been in effect since May 1980.

Under the provisions of the Virgin Islands' submittal, the use of the higher sulfur content fuel oil will be permitted to continue for up to one year from the date of today's notice. Receipt of this implementation plan revision request from the Virgin Islands was announced in the **Federal Register** on November 22, 1982 at 47 FR 52472, where its provisions are fully described.

EFFECTIVE DATE: March 4, 1983.

ADDRESSES: Copies of the Virgin Islands submittal are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

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

Office of the Federal Register, 1101 L Street, NW., Room 8401, Washington, D.C. 20408

Government of the Virgin Islands of the United States, Department of Conservation and Cultural Affairs, Office of the Commissioner, Charlotte Amalie, St. Thomas, Virginia Islands 0081

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Acency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On Septemer 13, 1982 the Commissioner of the Virgin Islands Department of Conservation and Cultural Affairs submitted to the Environmental Protection Agency (EPA) a request to revise its implementation plan for attaining and maintaining national ambient air quality standards. The proposed revision dealt with an administrative order which would allow Martin Marietta Alumina (MMA) and Hess Oil Virgin Islands Corporation (HOVIC) to continue using fuel oil with a sulfur content of 1.5 percent, by weight, at certain of their fuel burning sources.

Both MMA and HOVIC are located in the Southern Industrial Complex on the Island of Saint Croix. Sources in this location currently are required by regulation to burn fuel oil with a maximum sulfur content of 0.50 percent, by weight. However, the regulation provides for a variance to this limit if the applicant can demonstrate that the use of a higher sulfur content fuel oil will not interfere with attainment and maintenance of national ambient air quality standards. Based on an application made in February 1980 and approved by EPA on May 2, 1980 (45 FR 29293), and a second application in April of 1981 which was approved by EPA on September 3, 1981 (46 FR 44188) MMA and HOVIC have been permitted to burn 1.5 percent sulfur content fuel. The proposed revision will continue this variance and remain in effect for up to one year from March 4, 1983.

A notice of proposed rulemaking on this action was published in the **Federal Register** on November 22, 1982 (47 FR 52472). The reader is referred to this November 22 notice for a detailed description of the Virgin Islands revision request. In its November 22 notice EPA advised the public that comments would be accepted as to whether the proposed revision to the Virgin Islands implementation plan should be approved or disapproved. During the comment period, which ended on December 22, 1982, EPA received no comments.

In an effort to expedite the processing of this SIP revision EPA used a review procedure known as "parallel processing." Under this procedure EPA proposed its action essentially at the same time as the action was proposed by the Virgin Islands. As described in EPA's notice of proposed rulemaking, approval of this request was contingent upon the Virgin Islands finally adopting its proposal in a substantially unchanged form. On January 12, 1983 the Virgin Islands submitted to EPA for final approval its "administrative order" affecting MMA and HOVIC in a form identical to that originally submitted to EPA on September 13, 1982.

Based on EPA review of the Virgin Islands submittal, EPA has concluded that no violations of national ambient air quality standards or any applicable Prevention of Significant Deterioration increment will occur as a result of the use of higher sulfur content oil at MMA and HOVIC. Therefore, the revision meets the requirements of section 110 of the Clean Air Act, including section 110(a)(2)(E), and is approved.

This action is being made immediately effective because it imposes no hardship on the affected sources, and no purpose would be served by delaying its effective date.

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

Pursuant to the provsion of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981) the attached rule constitutes a SIP approval under section 110 within the terms of the January 27 certification. This action only approves an action by the Virgin Islands Government. It imposes no new requirements. In addition, this action applies to only two sources.

The Office of Management and Budget (OMB) has exempted this regulation from the OMB requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 25, 1983.

Anne M. Burford,

Administrator, Environmental Protection Agency.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart CCC—Virgin Islands

Section 52.2770 is amended by adding new paragraph (c)(13) as follows:

§ 52.2770 Identification of plan.

* * * * *

(c) * * *

(13) Revision submitted on January 12, 1983 by the Commissioner of the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands of the United States which grants an "administrative order" under Title 12 V.I.C. section 211 and Title 12 V.I.R.&R. sections 204–26(d). This "administrative order" relaxes, until one year from the date of EPA approval, the sulfur-in-fuel-oil limitation to 1.5 percent, by weight, applicable to Martin Marietta Alumina and the Hess Oil Virgin Islands Corporation, both located in the Southern Industrial Complex on the Island of Saint Croix.

[FR Doc. 83-5587 Filed 3-3-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2308-4]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the Total Suspended Particulate (TSP) designation for portions of Hamilton County from nonattainment to attainment of National Ambient Air Quality Standards (NAAQS). This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant a change.

EFFECTIVE DATE: This action will be effective May 3, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20480

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6088.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever available data warrant a change.

According to EPA's policy, Section 107 designation changes for TSP should utilize all available data, including both modeling and monitoring data. The monitoring data must show:

(1) Eight consecutive quarters of recent, representative ambient air quality data with no violations of the appropriate NAAQS, or

(2) Four consecutive quarters of the most recent, representative ambient air quality data with both (a) no violation of the appropriate NAAQS and (b) an air quality improvement that results from legally enforceable emission reductions.

When modeling information is available it should be used to demonstrate the representativeness of the monitoring data, as well as support the revised designation. The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of TSP concentration exceeds 75 micrograms per cubic meter of air (75 $\mu g/m^3$ (the annual primary standard), or (2) the second-high 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ (the 24-hour primary standard). The 24-hour secondary TSP NAAQS is violated when, in a year, the second-high 24-hour concentration of TSP exceeds 150 $\mu g/m^3$.

On March 3, 1978 (43 FR 8962), EPA designated Hamilton County as follows for TSP:

Primary Nonattainment—Area bounded on the east by I–71, on the south by the Ohio River, on the west by the Cincinnati city limits, and on the north by the north/west boundaries of the Cities of Cincinnati, Lockland, Lincoln Heights, Evandale, and Blue Ash.

Attainment—Area #1: Area located both south and east of US 50, and north and east of SR 125.

Area #2: Cities of Forest Park, Greenhills, Mt. Healthy, N. College Hill, Wyoming, Woodlawn Glendale, Springdale, Sharonville, and Loveland; and the Townships of Colerain, Springfield, Sycamore, and Symmes.

Secondary Nonattainment—Remainder of the County.

On November 4, 1982, the Ohio EPA requested that EPA revise the TSP designation of Hamilton County as follows:

Primary Nonattainment—Area bounded on the east by US 42, on the south by the Ohio River, on the west by Anderson Ferry Road north to US 52, US 52 east to North Bend Road, and on the north by North Bend Road east to SR 747, SR 747 north to SR 126, and SR 126 east to US 42.

Attainment—Remainder of County.

To support the redesignation request, the Ohio EPA submitted quality assured monitoring data summaries for 1980 and 1981 and raw data for January-August 1982. During this period, violations have only been measured at the monitors located in the area Ohio requests to maintain as nonattainment. The data from the sites located in the requested attainment areas, including several sites located just outside the proposed primary nonattainment area show no violations of either the primary or the secondary standard. Therefore, the monitoring data support the Ohio EPA's request to redesignate portions of Hamilton County to attainment for TSP.

To further verify that the monitoring data are representative, EPA also considered a county-wide TSP modeling analysis (performed by the State as part of their Part D Total Suspended Particulate SIP) and a previous EPA site-specific modeling analysis for the Cincinnati Gas and Electric Miami Fort plant (the dominant source in the southwest portion of the county). The two modeling analyses demonstrate the representativeness of the monitors and support the proposed redesignation.

EPA's review of the submitted TSP monitoring data, and the available modeling information support the Ohio EPA's request for redesignating portions for Hamilton County to attainment for TSP. Therefore, EPA is redesignating Hamilton County as requested by the Ohio EPA.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on May 3, 1983. However, if we receive notice by 30 days from the date of this notice that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) Clean Air Act, as amended (42 U.S.C. 7407).)

Dated: February 25, 1983.

Anne M. Burford,

Administrator.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.336 of Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended. In the table for "Ohio—TSP", the entry for Hamilton County should be revised to read as follows:

§ 81.336 [Amended]

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
Hamilton:				
Area bounded on the east by US 42, on the south by the Ohio River, on the west by Anderson Ferry Road north to US 52, US 52 east to North Bend Road, and on the north by North Bend Road east to SR 747, SR 747 north to SR 126, and SR 126 east to US 42.	X			
The remainder of Hamilton County			X	
* * *	*	*	*	*

[FR Doc. 83-5589 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2522]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes fee levels for the adoption of wild free-roaming horses or burros, and requires that a portion of the fee accompany each application filed by the person wishing to take custody of a horse or burro, and that the applicant pay the cost of transportation to the point of pick up. It also requires the applicant to sign a cooperative agreement for the maintenance and protection of adopted animals.

EFFECTIVE DATE: March 4, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (250), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: A proposed rulemaking on adoption fees for wild free-roaming horses and burros was published in the **Federal Register** on July 26, 1982 (47 FR 32406), with a 60-day comment period. A total of 199 comments were received during the comment period, with 152 from individuals, 11 from representatives of associations organized to protect wild horses and burros, 9 from representatives of humane societies and other animal welfare associations, 4 from wildlife associations, 4 from agricultural and grazing associations, 2 from environmental groups, 8 from State governments, 2 from ranch or ranch-related companies, 3 from representatives of State-Federal cooperative extension services, 2 from members of Coordinated Resource Management Planning Committees in Nevada, one from a United States Senator, and one from a private attorney. Several of the commenters represented more than one type of organization, so the sum of the classes of comments does not equal the total number of comments.

None of the commenters objected to the idea of adoption fees. However, opposition to the proposed fee level for horses was expressed in 84 percent of the comments, primarily because the writers believed the proposed fee for horses would reduce the number of animals adopted, limit removal of excess wild horses from the public lands, make it difficult for fixed or lower income individuals to adopt animals, equal or exceed the local market value of domestic horses, lead to destruction of healthy animals, and increase adoption program costs. On the other hand, 10 percent of the responses indicated support for this fee. The reasons for support most frequently expressed were that it would increase both the cost-effectiveness of the program and the possibility of humane treatment for adopted animals, would have no effect on adoption demand, and would allocate program costs to those who benefit from the program.

The proposed $25 nonrefundable advance payment was addressed in 112 comments, with 89 opposing the advance payment. Five of the opponents supported a lower payment of from $2 to $15 per application. Twenty-three comments supported the proposed advance payment, primarily because it would discourage individuals who are not serious about adopting from filing applications.

The comments will be dealt with in more detail in the following section-by-section discussion of the proposed and final regulations.

Section 4740.4–3(d)(1). A total of 54 commenters suggested modifications of the amount of the custodial fee charged for the adoption of wild horses and burros. Twenty others supported the proposed custodial fees for horses and burros. Of those suggesting modifications, most favored reductions to fees ranging from $25 to $155 for horses and from $35 to less than $100, including transportation, for burros. Three comments suggested setting the fee to ensure full cost recovery. Several others suggested sliding scales or other flexible fees.

Based upon the comments, the purpose of the fees, and our analysis of the costs of the program, we have

concluded that a non-varying custodial fee of $125 plus transportation costs is appropriate for the adoption of wild horses, and that the proposed fee of $75 plus transportation costs is appropriate for burros. These fee levels will permit an increase in the number of horses adopted, continued recovery of a portion of the Federal costs of the program from those directly benefiting, and a reduction in the cost of maintaining animals awaiting adoption. The analysis showed that the number of burros adopted was not reduced by the establishment of the $75 fee on January 1, 1982.

While no comments opposed the imposition of a fee to cover transportation costs, several suggested reducing the charge to various levels considerably less than actual costs. One suggested setting a uniform transportation fee of no more than $50, regardless of destination. These suggestions have been considered but not determined feasible. Transportation is provided as a service only to adopters who do not choose to pick up animals at a holding facility near the point of capture. It would not be fair to charge adopters living nearby a transport fee, thus making them subsidize those whose actual costs would be greater than the fee charged. Transporting the animals in bulk to an eastern or midwestern adoption center reduces the costs to adopters in those regions below what they would incur if they themselves transported individual animals from, and their equipment to and from, a western holding facility.

No comments addressed the exception from custodial fees for unweaned offspring under 6 months of age accompanying the mothers. No commenters mentioned unweaned orphan foals, as distinguished from unweaned foals accompanied by mares or jennies and although it is considered unnecessary to mention them in the regulations, they are also not subject to custodial fees because of the special and expensive care that must be provided them. Few such unweaned orphans have been found in the wild horse and burro program.

Accordingly, § 4740.4–3(d)(1) has been adopted in the final rulemaking as proposed, except that the custodial fee for horses has been changed from $200 to $125.

Section 4740.4–3(d)(2). There were no comments on the proposed section, which did not change from the existing § 4740.4–2(d) except in punctuation, format and numbering. The proposed section has been adopted in the final rulemaking.

Section 4740.4–2. This proposed new section, which requires an application for adoption of a horse or burro to be accompanied by a nonrefundable advance payment of $25, attracted many comments. Of those who opposed the advance payment provision, all but two stated no reason. These two comments stated respectively that the cost of processing the advance payment check would be greater than the amount collected, and that no one would apply if the advance payment were required. Other comments suggested modifying the advance fee provision. Some suggested making it refundable in cases where applications are rejected; others suggested making it one-third of the custodial fee for the animal; still others suggested lowering the fee.

The $25 advance payment is necessary to discourage frivolous applications from individuals who are not prepared to adopt animals or who are not seriously interested in doing so. Reducing the number of noncommitted applicants will reduce the administrative costs both of processing such applications and of notifying those applicants of available animals. The required payment will reduce the number of "no-shows" at adoption centers, remind individuals of the serious commitment they are making by adopting an animal, and encourage them to evaluate more carefully their desire and ability to care for and maintain an animal before applying.

After careful consideration, the $25 advance payment provision has been adopted in the final rulemaking, and required to be made by guaranteed remittance (money order, certified check, cashier's check, etc.) to avoid unnecessary costs of processing applications with checks made on insufficient funds or on which payment has been stopped.

Language has also been added to the final rulemaking allowing individuals with applications on file at the time of this final rulemaking to maintain their applications by submitting the $25 advance payment within 30 days.

The Secretary has found that the public interest requires this final rulemaking to be made effective immediately. Because it reduces the custodial fee for the adoption of wild horses, setting the effective date of the final rulemaking the customary 30 days after publication would discourage adoptions during that 30-day interval. This would require the Bureau of Land Management to maintain unadopted horses for an additional 30 days at approximately $2500 per day, based on the number of animals now on hand. Postponing the effective date would harm the public by causing them to delay their acquisition of horses. In addition, because the Bureau intends to refund the difference between the amounts paid before the effective date of this rulemaking and the custodial fee for adoption set by this rulemaking, making the effective date 30 days from publication would add to the costs of the program by requiring the Bureau to collect the larger fee even though in 30 days it would have to refund a portion of it.

The principal author of this final rulemaking is John S. Boyles, Division of Wild Horses and Burros, assisted by the staff of the Office of Legislation and Regulatory Management.

It has been determined that this final rulemaking is not a major Federal action having a significant effect on the quality of the human environment and that no detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rulemaking sets a fee for the adoption of wild free-roaming horses and burros, uniform for everyone wishing to adopt, and has no different impact on small entities than on individuals or large entities.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1004–0042.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Intergovernmental relations, Penalties, Public lands, Range management, Wild horses and burros, Wildlife.

Under the authority of the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Act of June 28, 1934 (43 U.S.C. 315–315r) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 4700, Group 4700, Subchapter D, Chapter II of Title 43 of the Code of Federal

Regulation is amended as set forth below.

David G. Houston,

Acting Assistant Secretary of the Interior.

January 11, 1983.

PART 4700—[AMENDED]

1. Part 4700 is amended by adding immediately after the heading the note:

Note.—The information collection requirements of 43 CFR Part 4700 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1004–0042 and 1004–0046. The information will be used to determine whether applicants for adoption and taking title to wild free-roaming horses and burros should be given custody of or title to such animals. The obligation to respond is required to obtain a benefit.

2. Section 4740.4–2 is renumbered § 4740.4–3 and is amended by revising paragraph (d) to read:

§ 4740.4–3 [Amended]

* * * * *

(d) Before wild free-roaming horses or burros are transferred, the applicant shall:

(1) Pay a custodial fee of $125 for each horse and $75 for each burro, except there shall be no custodial fee for an unweaned offspring under 6 months of age accompanying its mother, plus any transportation costs incurred for the transportation of the animals to the point of pickup; and

(2) Sign a cooperative agreement that incorporates provisions for custodial maintenance, including, but not limited to, provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

3. A new § 4740.4–2 is added to read:

§ 4740.4–2 Applications.

Any qualified person, organization or government agency wishing to take custody of a wild free-roaming horse or burro shall file an application with the Denver Service Center of the Bureau of Land Management. The application shall be filed on a form approved by the Director, Bureau of Land Management, and shall be accompanied by a nonrefundable advance payment of $25 by guaranteed remittance. In order to maintain an application filed with the Bureau before the effective date of this section, the applicant shall submit an advance payment of $25 by guaranteed remittance no later than 30 days after the effective date of this section. If custody of a wild free-roaming horse or burro is granted by the authorized officer, the advance payment shall be applied against the custodial fee required to be paid at the time the cooperative agreement required by § 4740.4–3 of this title is executed.

[FR Doc. 83-5383 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6356

[M 10562 (SD)]

South Dakota; Revocation of Presidential Proclamation Dated February 2, 1925

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Presidential proclamation which established a 20,613.20-acre game refuge in Harding County, South Dakota. Three hundred twenty acres, including its mineral estate, will be transferred to the State of South Dakota; 5,974.29 acres of national forest land will be opened to appropriate forms of surface disposition and mining; 80 acres of national forest lands will remain withdrawn as a recreation area; and the reserved mineral interest in 1,385 acres of land will be opened to mining. This order has only a record clearing effect on the remaining land which has passed into private ownership.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406–657–6633.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Presidential Proclamation of February 2, 1925, which withdrew public lands in the following described area in South Dakota, partly within the Custer National Forest, for use as a game refuge, is hereby revoked in its entirety:

Black Hills Meridian

T. 18 N., R. 7 E.,
Secs. 13 to 36, inclusive.
T. 18 N., R. 8 E.,
Secs. 17 to 20, inclusive;
Sec. 21, W½;
Secs. 29 to 32, inclusive.

The areas described aggregate 20,613.20 acres of land in Harding County, including 7,067.32 acres within the boundary of the Custer National Forest.

2. Of the lands in paragraph 1, the following described lands including mineral interests have been approved for transfer to the State of South Dakota under the provisions of Revised Statutes 2275 and 2276, 43 U.S.C. 851, 852 (1976), and are hereby made available for that purpose:

Black Hills Meridian

T. 18 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NW¼;
Sec. 22, SW¼NW¼.

The area described contains 320 acres in Harding County.

3. At 8 a.m. on April 13, 1983, the following described lands included in those listed in paragraph 1 will be open to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations:

Custer National Forest Black Hills Meridian

T. 18 N., R. 7 E.,
Sec. 24, S½N½ and S½;
Sec. 25 and 36, all.
T. 18 N., R. 8 E.,
Sec. 17, W½E½, SE¼NE¼, E½W½, SW¼NW¼, W½SW¼, and E½SE¼;
Sec. 18, NW¼NE¼, E½SW¼NE¼, E½NW¼ SW¼NE¼, SE¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 19, lots 2, 3, and 4, NE¼NE¼; E½NW¼, and S½SE¼SE¼;
Sec. 20, E½, E½W½, SE¼SW¼NW¼, E½W½SW¼, and SW¼SW¼SW¼;
Sec. 21, W½;
Secs. 29 to 32 inclusive.

The areas described aggregate 5, 974.29 acres in Harding County.

An additional 80 acres of national forest lands described as the NW¼NW¼ of Section 17 and the NE¼NE¼ of Section 18, T. 18 N., R. 8 E., will remain segregated by virtue of Public Land Order No. 1429 as part of Reva Gap Camp.

4. Of the lands listed in paragraph 1 the reserved mineral interest in the following described lands shall at 8 a.m. on April 13, 1983, be open to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

Black Hills Meridian

T. 18 N., R., 7 E.,
Sec. 13, SE¼NW¼;
Sec. 14, W½E½, SE¼NW¼, NE¼SW¼, and NE¼SE¼;
Sec. 15, N½;
Sec. 17, NE¼SW¼ and N½SE¼;
Sec. 23, S½NE¼ and W½SE¼;
Sec. 24, N½NE¼;
Sec. 32, S½NE¼ and SE¼NW¼;
Sec. 33, SW¼NW¼ and NW¼SW¼.
T. 18 N., R. 8 E.,
Sec. 18, W½NW¼SW¼NE¼ and SW¼SW¼NE¼;
Sec. 19, SE¼SW¼, NE¼SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 20, W½NW¼SW¼ and NW¼SW¼ SW¼.

The areas described aggregate 1,385 acres in Harding County.

5. The lands described in paragraph 1, except as provided in paragraphs 2 and 3, as well as the surface estate of the lands in paragraph 4, have been conveyed from United States ownership and will not be restored to operation of the public land laws including the mining laws.

6. The Federal mineral interests have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 22, 1983.

Carrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-5341 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Louisiana: Tangipahoa Parish	Tangipahoa Parish [2]	220206	750418, emergency; 830202, regular	750117
Maryland: Kent County	Betterton, town of	240095	750515, emergency; 830202, regular	750124
Michigan:				
Calhoun County	Bedford, township of	260052	750530, emergency; 830202, regular	740616
Leelanau County	Elmwood, township of	260113	750702, emergency; 830202, regular	740920
Antrim County	Milton, township of	260637	750910, emergency; 830202, regular	770708
Oakland County	Waterford, charter township of	260284	740816, emergency; 830202, regular	740816
Missouri:				
Charlton County	Brunswick, city of	290074	751112, emergency; 830202, regular	740329
Clinton County	Plattsburg, city of	290106	750331, emergency; 830202, regular	740524
Mississippi: Rankin County	Richland, city of	280299	761109, emergency; 830202, regular	760428
New Jersey:				
Cape May County	Lower, township of	340153	740609, emergency; 830202, regular	740719
Sussex County	Sussex, borough of	340457	750715, emergency; 830202, regular	740614
New Mexico: Chaves County	Chaves County [2]	350125	830202, emergency; 830202, regular	780613
New York: Greene County	Hunter, town of	360292	761112, emergency; 830202, regular	760709
Ohio:				
Jefferson County	Brilliant, village of	390297	750613, emergency; 830202, regular	740109
Licking County	Pataskala, village of	390336	780306, emergency; 830202, regular	761006
Oklahoma: Grady County	Alex, town of	400063	760820, emergency; 830202, regular	761126
Pennsylvania: Blair County	Snyder, township of	421393	750610, emergency; 830202, regular	750110
New Jersey:				
Sussex County	Andover, township of	340527	750221, emergency; 830204, regular	741220
Warren County	Frelinghuysen, township of	340564	750930, emergency; 830204, regular	741122

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Ohio:				
Cuyahoga County	Fairview Park, city of	390108	750624, emergency; 830204, regular	740116
Cuyahoga County	Orange, village of	390737	770216, emergency; 830204, regular	750418
Pennsylvania:				
Wayne County	Clinton, township of	422162	751113, emergency; 830204, regular	741122
Mercer County	Findley, township of	421866	750812, emergency; regular	740913
Susquehanna County	Uniondale, borough of	422584	800111, emergency; 830204, regular	750124
Mercer County	Wilmington, township of	421878	760309, emergency; 830204, regular	750207
Mercer County	Worth, township of	422492	790731, emergency; 830204, regular	750124
Arkansas: Ashley County	Ashley County	050009	830207, emergency; 830207, regular	771115
Michigan:				
Charlevoix County	Charlevoix, city of	260057	741213, emergency; 830211, regular	750607
Calhoun County	Convis, township of	260652	751205, emergency; 830211, regular	0
Calhoun County	Marshall, township of	260642	751009, emergency; 830211, regular	0
New York: Steuben County	Thurston, town of	361213	791114, emergency; 830211, regular	741025
Pennsylvania:				
Northampton County	East Allen, township of	420981	731019, emergency; 830211, regular	0
Chester County	London Grove, township of	422274	741017, emergency; 830211, regular	741122
Berks County	Strausstown, borough of	420152	790731, emergency; 830211, regular	750124
Virginia: Grayson County	Fries, town of	510215	750811, emergency; 830211, regular	741220
Arizona: Pima County	Pima County [2]	040073	741002, emergency; 830215, regular	770823
Illinois: Will County	Channahon, village of	170698	750912, emergency; 830215, regular	740329

Total is: 37.
[1] Key for reading 4th column (effective date): First two digits designate the year; Middle two digits designate the month; Last two digits designate the day.
[2] Disaster Community.

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

Issued: February 22, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5537 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6495]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

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

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0237.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR CFR Part 59 et seq.).

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

PART 65—[AMENDED]

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations is amended as follows:

1. Section 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) Flood Hazard Boundary Maps (FHBM's).

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149	41 FR 50990
40 FR 17015	41 FR 13352
40 FR 20798	41 FR 17728
40 FR 46102	42 FR 8895
40 FR 53579	42 FR 29433
40 FR 56672	42 FR 46226
41 FR 1478	42 FR 64076

43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 62385
46 FR 13695
46 FR 20176
46 FR 26776
46 FR 46810
47 FR 3121
47 FR 18869
47 FR 28657
47 FR 47563
48 FR 9264

(b) *Flood Insurance Rate Maps (FIRM's).*

The following is a cumulative list of withdrawals pursuant to the Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46810
47 FR 3121
47 FR 18869
47 FR 28657

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name, No.	County	Hazard ID date	Rescission date	Reason
FL	Town of McIntosh, 120575	Marion	5-27-77	Jan. 24, 1983	2
FL	Town of Raiford, 120593	Union	9-29-78	do	2
MI	Village of Boyne Falls, 260371	Charlevoix	10-22-76	do	2
MI	Village of Oakley, 260502	Saginaw	9-26-75	do	2
MI	Township of Marcellus, 260367	Cass	11-26-76	do	2
MI	Township of Osceola 260413	Houghton	9-26-75	do	2
MI	Township of Pickford, 260376	Chippewa	5-20-77	do	2
MI	Township of Rudyard, 260377	Chippewa	10-15-76	do	2
MI	Township of Soo, 260378	Chippewa	11-26-76	do	2
MI	Township of Superior, 260380	Chippewa	6-17-77	do	2
AK	North Slope Borough, 020024	Barrow-North Slope Division.	9-23-80	do	5

Key to symbols

E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.

R The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

4. The community lacked land-use authority over the special flood hazard area.

5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.

6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.

7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8. The T&E or H&E Map was rescinded.

9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

10. Miscellaneous.

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

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5539 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5923]

Letter of Map Amendment for the City of Las Vegas, Nevada Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 325276, Panel 0020B, published on October 21, 1980, in 45 FR 69451, indicates that any structures to be located on Charleston Heights Tract No. 51–F1, recorded as Instrument No. 793928, on January 13, 1978, in Book 21, page 28 of Plats, Official Records Book No. 834 of the Clark County, Nevada Records, are located within the Special Flood Hazard Area.

Map No. 325276, Panel 0020B is hereby corrected to reflect that any structures to be located on the above-mentioned property are not within the Special

Flood Hazard Area identified on October 21, 1980. Any structures built on the property will be located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 USC 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5534 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 46

Exemption of Certain Research and Demonstration Projects From Regulations for Protection of Human Research Subjects

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (the Department or HHS) is including among the types of research specifically exempt from the application of the regulatory requirements of 45 CFR Part 46 (protection of human research subjects) research and demonstration projects conducted under the Social Security Act and other federal statutory authority and designed to study certain public benefit or service programs, the procedures for obtaining benefits or services under those programs, and possible changes or alternatives to those programs or procedures, including changes in methods or levels of payment. These demonstration and service projects are already subject to procedures which provide for extensive review by high level officials in various program administration offices. Review by an Institutional Review Board (IRB), as required under Part 46, would be duplicative and burdensome to state and local agencies and to other entities participating in demonstration projects. Removal of this unnecessary layer of review will not only reduce the cost of the projects but help to avoid unnecessary delays in project implementation. However, in order to ensure the continued protection of human subjects participating in such research activity, the Department is adding a specific requirement of written, informed consent in any instance, not reviewed by an IRB, in which the Secretary determines that the research activity presents a danger to the physical, mental or emotional well-being of a participant.

EFFECTIVE DATE: These regulations are effective April 4, 1983.

FOR FURTHER INFORMATION CONTACT: F. William Dommel, Jr.; (301) 496–7163.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPRM), published March 22, 1982, 47 FR 12276, the Department proposed to exempt certain research and demonstration projects from coverage of the Regulations for the Protection of Human Subjects, 45 CFR Part 46. The research activity proposed for exemption from the regulations generally involves public benefit or service programs under the Social Security Act and other similar programs administered by the Department. Such projects typically study proposed or possible changes in levels of benefits or services or in the systems and procedures for delivering such benefits or services to recipients. As indicated in the NPRM, the Department now believes that such research activity is fundamentally different from the experiments and projects otherwise covered by the Part 46 regulations, which typically involve biomedical or behavioral research.

The NPRM noted that the Department had previously proposed to exempt this class of research activity from the Part 46 regulations. 44 FR 47688 (August 14, 1979). However, when the regulations were published in final form, they continued to cover these activities. 46 FR 8366, 8370 (January 26, 1981). As a result, research and demonstration projects carried out under the Social Security Act and other statutes for the purpose of studying possible changes in benefit levels or in procedures for delivery of benefits have been subject to a requirement of review by an Institutional Review Board (IRB). The Department's experience has been that this additional layer of review for such projects is duplicative and needlessly burdensome in light of the substantial review process to which they are already subjected by state and federal officials. Furthermore, the Department has found such review by an IRB—which generally focuses on ethical questions arising from biomedical and behavioral research—to be unnecessary and inappropriate in the context of adjustments to benefit and service programs.

In view of these considerations, the Department proposed to exempt this class of research activity from the Part 46 regulations. In doing so, we indicated the following statutory authorities for conducting such research activity as among those which would be exempt from the regulations if the proposed exemption were adopted: Sections 426, 445, 1110(a), 1115 and 1875 of the Social Security Act; section 201 (a) and (b) and section 505 of the Social Security Disability Amendments of 1980, Pub. L. 96–265; section 402(a) of the Social Security Amendments of 1967, as amended (codified at 42 U.S.C. 1395b–1); section 222(a) of the Social Security Amendments of 1972 (codified at 42 U.S.C. 1395b–1 note); section 649 of Pub. L. 97–35 (Head Start Act); section 4 of Pub. L. 93–247, as amended (Child Abuse Prevention and Treatment Act); section 145 of Pub. L. 94–103, as amended (Developmental Disabilities Assistance and Bill of Rights Act); section 805 of Pub. L. 93–644, as amended (Native American Program Act of 1974); sections 421–425 of Pub. L. 93–29, as amended (Older Americans Act of 1965). Section 702 of the Social Security Act is another example of a statutory authority for conducting research which would be exempt from the Part 46 regulations under the exemption we proposed.

We have now carefully considered the comments received in response to the NPRM. These comments are analyzed and addressed below. As indicated, nothing in the comments led us to conclude that this class of research activity should, as a matter of policy, be subject to IRB review as provided by the Part 46 regulations. Moreover, in contrast to biomedical and behavioral research sponsored or conducted by the Department under the Public Health Service Act, there is no statutory requirement that such research activities be reviewed by an IRB.

Nevertheless, the Department does have an obligation, pursuant to the conditions imposed upon its continuing appropriations, to ensure that research activity not present a danger to the physical, mental or emotional well-being of participants. See, e.g., section 412, Pub. L. 93–517. In order to make clear that we will continue to fulfill that obligation and also in response to certain of the comments received, we are adding language to Part 46 to clarify that, with respect to research activity involving public benefit programs now to be exempted from IRB review, the Department will include in its review of such proposed research activity consideration of the effects on participants. To the extent that the proposed activity is determined to pose a danger to the participants, informed consent in writing will be required. This clarification will apply only to those projects which were previously subject to IRB review but are now exempt. All other categories of exempt research set forth in § 46.101(b) will continue not to be subject to any requirement of review for purposes of protecting human subjects since these other categories involve little or no possibility of risk to participants. See 46 FR 8367 (January 26, 1981).

In addition, our review of the proposal and the comments has led us to adopt another refinement to the final regulation. In the NPRM, we indicated that we were deleting entirely the provision in § 46.116(c) which permitted waiver of informed consent by IRB's in certain situations involving Federal, state or local benefit or service programs. The proposed deletion of this provision was prompted by the recognition that this waiver authority would not be needed in circumstances covered by the new exemption—*i.e.*, research or demonstration projects involving public benefit or service programs "conducted by or subject to the approval of" this Department. However, the new exemption does not reach similar projects conducted by or subject to the approval of state or local governments. There was no intention to impose additional burdens on such research carried out under the auspices of state or local government. Accordingly, we have determined that it would be appropriate to continue providing the authority under § 46.116(c) for an IRB to waive informed consent in circumstances where a research or demonstration project involves public benefit or service programs and where the project is conducted by or subject to the approval of state or local governments. The language of the new § 46.116(c) has beem amended slightly to conform to the language of the new exemption.

Response to Comments

We received approximately 50 comments in response to the proposed exemption. Most of these comments came from advocacy groups who regularly represent, in court and otherwise, persons whose benefits might be affected by the research projects proposed to be exempted from the Part 46 regulations, and most of them opposed the exemption for one reason or another. Favorable comments were received from several States which generally agreed with the analysis in the NPRM that IRB review of such projects was burdensome and duplicative. Below we have summarized, discussed and responded to the major comments, organized by topic, which were submitted in opposition to the proposed exemption.

1. Some commenters objected to the fact that we did not publish in the notice of proposed rulemaking an exhaustive list of every statutory demonstration authority to which the exemption would pertain. According to these commenters, fairness required a complete listing of every statute pursuant to which a demonstration project might be conducted exempt from the regulations. This suggested approach ignores the fact that the regulations themselves are couched in terms of broad categories of research. In listing the statutory authorities subject to the proposed exemption, we provided prominent examples of the types of authority which would be exempt. In view of the large number of statutory authorities, which are frequently augmented by legislation, we believe that an effort to provide an exhaustive list could be misleading since such a list would inevitably be incomplete. Thus, we did not attempt to catalogue all exempt authorities since the clear intent of the proposed exemption is to cover all projects failing within its terms, whether or not they were specifically referenced in the notice of proposed rulemaking.

2. A few commenters asserted that the list of statutory authorities subject to the proposed exemption was in fact inaccurate because section 505 of the Social Security Disability Amendments of 1980, Pub. L. 96–265, requires that projects conducted thereunder be subject to the Department's regulations for the protection of human subjects. Such comments appear to be based on a misunderstanding as to the scope of the demonstration authority enacted by section 505. That statute created a new demonstration authority relating to the work activity of disabled beneficiaries under the old-age, survivors and disability insurance program. This new authority is not required to be covered by the Department's regulations governing informed consent and the protection of human subjects. However, section 505 also amended section 1110 of the Social Security Act to add a new subsection (b) providing authority to waive requirements of Title XVI (the Supplemental Security Income program) for the purposes of carrying out demonstration projects. The statute expressly provides that projects conducted pursuant to this authority are subject to "the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk." Thus, we recognize that demonstration projects carried out under section 1110(b) are required to be covered by the Part 46 regulations, and for that reason they were not included among the authorities to which the proposed exemption would apply.

3. A number of the comments referred to the decision of the court in *Crane* v. *Mathews*, 417 F. Supp. 532 (N.D. Ga. 1976), as contrary to the proposed exemption. In that case, Georgia Medicaid recipients challenged a demonstration project permitting the state to impose copayments for medical services pursuant to a waiver of statutory provisions otherwise barring such copayments. The plaintiffs alleged, among other things, that the Department's then effective regulations for protection of human subjects required that such projects be first reviewed by an IRB. The court agreed and enjoined the project pending IRB review in accordance with the regulations.

In fact, contrary to the suggestion of these comments, the *Crane* court did not hold that demonstration projects under the Social Security Act were required to be subject to the Part 46 regulations. Instead, the court simply found that the regulations as then in effect were intended to cover such demonstration projects, at least as they pertained to imposition of copayments upon Medicaid recipients. Furthermore, the court in no way concluded that the recipients were placed at risk by the demonstration project. Nothing in the *Crane* decision can be read as mandating the retention of Part 46 coverage in the case of the demonstration projects which we are now exempting from the regulations.

4. Several comments took issue with the manner in which the notice of

proposed rulemaking discussed our statutory authority to regulate experiments other than biomedical and behavioral research. We noted that the principal authority for the Part 46 regulations was section 474 of the Public Health Service Act, which requires the Secretary to establish regulations governing "the conduct of biomedical and behavioral research involving human subjects" and specifies that an IRB shall be the vehicle for review of such research. In so noting, we in no way meant to imply that we lacked statutory authority to regulate the sorts of experiments and demonstration projects which we now are exempting from IRB review under the Part 46 regulations. As the court held in *Crane* v. *Mathews*, it is clearly within the broad rulemaking authority of the Secretary to regulate activity of that nature. However, in exempting it from IRB review, we felt it appropriate to distinguish this activity from biomedical and behavioral research, where we are mandated by statute to impose such review.

Other comments suggested that certain demonstration projects under the Social Security Act which we are now exempting from IRB review in fact feature considerable biomedical or behavioral aspects, thus bringing them within the scope of section 474's mandate. While the phrase "biomedical and behavioral research" is susceptible to broad interpretation, we see no indication that Congress intended the requirements of section 474 to apply to the demonstration projects subject to the proposed exemption. When passing legislation providing waiver or demonstration authority under the Social Security Act, Congress has made explicit those circumstances in which it believes that human subjects should be protected by an additional layer of regulatory review. See, for example, section 1110(b) of the Social Security Act. Thus, we believe that it is totally consistent with the intent of Congress in passing section 474 that we exempt from IRB review projects involving social welfare and benefit programs. The court in *Crane* v. *Mathews* agreed with our view that section 474 does not require regulation of such projects. See 417 F. Supp. at 545.

5. Some comments objected that the proposed exemption did not give sufficient consideration to the recommendations of the various National and Presidential Commissions that have studied the issue of protection of human subjects. We believe that we have addressed the major concerns of those Commissions and their findings. The Commissions have focused principally on problems stemming from biomedical and behavioral research involving human subjects. Nevertheless, we have experimented with broader use of IRB review. As we indicated in the notice of proposed rulemaking, our experience with IRB review led us to conclude that it was in fact unnecessary and burdensome in the context of research concerning benefit programs under the Social Security Act and otherwise. Throughout this process, we have continued to consider, evaluate and place great weight upon the comments of these Commissions. In fact, as discussed below, dialogue with the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research has also continued with respect to the proposed exemption.

6. Among the commenters was the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The Commission noted that review by state and federal officials did not precisely "duplicate" IRB review unless the reviewers included persons independent of program management, including non-government personnel and persons with expertise in "ethical" aspects of research. Recognizing that "informed consent" requirements could easily frustrate social policy experiments of the sort proposed for exemption, the Commission nevertheless suggested that this concern could be addressed by the waiver provisions in the regulations. In the Commission's view, however, such waivers should be issued by an IRB rather than by the decision of either state or federal program officials. The Commission also suggested that research projects covered by the proposed exemption can create medical risks as well as risks of non-physical intrusions into personal or confidential matters and that such risks should be considered by an IRB. The Commission expressed particular concern about research entailing reduction of benefits to certain recipients while others, similarly situated, continue to receive a higher level of benefits. In light of this concern, the Commission proposed an alternative exemption which would not include such research. Thus, under the Commission's alternative, research projects in any way limiting or reducing the benefits to which recipients would otherwise be entitled would continue to be subject to IRB review.

We have considered the Commission's comments with particular care in recognition of its statutory mandate in the area of ethical problems in research. We have decided, however, not to follow the Commission's suggestion that the exemption be limited to those research projects not entailing reduction of benefits. A review of the research projects covered by the proposed exemption reflects that many, if not most, of them could be construed as reducing benefits in one way or another. Accordingly, adoption of the Commission's alternative would not adequately address the concerns which prompted us to propose the exemption.

We do not agree with the Commission's belief that the "ethical" aspects of research in benefits programs will go unreviewed unless nongovernmental individuals with expertise in the ethics of research participate in consideration of proposed studies. The questions raised by research involving government benefits are significantly different from those raised by biomedical and behavioral research. IRB's are typically constituted to deal with the special ethical and other problems involved in biomedical and behavioral research. In contrast, ethical and other problems raised by research in benefit programs will be addressed by the officials who are familiar with the programs and responsible for their successful operation under state and federal laws. The risks identified by the Commission can be sufficiently evaluated by those program officials.

7. Some comments disagreed with the NPRM's conclusion that IRB review was duplicative and unnecessary in the context of the research projects proposed for exemption. These comments focused on the need for an independent reviewing body to ensure that recipient rights were properly considered and expressed doubt as to the ability of state officials in particular to fulfill that role. In our view, these comments ignore the fundamental difference between such research projects and biomedical and behavioral research. In contrast to the latter, which may result in either significant physical invasions or intrusions upon the privacy of participants, research in public benefit programs typically involves alterations in eligibility criteria, benefit levels or delivery systems. These are matters not falling within the expertise of IRB members but instead within the knowledge and experience of program officials at both the state and federal levels. In the course of promulgating regulations for the various programs at issue, these officials are regularly called upon to make decisions of the same sort, entailing determinations as to which

persons may or may not receive benefits and at what levels. In that sense, the research projects proposed for exemption do not differ substantially from the normal program activity administered by these officials. Furthermore, with the addition of clarifying language to the Part 46 regulations, there will be a well-defined responsibility of federal program officials to take into consideration potential risks to the health and safety of participants in research activity before making decisions whether or not to approve particular projects.

With respect to the adequacy of review by state program officials, we have no basis to question either the competency or sincerity of state personnel. In any event, research proposals by the states receive thorough review by federal officials experienced in the various programs. It is significant to note that the major Medicaid research authority—section 1115 of the Social Security Act—specifically provides that projects thereunder be consistent with the purposes of the program. In reviewing state proposals, federal officials will be mindful, as always, of this injunction.

8. Certain comments suggested that, in proposing to exempt from IRB review research projects involving public benefit programs, we somehow sought to circumvent congressional intent and impose program limits which had been rejected by Congress. More specifically, these comments referred to legislative proposals to permit more extensive use of copayments in the Medicaid program. In fact, any research project involving copayments will not benefit from the exemption since the Secretary has already exercised his discretion to waive application of Part 46 to such projects, pursuant to his authority under 45 CFR 46.101(e). See 47 FR 9208 (March 4, 1982). This provision of the regulations allows the Secretary to waive IRB review for any particular research activity or class of research activity. Thus, the status of co-payments and other similar cost-sharing devices in the Medicaid program will be unaffected by the new exemption. It should also be noted that the recently enacted Tax Equity and Fiscal Responsibility Act includes specific provisions governing demonstration projects involving Medicaid copayments.

9. A few comments asserted that the proposed exemption was contrary to the due process or equal protection clauses of the Constitution because of the possible impact which exempted demonstration projects could have on disadvantaged groups without adequate opportunity for a hearing. The function of IRB's, however, is not to provide individual claimants with any "due process" right to be heard. At most, IRB's review in a general way broad-based demonstration projects specifically authorized by statute. In our view, an individualized hearing of the sort which typically is associated with "due process" is not appropriate in this context. To the extent that a "hearing" of any sort is called for, the review provided by state and federal program officials is more than adequate to serve that function.

The proposed exemption also raises no issue of equal protection. The only result of the exemption will be that projects involving public benefit programs will not be subject to IRB review while those involving biomedical or behavioral research are. This disparate treatment of different kinds of research activities is, we believe, completely rational and justified in light of the substantially different character of biomedical and behavioral research. Thus, we do not view this different treatment as violative of equal protection.

10. A small number of the comments took issue with the conclusion that Executive Order 12291 was inapplicable to the NPRM. These comments basically argued that the cost to beneficiaries of Medicaid co-payments alone would exceed the Executive Order's threshold figure of $100 million or more in annual effect on the economy. Even if this assertion were accurate, the proposed exemption has no direct effect on projects involving co-payments because they have, as noted above, already been exempted from Part 46 coverage pursuant to the Secretary's waiver authority. Moreover, it is not the IRB review provided by Part 46 which controls the financial impact on Medicaid beneficiaries or other participants in research activity. Instead, program officials—at both the state and federal levels—make the decisions which influence the level of benefits by proposing and approving demonstration projects involving their programs. Thus, the proposed exemption has no direct bearing on any financial impact which may occur as a result of such projects.

Impact Analysis

Economic Impact on Small Entities

The Secretary certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354. Thus, a regulatory flexibility analysis is not required.

Classification of Rule Under E.O. 12291

The Secretary has determined that this rule is not a "major rule" under Executive Order 12291 and thus a regulatory impact analysis is not required. The Secretary's determination is based on the finding that the proposed rule would not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or

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

List of Subjects in 45 CFR Part 46

Civil rights, Government contracts, Grant programs—health, Prisoners, Research, Safety.

Dated: August 26, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Richard S. Schweiker,

Secretary.

PART 46—PROTECTION OF HUMAN SUBJECTS

For the reasons set out in the preamble, Part 46 of 45 CFR is amended as set forth below.

1. Section 46.101 is amended by adding a new paragraph (b)(6) and a new paragraph (i) to read as follows:

§ 46.101 To what do these regulations apply?

* * * * *

(b) * * *

(6) Unless specifically required by statute (and except to the extent specified in paragraph (i)), research and demonstration projects which are conducted by or subject to the approval of the Department of Health and Human Services, and which are designed to study, evaluate, or otherwise examine: (i) Programs under the Social Security Act, or other public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for

benefits or services under those programs.

* * * * *

(i) If, following review of proposed research activities that are exempt from these regulations under paragraph (b)(6), the Secretary determines that a research or demonstration project presents a danger to the physical, mental, or emotional well-being of a participant or subject of the research or demonstration project, then federal funds may not be expended for such a project without the written, informed consent of each participant or subject.

2. Section 46.116(c) is revised to read as follows:

§ 46.116 General requirements for informed consent.

* * * * *

(c) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent provided the IRB finds and documents that:

(1) The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine: (i) Programs under the Social Security Act, or other public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs; and

(2) The research could not practicably be carried out without the waiver or alteration.

[FR Doc. 83-5549 Filed 3-3-83; 8:45 am]
BILLING CODE 4150-04-M

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45 CFR Part 96

Block Grant Programs

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule with comment period.

SUMMARY: This rule amends current regulation at 45 CFR 96.112(b) to allow continued funding of the Community Services Block Grant (CSBG) in the territories of Guam and American Samoa during Fiscal Year (FY) 1983. This change was made necessary by the limitations imposed on CSBG funding by section 138 of Pub. L. 97-276.

DATES: This rule is effective March 4, 1983. To assure consideration, comments should be submitted by April 4, 1983.

ADDRESS: Submit comments to Spencer L. Lott, II, Director, Office of State and Project Assistance, Office of Community Services, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Spencer L. Lott, II, (202) 254-7030.

SUPPLEMENTARY INFORMATION: Section 675(c)(2)(A)(i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) ("the Act") required each State receiving funds under the CSBG to use at least 90 percent of its FY 1982 funds to make grants to "eligible entities" (as defined in section 673(1) of the Act) or to organizations which serve migrant or seasonal farmworkers. "Eligible entities" are primarily organizations which had been designated during FY 1981 as community action agencies or community action programs under the Economic Opportunity Act of 1964. For FY 1983 and subsequent years, section 675(c)(2)(A)(ii) of the Act afforded States greater flexibility in the use of their funds to make grants to non-profit private community organizations which serve migrant or seasonal farmworkers, or to political subdivisions within the States.

The territories of Guam and American Samoa do not have any organizations within their jurisdictions which meet the definitions of "eligible entities". Thus they were seemingly precluded from using more than 10 percent of their FY 1982 CSBG funds. Therefore, the final block grant regulations published by this Department of July 6, 1982 (47 FR 29472), explained that because Congress had not intended such a result, States or territories with no eligible entities could distribute their FY 1982 allotments using the funding criteria applicable for FY 1983, as specified in section 675(c)(2)(A)(ii).

However, section 138 of Pub. L. 97-276 imposed a new limitation which in effect extends to FY 1982 funding limitations through FY 1983, by requiring that States pass through 90 percent of their allotments to "eligible entities" or to organizations that serve migrant or seasonal farmworkers during FY 1983 as well. Thus under the current regulation these territories are once again arguably prevented from distributing most of their CSBG funds. We do not believe that this result was intended by Congress. Consequently, we are amending 45 CFR 96.112(b) to allow these territories to distribute their allotments according to the original requirements which would have been applicable under section 675(c)(2)(ii) of the Act.

Because of the limited time available in which territories may obligate FY 1983 funds, we believe that it would be impracticable and contrary to the public interest to delay availability of funds to the affected territories during the time necessary to conduct a rulemaking proceeding. Moreover, since this rule merely extends an existing rule to take into account the extension of the underlying statutory provision, we believe it is unnecessary to solict public comment. Accordingly, we find that good cause exists to waive the requirement for prior opportunity for comment. For the same reason, and because the rule relieves a restriction, we are making the regulation effective immediately, instead of allowing the customary 30-day delayed effective date. Although we are not soliciting public comment prior to publication of the rule, comments may be submitted as stated above, and appropriate changes will be made in the rule based on any comments received.

Regulatory Impact

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that this regulation which allows Community Services Block Grant funding for the territories of Guam and American Samoa during Fiscal Year 1983 is not a major rule within the meaning of the Executive Order because it does not have an effect on the economy of $100 million or more or otherwise met the threshold criteria. It merely sets forth the terms and conditions for spending appropriated funds. In this case, the effect of this regulation change is not to determine whether or not money will be spent, but the procedure by which it will be spent, and it is that effect—which is negligible—against which the threshold criterion is applied. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. The primary impact of this regulation is on the territories of Guam and American Samoa, which are not "small entities" within the meaning of the Act. Because this regulation provides the two

territories with great authority to prescribe management, organization, funding and eligibility practices for service delivery, it does not directly impact small entities, either favorably or adversely. Instead, impacts will depend on future decisions of the two territories.

We are not required to perform a regulatory impact analysis where the effect of the proposed regulation is speculative, and will be caused by decisions made independently of the Federal government. Therefore, the Secretary hereby certifies that a regulatory flexibility analysis is not required.

List of Subjects in 45 CFR Part 96

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action program, Drug abuse, Energy, Grant programs—energy, Grant programs—health, Grant programs—Indians, Grant programs—social programs, Health, Indians, Investigations, Low and moderate income housing, Maternal and child health, Mental health programs, Public health, Reporting and recordkeeping requirements, Social security.

PART 96—[AMENDED]

For the reasons set forth in the preamble, Title 45, § 96.112(b) of the Code of Federal Regulations is amended to read as follows:

§ 96.112 Community Services Block Grant.

* * * * *

(b) A State or territory that does not have any eligible entity" as that term is defined in section 673(1) of the Reconciliation Act (42 U.S.C. 9902), as amended by section 17 of Pub. L. 97-115 (December 19, 1981), or any other entity for which funding is allowed under Section 138 of Pub. L. 97-276, may distribute its allotment for the Fiscal Year beginning October 1, 1982 according to section 675(c)(2)(A)(ii) of the Reconciliation Act.

* * * * *

Dated: February 2, 1983.

Harvey R. Vieth,

Director, Office of Community Services.

Dated: February 14, 1983.

Thomas R. Donnelly, Jr.,

Acting Secretary.

[FR Doc. 83-5590 Filed 3-3-83; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 90

Amendment of the Commission's Rules Pursuant to Its Unregulatory Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is amending the Rules concerning the land mobile radio services so as to eliminate those that are now unnecessary or outdated and to bring others into agreement with rules that were amended previously in other rulemaking actions.

EFFECTIVE DATE: March 4, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 90

Private land mobile radio services.

In the matter of amendment of Parts 0, 1, and 90 of the Commission's rules and regulations pursuant to the Commission's Unregulatory Program.

Order

Adopted: February 3, 1983.

Released: February 15, 1983.

1. This Order is intended to simplify the rules by deleting unnecessary or outdated rule sections in Parts 0, 1, and 90 of the Commission's Rules and Regulations, by relaxing restrictions, and by making editorial corrections where necessary.

2. The affected rule sections are: §§ 0.401, 1.923, 1.951, 1.952, 90.3, 90.17, 90.19, 90.21, 90.35, 90.41, 90.45, 90.49, 90.51, 90.63, 90.67, 90.73, 90.75, 90.91, 90.127, 90.129, 90.135, 90.157, 90.175, 90.238, 90.251, 90.255, 90.555, and 90.560.

3. We conclude that the adoption of the amendments set forth in the Appendix will serve the public interest, and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, we conclude that notice and public procedure thereon are unnecessary and contrary to the public interest. We also conclude that the effective date of these rule changes shall be the date on which they are published in the **Federal Register**. Authority for this action is set forth in the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. § 553(b)(3)(B), and (d).

4. Inasmuch as a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and the authority delegated to the Managing Director by § 0.231 of the Commission's Rules, 47 CFR 0.231, the Commission's Rules and Regulations are amended as set forth in the attached Appendix effective upon publication in the **Federal Register.**

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

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 0—[AMENDED]

A. Part 0 of the Commission's Rules and Regulations is amended as follows:

1. Section 0.401 is amended by the removal of paragraph (g) in its entirety and the substitution of [Reserved] and by the revision of paragraph (e)(1) to read as follows:

§ 0.401 Location of Commission offices.

* * * * *

(e) * * *

(1) The mailing address of the Gettysburg Data Processing Center and the Private Radio Bureau Licensing Division is: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

* * * * *

(g) [Reserved]

PART 1—[AMENDED]

B. Part 1 of the Commission's Rules and Regulations is amended as follows:

1. Section 1.923(a) is revised to read as follows:

§ 1.923 Waiver of construction permit requirement.

(a) A construction permit is not required for any station in the Private Radio Services. However, certain private radio facilities must be constructed within the time periods specified in Part 90. See, however, § 1.1311(c).

* * * * *

2. Section 1.951 is revised to read as follows:

§ 1.951 How applications are distributed.

Licensing Division. All applications for radio stations in the following services:

(a) *Aviation and Marine Branch.* Aviation Radio Services applications: Air Carrier Aircraft, Private Aircraft, Airdrome Control, Aeronautical Enroute, Aeronautical Fixed, Operational Fixed (Aviation), Aeronautical Utility Mobile, Radionavigation (Aviation), Flight Test, Flying School, Aeronautical Public Service, Civil Air Patrol, Aeronautical Advisory, Aeronautical Metropolitan, Aeronautical Search and Rescue Mobile, and Aeronautical Multicom.

Marine Radio Services applications: Public Coast Stations, Limited Coast Stations, Stations on Land in the Maritime Radiodetermination Service, Fixed Stations associated with the Maritime Mobile Service, Stations operated in the Land Mobile Service for maritime purposes, Stations on Shipboard in the Maritime Services, and Public Fixed Stations in Alaska.

(b) *Land Mobile Branch.* Industrial Radio Services applications: Business, Forest Products, Industrial Radiolocation, Manufacturers, Motion Picture, Petroleum, Power, Relay Press, Special Industrial and Telephone Maintenance.

Land Transportation Radio Services applications: Motor Carrier, Railroad, Taxicab, and Automobile Emergency.

Public Safety Radio Services applications: Fire, Forestry-Conservation, Highway Maintenance, Local Government, and Police.

Special Emergency Radio Service applications: Medical services, rescue organizations, physically handicapped, veterinarians, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities.

(c) *General Radio Branch:* Amateur, Citizens Band, Radio Control, General Mobile, Disaster.

3. Section 1.952(b) is amended to reflect sub-title changes and to add radio services as follows:

§ 1.952 How file numbers are assigned:

* * * * *

(b) * * *

Industrial Services

IB—Business.
IF—Forest Products.
IX—Manufacturers.
IM—Motion picture.
IP—Petroleum.
IY—Relay Press.
IS—Special Industrial.
IT—Telephone Maintenance.
IW—Power.

Radiolocation Service

RS—Radiolocation.

* * * * *

PART 90—[AMENDED]

C. Part 90 of the Commission's Rules and Regulations is amended as follows:

1. Section 90.3 is removed in its entirety and [Reserved] is substituted as follows:

§ 90.3 [Reserved]

2. Section 90.17 is amended by the addition of new language to paragraph (a) to read as follows:

§ 90.17 Local Government Radio Service.

(a) Eligibility. Any territory, possession, state, city, county, town or similar governmental entity, including a district and an authority, but not including a school district or authority or a park district or authority except as provided for in § 90.242, is eligible to hold authorizations in the Local Government Radio Service to operate radio stations for transmission of communications essential to official activities of the licensee.

* * * * *

3. Section 90.19 is amended by the modification of paragraph (c) Article 5(g) to read as follows:

§ 90.19 Police Radio Service.

* * * * *

(g) The abbreviations contained in Appendix 9 of the Atlantic City Radio Regulations shall be used to the greatest possible extent. Service indications are as follows: "P", priority, for messages that are to be sent immediately, regardless of the number of other messages on file. If no service indication is given, the messages are to be transmitted in the order of receipt.

* * * * *

4. Section 90.21(b), the Fire Radio Service Frequency Table, is amended to read as follows:

§ 90.21 Fire Radio Service.

* * * * *

(b) * * *

Frequency or band	Class of station(s)	Limitations
* * * * *		
460.525	Base or Mobile	8
460.550	do	8
460.575	do	
460.600	do	
460.625	do	
465.525	Mobile	8
465.550	do	8
465.575	do	
465.600	do	
465.625	do	
* * * * *		

5. Section 90.35 is amended by the removal of paragraph (c) and the substitution of [Reserved] to read as follows:

§ 90.35 Medical Services.

(a) * * *

(c) [Reserved]

6. Section 90.41 is amended by the removal of paragraph (c) and the substitution of [Reserved] to read as follows:

§ 90.41 Disaster Relief Organizations.

* * * * *

(c) [Reserved]

7. Section 90.45 is amended by the removal of paragraph (b) and the substitution of [Reserved] to read as follows:

§ 90.45 Beach Patrols.

* * * * *

(b) [Reserved]

8. Section 90.49 is amended by the removal of paragraph (c) and the substitution of [Reserved] to read as follows:

§ 90.49 Communications standby facilities.

* * * * *

(c) [Reserved]

9. Section 90.51 is amended by the removal of paragraph (b) and the substitution of [Reserved] to read as follows:

§ 90.51 Emergency repair of public communications facilities.

* * * * *

(b) [Reserved]

10. Section 90.63 is amended by amending paragraphs (c) and revising (d) (6) to read as follows:

§ 90.63 Power Radio Service.

* * * * *

(c) * * *

Power Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
* * * * *		
154.46375	do	6,7,21
* * * * *		

* * * * *

(d) * * *

(6) This frequency is available for assignment to multiple address fixed stations employing omnidirectional antennas used for Power Utility peak load shaving and shedding and to mobile stations used for the remote control of objects and devices. The maximum power that may be authorized to fixed stations is 300 watts output, and the maximum power that may be authorized for mobile stations is 1 watt output. This frequency may also be

assigned to operational fixed stations employing directional antenna systems (front-to-back ratio of 20 dB) when such stations are located at least 120 km. (75 mi.) from the boundaries of any urbanized area of 200,000 or more population. (U.S Census of Population, 1960). The maximum power output of the transmitter for such fixed stations may not exceed 50 watts. A1, A2, A9, F1, F2, or F9 emission may be authorized.

11. Section 90.67(b) is the Forest Products Radio Service Frequency Table, is amended as follows:

§ 90.67 Forest Products Radio Service.

* * * * *

(b) * * *

Forest Products Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
* * * * *		
43.18	do	2
* * * * *		
152.465	do	2, 28
* * * * *		
154.625	Base or Mobile	5
157.725	Mobile	29
157.740	Base or Mobile	5
* * * * *		
457.000	do	2
457.025	do	2
457.075	do	2
* * * * *		

12. Section 90.73(c) is amended in the Special Industrial Radio Service Frequency Table, as follows:

§ 90.73 Special Industrial Radio Service.

* * * * *

(c) * * *

Special Industrial Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitation
43.18	do	2, 34
* * * * *		
457.000	do	2
457.025	do	2
457.075	do	2
* * * * *		

* * * * *

13. Section 90.75 (b), the Business Radio Service Frequency Table, and (f) are amended to read as follows:

§ 90.75 Business Radio Service.

* * * * *

(b) * * *

Business Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
27.43	Base or Mobile	1,2
27.45	do	1,2
27.47	do	1,2
27.49	do	1,3
* * * * *		
460.975	do	1,2,28,39,40
461.000	do	1,2,28,39,40
* * * * *		

* * * * *

(f) Limitation on itinerant operation. Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies designated for itinerant operation under § 90.75(c)(3), or on other frequencies not designated for permanent use.

14. Section 90.91(b) is amended in the Railroad Radio Service Frequency Table as follows:

§ 90.91 Railroad Radio Service.

* * * * *

(b) * * *

Railroad Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
* * * * *		
72.56	do	2
72.60	do	2
* * * * *		

* * * * *

15. Section 90.127(a) is amended to reflect the new address in Gettysburg, Pennsylvania for submission of applications as follows:

§ 90.127 Filing of applications.

(a) All applications for station authorizations and related correspondence shall be submitted to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

* * * * *

16. Section 90.129 is amended by the removal of paragraphs (d) and (l) and the substitution of [Reserved] to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(d) [Reserved]

* * * * *

(l) [Reserved]

* * * * *

17. Section 90.135(b) (6) and (7) are amended to remove the reference to Form 425 and to reflect the new address in Gettysburg, Pennsylvania as follows:

§ 90.135 Modification of license.

* * * * *

(b) * * *

(6) In case of a change listed in paragraph (b) (1) or (2) of this paragraph, the licensee shall promptly notify the Commission of such change. The notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name or address, the call signs and classes of all radio stations authorized to the licensee under this part and the radio service in which each station is authorized. The Notice shall be sent to, Federal Communications Commission, Gettysburg, Pennsylvania 17325 and to the Engineer in Charge of the Radio District in which the station is located, and a copy shall be maintained with the license of each station until a new license is issued.

(7) In the case of a change listed in paragraph (b) (3), (4), or (5) of this paragraph the licensee shall promptly notify the Commission within 30 days of the change. The notice shall be filed on the appropriate application form (FCC Form 574), and shall be sent to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

18. Section 90.157 is revised to read:

§ 90.157 Discontinuance of station operation.

If a station licensed under this part discontinues operation on a permanent basis, the licensee shall forward the station license to the Commission for cancellation. For the purposes of this section, any station which has not operated for 1 year or more is considered to have been permanently discontinued.

19. Section 90.175 is amended by the removal of paragraph (e)(4) and the substitution of [Reserved].

§ 90.175 Frequency coordination requirements.

* * * * *

(e) * * *

* * * * *

(4) [Reserved]

20. Section 90.238(e) of the rules is revised to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(e) Frequencies separated by 12.5 kHz from regularly assignable frequencies in the 450–470 MHz band, which are listed at 90.267(b), except that frequencies separated by 12.5 kHz from frequencies in the 460.650–460.875 MHz and 465.650–465.875 MHz bands are also available in the Business Radio Service for one-way, non-voice biomedical telemetry

operation in hospitals, or in medical or convalescent centers.

* * * * *

21. Section 90.251 is revised to remove references to the 27 MHz band as follows:

§ 90.251 Scope.

This subpart sets forth special requirements applicable to the use of certain frequencies (4383.8 kHz) or frequency bands (72–76, 216–220, 450–470, and 1427–1435 MHz).

§ 90.255 [Reserved]

22. Section 90.255 is removed in its entirety and [Reserved] is substituted to read as follows:

23. Section 90.555(b) is amended to read as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) Combined frequency list:

Frequency	Services	Limitations
* * * * *		
Megahertz		
* * * * *		
35.00–35.01	IB, IF, IM, IP, IS, IT, IW, IX, IY.	Do.
35.02	IB, PS	Low Power (2W.).
35.04	IB	Itinerant
* * * * *		
151.145	PO, IB	Do.
* * * * *		

24. Section 90.560 is removed in its entirety and [Reserved] is substituted to read as follows:

§ 90.560 [Reserved]

[FR Doc. 83-5418 Filed 3-3-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 20870; FCC 83-38]

Public Mobile Radio Services; Regulatory Policies and Procedures for the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: Policies and procedures concerning objective need showings for applications requesting an additional one-way frequency for one-way signaling stations are being proposed. The present rules do not provide applicants with sufficient information as to what is required in need showings before applications can be granted. Applicants requesting an additional one-way frequency must show that the existing or projected grade of service is .50 before an additional channel is granted. The proposed standards are being adopted on an interim basis.

EFFECTIVE DATE: Interim rule effective April 4, 1983.

ADDRESS: Secretary's Office, Rm. 222, FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Carmen A. C. Borkowski, (202) 632-6450.

SUPPLEMENTARY INFORMATION: List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers.

In the matter of regulatory policies and procedures for the Domestic Public Land Mobile Radio Service (CC Docket No. 20870).

Interim Rule

Adopted January 27, 1983.

Released: February 14, 1983.

By the Commission:

1. In a Further Notice of Proposed Rulemaking adopted on January 27, 1983 we adopted objective need standards for one-way service. *See* Proposed Rules Section in the **Federal Register** issue for Thursday, February 3, 1983. In addition, we adopt the objective one-way need standards as an interim rule pending the conclusion of this rulemaking proceeding.[1] The experience we have gained from using objective need standards for two-way service demonstrate to us that one-way standards are also needed. Use of the interim standards will assist us in determining the proper objective standards for one-way service if objective standards are adopted on a longer term basis.

2. The authority for this rulemaking is contained in Section 4 and 303 of the Communications Act of 1934, as amended.

3. Pending the conclusion of this rulemaking proceeding, we will follow the objective need standards presented in Appendix I on an interim basis. The interim rule becomes effective 30 days after publication of this document in the **Federal Register.**

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

[1] Applications which fail to demonstrate need in accordance with the interim standards will be returned as unacceptable for filing pursuant to § 22.20 of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix I—Interim Rule

PART 22—[AMENDED]

47 CFR Part 22 is revised as follows:

1. Section 22.16 (c) is added to read as follows:

§ 22.16 Objective need standards.

* * * * *

(c) Applications for one additional paging channel will be granted as follows:

(1) If the application shows that the existing system's present grade of service is 0.50 or greater or that the existing grade of service is 0.40 or greater with a projected grade of service of 0.50 or greater, the additional channel will be granted.

(2) Procedures to determine grade of service:

(i) Separate § 22.516 data shall be submitted for tone-only units, tone-voice and tone-optical readout.

(ii) For each § 22.516 submission, the bouncing busy-hour occupied time of a system shown by the § 22.516 study shall be divided by the number of units in the system to derive a basic reckoning factor for projecting traffic in a proposed system. This reckoning factor shall be in minutes per unit (MPU), *i.e.*, the time a system is on the air during the busy hour divided by the number of units presently authorized to use that system.

(iii) A unit shall be considered as generating traffic in a proposed system if it falls into one of three categories:

(A) Present subscriber units,

(B) Subscriber units for which there are written held orders, and

(C) Subscriber units projected through the use of a valid statistical survey.

(iv) The number of units included in paragraph (c)(2)(iii) (B) and (C) of this section, above shall be discounted by 20 percent.

(v) The MPU shall be multiplied by the total of the units included in paragraph (c)(2)(iii) of this section, as discounted, and divided by 60 to estimate, in Erlangs, the expected traffic in the proposed system.

(vi) Referring to the Erlang C Table, the expected grade of service level shall be calculated for each proposed system. A determination of whether an additional channel will be authorized will be based on the grade of service so calculated.

[FR Doc. 83-5419 Filed 3-3-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 81 and 83

[PR Docket No. 82-611; FCC 83-68]

Amendment of the Commission's Rules To Specify the Circumstances Under Which Limited Coast Stations May Be Exempted From the Watch Requirement on 156.8 MHz and To Authorize the Use of Marine VHF Channel 88A in the Lake Michigan Area

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document specifies the circumstances under which limited coast stations may be exempted from the requirement to maintain a watch on 156.8 MHz, and allows the use of simplex marine VHF Channel 88A in the Lake Michigan area. This action will relieve limited coast stations of an unnecessary burden, and in Lake Michigan it will provide the public with an additional marine channel. This rule making will further the Commission's objective of providing service to the public in the least burdensome and most efficient manner possible.

EFFECTIVE DATE: March 28, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telephone.

47 CFR Part 83

Ship stations, Great Lakes.

In the matter of amendment of Parts 81 and 83 of the Commission's rules to specify the circumstances under which limited coast stations may be exempted from the watch requirement on 156.8 MHz and to authorize the use of marine VHF Channel 88A in the Lake Michigan area. (PR Docket No. 82-611).

Report and Order

(Proceeding Terminated)

Adopted: February 17, 1983.

Released: February 23, 1983.

By the Commission:

Summary

1. In this Report and Order we are amending Parts 81 and 83 of the Commission's rules: (1) To specify the circumstances under which limited coast stations are exempted from the requirement to maintain a watch on 156.8 MHz; and (2) to make simplex marine VHF Channel 88A (157.425 MHz) available for commercial intership communications in the Lake Michigan area beyond 75 miles of the United States/Canada border.

The 156.8 MHz Watch Requirement for Limited Coast Stations

2. Limited coast stations are maritime radio stations on land which serve the operational and business needs of ships, including the transmission of safety communications. They do not provide a public correspondence service.

3. The frequency 156.8 MHz is designated as the distress, safety and calling frequency in the VHF maritime mobile service. As a calling frequency, 156.8 MHz is the frequency on which contact can be made with ship and coast stations. After contact is made the parties shift to a working frequency. Although this operating procedure is permitted, whenever practicable, contact between ship stations and limited coast stations is made directly on the appropriate ship-shore working frequency to reduce unnecessary communications on 156.8 MHz. Distress and safety messages are also transmitted on 156.8 MHz. By designating the distress frequency as the calling frequency, the rules ensure that a maximum number of stations will be listening at any given time.

4. Under § 81.191(d)(1) of the Commission's rules, each limited coast station licensed to transmit by telephony in the band 156–162 MHz shall, during its hours of service for telephony, maintain an efficient watch on the frequency 156.8 MHz whenever such station is not being used for transmission on that frequency. However, the Commission may exempt any limited coast station from this watch requirement if it considers that the circumstances demonstrate that the watch is duplicated by public coast stations or Government coast stations having continuous hours of service.

5. In the Notice of Proposed Rule Making in this proceeding [1] (hereafter NPRM) we proposed to amend the rules to exempt most limited coast stations from the watch requirement. The Commission previously exempted public coast stations (which provide public correspondence service) from this watch in areas where coverage is provided by the Coast Guard or other Government entities. The Coast Guard maintains a continuous watch on 156.8 MHz along the entire coast of the United States. Therefore, in the case of limited coast stations located on the coast, a general exemption was proposed. The criteria proposed are identical to those under which the Commission presently exempts public coast stations from the 156.8 MHz watch requirement. Limited coast stations servicing inland waters would continue to be exempted from the 156.8 MHz watch requirement on a case by case basis where it is shown that Federal, State or Local Government stations maintain the watch.

6. No comments were received in response to the Notice of Proposed Rule Making.

7. We conclude that the amendment proposed in the NPRM to exempt VHF limited coast stations from the requirement to maintain watch on 156.8 MHz is in the public interest. This amendment will eliminate a watch requirement imposed on the maritime public which duplicates coverages provided by Federal, State or Local Government stations.

Frequency Allocation in the Lake Michigan Area

8. In 1976 the Commission changed the status of frequencies 157.425 (commercial intership frequency) and 162.025 MHz (Government frequency) to form duplex marine VHF Channel 88.[2] Section 83.351(b)(55) was amended and a new paragraph (b)(72) was added to except vessels plying the Great Lakes and St. Lawrence Seaway from the category of vessels permitted to use simplex Channel 88A for commercial intership communications. In the same action the newly formed duplex channel was made available to ship stations plying the Great Lakes and St. Lawrence Seaway for public correspondence communications with Canadian coast stations (see § 2.106, footnote US223, and § 83.351(b)(72) of the rules).

9. The Great Lakes area includes Lakes Superior, Huron, Erie, Ontario and Michigan. With the exception of Lake Michigan, all the lakes border on both the United States and Canada. Lake Michigan is located totally within the bounds of the United States and as a result, except at the northern end of the lake, is beyond the range of communication with Canadian coast stations. Consequently, simplex Channel 88A could be used in much of Lake Michigan without the need to coordinate with Canada.

10. In the NPRM we proposed to limit the broad language used in paragraphs (b)(55) and (72) of § 83.351, thereby permitting the use of simplex Channel 88A for commercial intership

[1] PR Docket No. 82-611, released August 31, 1982, 47 FR 40187.

[2] Report and Order, Docket No. 20838, adopted November 23, 1976, 41 FR 54490, 62 FCC 2d 445.

communications in the Lake Michigan area beyond 75 miles of the United States/Canada border. In view of Lake Michigan's internal location, we saw no reason why the public should be deprived of the use of this additional channel.

11. As indicated above, no comments were filed in the proceeding. We continue to believe that the availability of this additional marine channel on Lake Michigan is in the public interest. Therefore, we are amending the rules as proposed.

Summary of Action

12. In summary, we are: (1) Revising § 81.191 to provide a general exemption from the requirement to maintain a listening watch on 156.8 MHz for all limited coast stations serving coastal waters; and (2) revising § 83.351 to make Channel 88A (157.425 MHz) available for intership communications on Lake Michigan beyond 75 miles of the United States/Canada border.

13. The rule amendments proposed in this proceeding, while expected to benefit the maritime public as described above, will not result in a significant economic impact on any person or entity. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

14. Regarding questions on matters covered in this document contact Robert H. McNamara, (202) 632-7175.

15. Accordingly, 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), the Commission's rules are amended as set forth in the Appendix, effective March 28, 1983.

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

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

In § 81.191 paragraph (d) is removed and reserved and paragraph (c) is amended to read as follows:

§ 81.191 Radiotelephone watch by coast stations.

* * * * *

(c) All coast stations not serving inland lakes, rivers and bays (i.e., inland waters) shall be exempt from the channel 16 watch requirement. However, each coast station located on inland waters (exclusive of the Great Lakes which are exempt) licensed to transmit by telephony on one or more frequencies within the band 156–162 MHz shall, during its hours of service for telephony, maintain an efficient watch for the reception of Class F3 emission on the frequency 156.800 MNz whenever such station is not being used for transmission on that frequency. An exemption will be granted to any inland water coast station from compliance with this requirement when it has been demonstrated that an efficient watch on 156.800 MHz is maintained over 95% of the coast station's service area by Federal, State or Local Government stations. Such a request for an exemption must include a chart showing the receiving service area of the inland water coast station by the method specified in Subpart R of this part of the rules. The location by coordinates, to the nearest minute, and the receiving service area of the government station maintaining the continous watch on 156.800 MHz must be indicated on the same chart. The receiving service area of these stations shall be calculated using criteria specified in Subpart R of this part of the rules. Where the station(s) providing the 156.800 watch over the service area of an exempt station temporarily discontinues that watch, the exempt coast station upon receiving notice of this condition, shall maintain the watch on 156.800 MHz during the down period. However, in the case of automated maritime communications systems, compliance with this "back-up" watch requirment shall only require the use of existing facilities, when not otherwise being utilized, and shall not be construed as necessitating additional equipment or circuits.

(d) [Reserved]

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

In § 83.351(b) (55) and (72) are revised to read as follows:

§ 83.351 Frequencies available.

* * * * *

(b) * * *

(55) Except within 75 miles of the United States/Canada border on the Great Lakes and St. Lawrence Seaway, available for intership and commercial communications. Except on the Great Lakes, also available for communications between commerical fishing vessels and associated aircraft while engaged in commerical fishing activities.

* * * * *

(72) Within 75 miles of the United States/Canada border on the Great Lakes and St. Lawrence Seaway, 157.425 MHz is half of the duplex pair designated as Channel 88. In this area, Channel 88 is available for use by ship stations for public correspondence communications.

* * * * *

[FR Doc. 83-5415 Filed 3-3-83; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-14)]

Rail General Exemption Authority—Miscellaneous Agricultural Commodities

AGENCY: Interstate Commerce Commission.

ACTION: Final rule and exemption.

SUMMARY: The Commission is adopting rules, which were proposed at 47 FR 50311, November 5, 1982, to exempt the transportation by rail of all farm products (STCC No. 01) not previously exempt, with the exception of grain (STCC No. 0113), soybeans (01144), and sunflower seeds (0114940), and in addition exempts stemmed or redried tobacco; cottonseed hulls; cotton linters; honey, comb, granulated or strained, or heat treated to retard granulation and beeswax; cotton, carded, dyed or not dyed, but not spun, woven, or knitted, but including cotton lap; mattress felt, nec, cjors, not finished wool, nec, scoured, including camels hair or mohair, or mohair or wool clips or tags; and flax fibre, from the provisions of Subtitle IV of Title 49 U.S.C.; except that carriers shall continue to comply with the Commission's accounting and reporting requirements and shall include in their annual reports a brief statement of operations under this exemption authority. The Commission has examined the distribution (particularly

by rail) of the commodities proposed for exemption and has determined the continued regulation of these commodities no longer appears necessary to serve the Nation's transportation policy objectives or to protect shippers from abuse of market power by the railroads.

DATE: Effective April 4, 1983.

COMMENTS: Comments by persons opposed to the exemption of stemmed or redried tobacco (STCC No. 214) cottonseed hulls (STCC No. 2091425); cotton linters (STCC Nos. 20915 and 2299926); honey, comb, granulated or strained, or heat treated to retard granulation (STCC No. 2099941) and beeswax (STCC No. 2842337); cotton, carded, dyed or not dyed, but not spun, woven, or knitted, but including cotton lap (STCC No. 2281130); mattress felt, nec, cjors, not finished (STCC No. 2291174); wool, nec, scoured, including camels hair or mohair, or mohair or wool clips or tags (STCC No. 2297135); and Flax Fibre (STCC No. 2299522); shall be filed with the Secretary of the Commission on or before March 24, 1983.

ADDRESS: An original and 10 copies, if possible, of each submission should be forwarded to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, (202) 275–7428.

FOR FURTHER INFORMATION CONTACT: Leland L. Gardner or Robert Lundy, Office of Transportation Analysis, Interstate Commerce Commission, Washington, DC 20423, (202) 275–0811 or 275–6853.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision. To purchase a copy of the decision, write to: TS Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

This rule is issued under the authority of Sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and Section 10505 of Title 49 (49 U.S.C. 10505).

List of Subjects in 49 CFR Part 1039

Administrative practice and procedure, Agricultural commodities, Intermodal transportation, Railroads.

Dated: February 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons and Gradison. Vice Chairman Sterrett dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Sterrett, dissenting in part:

I disagree with the majority's decision not to exempt sunflower seeds. I believe this refusal represents a step backward in the Commission's use of the broad exemption authority conferred in the Staggers Act.

The evidence here indicates that the railroads are competing seriously for sunflower seed traffic. Rates have been reduced and new unit train and multiple car rates have been established. While I am sympathetic to and understand the shipper's concerns, we have been given no reason to believe deregulation will cause an abrupt change in the railroads' present marketing and pricing practices. Moreover, even if abuses were to develop in the future, we have ample authority to make corrective action. Indeed, the legislative history of the Staggers Act directs us to adopt a liberal exemption policy, reviewing exemptions *after* the fact to correct any abuses that may occur.

Appendix

Revisions to the Code of Federal Regulations

PART 1039—[AMENDED]

49 CFR Part 1039 is revised by removing § 1039.11 and by revising § 1039.10 to read as follows:

§ 1039.10 Exemption of agricultural commodities except grain, soybeans, and sunflower seeds.

The rail transportation of the commodities listed below is exempt from the provisions of Subtitle IV of Title 49, except that carriers must continue to comply with Commission accounting and reporting requirements, including a brief statement in their annual reports of operations under this exemption, and must maintain copies of rates, charges, rules or regulations, for traffic moved under this exemption, at their principal office, subject to inspection, and send a letter of notification to the docket [Ex Parte No. 346 (Sub-No. 14)], within 30 days, of the fact that they are using the exemption. All tariffs pertaining to the transportation of these miscellaneous commodities will no longer apply except to the extent adopted by carrier quotations. The categories of commodities which are exempt under this decision, by Standard Transportation Commodity Code (STCC) number are:

01	Farm products, with the exception of grain (STCC No. 0113), soybeans (STCC No. 01144), and sunflower seeds (STCC No. 0114940).
09	Fresh fish and other marine products.
20–412–27	Citrus pomace.
20–712–12	Shelled walnuts.
20–914–25	Cottonseed hulls.
20–915	Cotton linters.
20–999–41	Honey, comb, granulated or strained, or heat treated to retard granulation.
214	Stemmed or redried tobacco.
22–811–30	Cotton, carded, dyed or not dyed, but not spun, woven or knitted, but including cotton lap.
22–911–63	Matress felt, nec, cjors, not finished.
22–911–74	Felts, cotton, nec.
22–971–35	Wool, nec, scoured.
22–995–22	Flax fibre.
22–999–26	Cotton linters, bleached or dyed.
28–423–37	Beeswax.

and shall embrace all articles assigned additional digits. The STCC shall be those code numbers in effect as of January 1, 1979, as shown in Standard Transportation Commodity Code Tariff 1–G, ICC STCC 6001–C. Nothing in this exemption shall be construed to affect our jurisdiction under section 10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Commission.

[FR Doc. 83-5528 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No 44
Friday, March 4, 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 960

Federal Executive Boards

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is issuing proposed rules for the organization and functions of Federal Executive Boards. Federal Executive Boards were established pursuant to a Presidential directive of November 10, 1961, which charged the Chairman of the former Civil Service Commission to arrange for the establishment of a Board in each of the Commission's administrative regions and to continue similar associations in other centers of Federal activity. Since then the Boards have been the responsibility, variously, of the Civil Service Commission and its successor, the Office of Personnel Management, and the Bureau of the Budget and its successor, the Office of Management and Budget. On June 7, 1982, the Executive Office of the President transferred authority for Federal Executive Board functions to the Office of Personnel Management. The rules proposed in this notice are intended to carry into effect the directive of the President that Federal Executive Boards be organized and operated to achieve better interagency coordination of Federal activity and to better communications between Government officials in Washington and in the field.

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

ADDRESS: Send or deliver comments to Joseph A. Morris, General Counsel, United States Office of Personnel Management, Room 5H30, Washington, D.C., 20415.

FOR FURTHER INFORMATION CONTACT: Roger Pilon, Special Assistant to the General Counsel, (202) 632-5423.

SUPPLEMENTARY INFORMATION:

Federal Executive Boards were created by the President to improve Federal management activities within major metropolitan centers across the country. Currently established in 26 cities that are major centers of Federal activity, the Boards are composed of the highest local officials of each Federal agency in those metropolitan areas. For several years, the Boards were jointly administered by the Civil Service Commission and the Bureau of the Budget. On June 7, 1982, the Executive Office of the President transferred authority for all Federal Executive Board functions to the Office of Personnel Management.

Federal Executive Boards are important organizational structures for outreach from Washington to Federal Government operations in the field. They function in four general areas: (1) Provision of a forum for the exchange of information between Washington and the field about programs, management methods, and administrative problems, (2) coordination of local approaches to national programs and such local interagency programs as may be approved by the Director; (3) communication from Washington to the field of management initiatives and other concerns for the improvement of coordination; and (4) referral to the national level of problems that cannot be resolved locally. These rules will provide a clear structure for the efficient organization and operation of Federal Executive Boards and will eliminate ambiguities and unnecessary activities that might interfere with the full development of the Boards as instruments of effective Government management and communication.

In view of the need to place the operations of Federal Executive Boards on a regular basis, and of the desirability of receiving the seasonable comments of Federal executives and other interested persons, the Director finds good cause for setting the comment period at 30 days.

E.O. 12291, Federal Regulations

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations, because it will not result in:

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

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

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects the organization and operation of Federal Executive Boards.

List of Subjects in 5 CFR Part 960

Government employees, Organization and functions (Government agencies).

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend 5 CFR by adding Part 960 to read as follows:

PART 960—FEDERAL EXECUTIVE BOARDS

Sec.

Authority: Memorandum of the President for Heads of Departments and Agencies (November 10, 1961).

§ 960.101 Definitions.

For purposes of this Part:

(a) The term "Director" means the Director of the United States Office of Personnel Management.

(b) The term "Executive agency" means a department, agency, or independent establishment in the Executive Branch.

(c) The term "metropolitan area" means a geographic zone surrounding a major city, as defined and delimited from time to time by the Director.

(d) The term "principal area officer" means, with respect to an Executive agency, the senior official of the Executive agency who is located in a

metropolitan area and who has no superior official within that metropolitan area other than in the Regional Office of the Executive agency. Where an Executive agency maintains facilities of more than one bureau or other subdivision within the metropolitan area, and where the heads of those facilities are in separate chains of command within the Executive agency, then the Executive agency may have more than one principal area officer.

(e) The term "principal regional officer" means, with respect to an Executive agency, the senior official in a Regional Office of the Executive agency.

(f) The term "special representative" means, with respect to an Executive Agency, an official who is not subject to the supervision of a principal regional officer or a principal area officer and who is specifically designated by the head of the Executive Agency to serve as the personal representative of the head of the Executive Agency.

§ 960.102 Authority and status.

Federal Executive Boards are established by direction of the President in order to strengthen the management and administration of Executive Branch activities in selected centers of field operations. Federal Executive Boards are organized and function under the authority of the Director.

§ 960.103 Location.

Federal Executive Boards have been established and shall continue in the following metropolitan areas: Albuquerque-Santa Fe, Atlanta, Baltimore, Boston, Buffalo, Chicago, Cincinnati, Cleveland, Dallas-Fort Worth, Denver, Detroit, Honolulu, Houston, Kansas City, Los Angeles, Miami, Minneapolis-St. Paul, New Orleans, New York, Newark, Philadelphia, Pittsburgh, Portland, St. Louis, San Francisco, and Seattle. The Director may, from time to time, dissolve, merge, or divide any of the foregoing Federal Executive Boards, or establish new Federal Executive Boards, as he may deem necessary, proper, or convenient.

§ 960.104 Membership.

(a) *Presidential Directive.* The President has directed the heads of agencies to arrange for the leading officials of their respective agencies' field activities to participate personally in the work of Federal Executive Boards.

(b) *Members.* The head of every Executive agency shall designate, by title of office, the principal regional officer, if any, and the principal area officer or officers, if any, who shall represent the agency on each Federal Executive Board; and by name and title of office, the special representative, if any, who shall represent the head of the agency on each Federal Executive Board. Such designations shall be made in writing and transmitted to the Director, and may be transmitted through the Chairmen of the Federal Executive Boards. Designations may be amended at any time by the head of the Executive agency.

(c) *Alternate Members.* Each member of a Federal Executive Board may designate an alternate member, who shall attend meetings and otherwise serve in the absence of the member. An alternate member shall be the deputy or principal assistant to the member or another senior official of the member's organization.

§ 960.105 Officers and organization.

(a) *By-Laws.* A Federal Executive Board shall adopt by-laws or other rules for its internal governance, subject to the approval of the Director. Such by-laws and other rules may reflect the particular needs, resources, and customs of each Federal Executive Board, provided that they are not inconsistent with the provisions of this Part or with the directives of the President or the Director. To the extent that such by-laws and other rules conflict with these provisions or the directives, of the President or the Director, such by-laws and other rules shall be null and void.

(b) *Chairman.* Each Federal Executive Board shall have a Chairman, who shall be elected by the members from among their number, and who shall serve for a term of office not to exceeed one year.

(c) *Staff.* As they deem necessary and proper, members shall, from time to time, designate personnel from their respective organizations to serve as the staff, or otherwise to participate in the activities, of the Federal Executive Board. Other personnel may be engaged, by appointment, contract, or otherwise, only with the approval of the Director.

(d) Unless otherwise expressly provided by law, by directive of the President or the Director, or by the by-laws of the Federal Executive Board, every committee, subcommittee council, and other sub-unit of the Federal Executive Board, and every affiliation of the Federal Executive Board with external organizations, shall expire upon expiration of the term of office of the Chairman. Such a committee, subcommittee, council, other sub-unit, or affiliation may be reestablished or renewed by affirmative action of the Federal Executive Board.

(e) *Board Actions.* Actions of a Federal Executive Board shall be taken only with the approval of a majority of the members thereof. This authority may not be delegated. All activities of a Federal Executive Board shall conform to applicable laws and shall reflect prudent uses of official time and funds.

§ 960.106 OPM leadership.

(a) *Role of the Director.* The Director is responsible to the President for the organizational and programmatic activities of the Federal Executive Boards. The Director shall direct and oversee the operations of Federal Executive Boards consistent with law and with the directives of the President. He may, from time to time, consult with, and require the advice of, the Chairmen, members, and staff of the Federal Executive Boards.

(b) *Role of the Director's Regional Representatives.* The Chairman of each Federal Executive Board shall report to the Director through the Director's Regional Representative, an official of the Office of Personnel Management. The Director's Regional Representatives shall oversee the activites of, and periodically visit and meet with, the Federal Executive Boards.

(c) *Communications.* The Office of Personnel Management shall maintain channels of communication from the Director through the Director's Regional Representatives to the Chairmen of the Federal Executive Boards, and between and among the Federal Executive Boards through the Director and the Director's Regional Representatives. Any Executive agency may use these channels to communicate with the Director and with the Federal Executive Boards. Chairmen of Federal Executive Boards may communicate with the Director on recommendations for action at the national level, on significant management problems that cannot be addressed at the local level, and on other matters of interest to the Executive Branch.

(d) *Reports.* Each Federal Executive Board shall transmit to the Director, over the signature of its Chairman, an annual work plan and an annual report to the Director on the significant programs and activities of the Federal Executive Board in each fiscal year. Each work plan shall set forth the proposed general agenda for the succeeding fiscal year. The work plan shall be subject to the approval of the Director. Each annual report shall describe and evaluate the proceeding fiscal year's activities. The first such annual report, for Fiscal Year 1982, and the first such work plan, for Fiscal Year 1983, shall be submitted together on May 1, 1983. The work plan for Fiscal Year 1984 shall be submitted on July 1,

1983, and the annual report for fiscal year 1983 shall be submitted on January 1, 1984. Subsequent annual report shall be submitted on January 1 and subsequent annual report work plans shall be submitted on July 1 in every year thereafter. In addition, members of Federal Executive Boards shall keep the headquarters of their respective Executive agencies informed of their activities by timely reports through appropriate agency channels.

(e) *Conferences.* The Director may, from time to time, convene regional and national conferences of Chairman and other representatives of Federal Executive Boards.

§ 960.107 Authorized activities.

(a) Each Federal Executive Board shall serve as an instrument of outreach for the national headquarters of the Executive Branch to Executive Branch activities in the metropolitan area. Each Federal Executive Board shall consider common management and program problems and develop cooperative arrangements that will promote the general objectives of the Government and of the several Executive agencies in the metropolitan area. Efforts of members, alternates, and staff in those areas shall be made with the guidance and approval of the Director; within the range of the delegated authority and discretion they hold; within the resources available; and consistent with the missions of the Executive agencies involved.

(b) Federal Executive Board shall: (1)— Provide a forum for the exchange of information between Washington and the field and among field elements in the metropolitan area about programs and management methods and problems; (2) develop local coordinated approaches to the development and operation of programs that have common characteristics; (3) communicate management initiatives and other concerns from Washington to the field to achieve better mutual understanding and support; and (4) refer problems that cannot be solved locally to the national level.

(c) Subject to the guidance of the Director, the Federal Executive Boards shall be responsible for:

(1) Presidential initiatives on management reforms such as priority items on the agendas of the Vice President's Task Force on Regulatory Relief and the President's Task Force on Private Sector Initiatives; personnel initiatives of the Office of Personnel Management; programs led by the Office of Management and Budget, such as Reform '88 and the President's Council on Integrity and Efficiency; and facilities planning led by the General Services Administration;

(2) The local Combined Federal Campaign, under the direction of the Director;

(3) The sharing of technical knowledge and resources in finance, internal auditing, personnel management, automated data processing applications, interagency use of computer installations, and similar commonly beneficial activities;

(4) The pooling of resources to provide, as efficiently as possible, and at the least possible cost to the taxpayers, common services such as employee first-aid, cardiopulmonary resuscitation ("CPR"), CPR training, preventative health programs, assistance to the aging, blood donor programs, and savings bond drives;

(5) Encouragement of employee initiative and better performance through special recognition and other incentive programs, and provision of assistance in the implementation and upgrading of performance management systems;

(6) Emergency operations, such as under hazardous weather conditions; responding to blood donation needs; and communicating related leave policies;

(7) Such other programs, projects, and operations as may be set forth in the annual work plan approved by the Director.

(d) The Office of Personnel Management shall advise Federal Executive Boards on activities in the areas of performance appraisal and incentives, interagency training programs, the educational development of Government employees, improvement of labor-management relations, equal employment opportunity, the Federal Women's Program, the Federal Equal Opportunity Recruitment Program, the Hispanic Employment Program, the Veterans Employment Program, and selective placement programs for handicapped individuals.

(e) The Director may, from time to time, direct one or more of the Federal Executive Boards to address such specific programs or undertake such cooperative as he may deem necessary or proper.

§ 960.108 Additional rules and directives.

The Director may, from time to time, issue further rules and guidance for, and directives to, the Federal Executive Boards through the Federal Personnel Manual System and other appropriate instruments.

[FR Doc. 83-5585 Filed 3-3-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Proposed Amendment to Standards for Sorghum

AGENCY: Federal Grain Inspection Service USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service, (FGIS) proposes to amend the U.S. Standards for Sorghum by redefining the classes to permit a larger proportion of the sorghum crop to be graded White Sorghum. The definition of the class White Sorghum would be made less restrictive by permitting white-colored sorghum with dark spots which cover 25.0 percent or less of the kernel to be considered White Sorghum. An additional descriptive term for pericarps is also proposed. By easing the color restrictions in the class White Sorghum, more sorghum would be available for buyers who prefer to use white-colored sorghum for food, feed, or industrial purposes. Other miscellaneous changes of a nonsubstantive nature are proposed.

DATE: Comments must be submitted on or before May 3, 1983, public meeting April 4, 1983, 1:00 p.m. to 4:00 p.m.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Unit USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW, Washington, D.C. 20250; telephone (202) 382-1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Public Meeting

The public meeting will be held in the auditorium at the Texas A&M Research and Extension Center, Corpus Christi, Texas. The Center is 3 miles west of the airport on State Highway 44.

Representatives from the sorghum industry and other interested parties are invited to attend the scheduled public meeting. Marketing and utilization of sorghum will be discussed. A question and answer period will follow the presentation and written comments will be accepted.

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because most users of sorghum inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Review of Standards

The review of the standards included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a review of changes in technology and economic conditions in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent.

Comments including data, views, and arguments are solicited from interested parties. Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)), upon request, such information may be presented orally in an informal manner. A public meeting is being held as indicated above. It should be noted that pursuant to section 4(b) of the Act, no standards established or amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner.

Prior to 1974, the classes White, Yellow, and Brown Sorghum were permitted to contain up to 10 percent of sorghum of any other color, singly or combined. An excess of 10.0 percent of kernels of any other color would grade a lot as Mixed Sorghum. Colored spots upon kernels otherwise white in color did not affect their classification as White Sorghum.

Effective in 1974, changes proposed by sorghum breeders and producers of sorghum seed were made in the definition of the sorghum classes to upgrade the class White Sorghum as a premium quality product which could be used as a food-grade, feed, and industrial commodity. Changes included, (1) A tightening of requirements to permit not more than 2.0 percent of sorghum of any other color in the class White Sorghum, (2) classing as Yellow Sorghum all white-colored sorghum containing colored spots, and (3) retaining in Yellow Sorghum the 10.0 percent limit for other classes but considering only Brown Sorghum as other classes. At that time it was recognized that only a limited acreage of White Sorghum was produced in the United States but it was anticipated that with new White Sorghum varieties available, they would become more acceptable to producers with the adopted changes to the standards.

The first change made effective in 1974 was not unique, since the class White Corn incorporates an identical requirement. It created an evenly-colored class, not adulterated with a significant amount of kernels of other colors. The second and third changes made effective in 1974 modified the class Yellow Sorghum to contain a mixture of white and yellow kernels to be used for food or feed purposes in which the purity of pericarp color is not as important. The second change also had the effect of limiting the certification of the class White Sorghum because almost all white-colored sorghum contained a few colored spots, thereby disqualifying white-colored sorghum from being classed White Sorghum.

It has been presently determined that very little, if any, white-colored sorghum will grow to maturity without developing one or more colored spots on the pericarp. Spots develop on the pericarp as a result of staining, through contact with the glume, or as a result of insects feeding on the immature kernels. FGIS is in agreement with sorghum specialists at Texas A&M University that: (1) White-colored sorghum containing spots covering 25% or less of the kernel would be acceptable as White Sorghum, (2) sorghum with translucent pericarps which present a white or a slightly yellowish or waxy color would also be classed as White Sorghum provided they do not exceed the limitation of the class, and (3) since sorghum specialists have found that in Brown Sorghum the color on the subcoat ranges from a brown to a purplish hue, the term pigmented subcoat is more descriptive.

White-colored sorghum containing spots covering 25% or less of the kernel would be acceptable as White Sorghum because such levels would meet optimum market satisfaction as well as permit inspections to be performed with a minimum of difficulty.

Presently the definitions of white and yellow sorghum do not include translucent pericarps. Translucent pericarps are pericarps which are so thin that one can see through them; the kernels often appear to be slightly yellow. However, these pericarps are actually white pericarps. Inclusion of translucent pericarps in the definition of White Sorghum would have the effect of classifying as White Sorghum kernels that which presently would be classified as Yellow Sorghum. The proposed change in White Sorghum would necessitate a similar concurrent change in Yellow Sorghum.

Therefore, FGIS is proposing that: (1) White-colored sorghum containing spots which singly or in combination cover 25.0 percent or less of the kernel be classed as White Sorghum, (2) sorghum with translucent pericarps be included in the definition of White and Yellow Sorghum, and (3) the definition of Brown Sorghum be changed to sorghum with brown pericarps or pigmented subcoats.

At the time the 1974 changes were adopted, markets for white-colored sorghum had not been developed. This marketing situation continued until recently. Markets for white-colored sorghum are being developed, and it is anticipated that export volums could reach significant levels if adequate supplies could be made available by U.S. producers. To do so, the standards need to provide a classification of White Sorghum which contains criteria which could be met by currently-grown commercial varieties.

A nonsubstantive change to the order of the definitions in § 810.552(b)(1) through (4) is being made for clarity and consistency with other grain standards.

No further changes to the sorghum standards are being proposed pursuant to the review of the standards referenced herein. However, it is anticipated that changes will be proposed in the near future revising the basis of determination for odor for the sorghum standards as well as in the standards for wheat, corn, barley, rye, flaxseed, and triticale.

List of Subjects in 7 CFR Part 810

Export and Grain.

Accordingly, it is proposed that § 810.552 be amended by revising paragraph (b) of the United States Standards for Sorghum to read as follows:

PART 810—[AMENDED]

§ 810.552 Definitions of other terms.

* * * * *

(b) *Classes.* The following four classes:

(1) *White Sorghum.* Sorghum with white or translucent pericarps. Such sorghum containing spots which singly or in combination cover 25.0 percent or less of the kernel shall be considered as White Sorghum. White Sorghum shall contain not more than 2.0 percent (singly or combined) of kernels of sorghum of other colors.

(2) *Yellow Sorghum.* Sorghum with yellow, salmon-pink, red, white, or translucent pericarps, which contains not more than 10.0 percent of sorghum with brown pericarps or pigmented subcoats, and which does not meet the requirements for the class White Sorghum.

(3) *Brown Sorghum.* Sorghum with brown pericarps or pigmented subcoats which contains not more than 10.0 percent of sorghum of other colors.

(4) *Mixed Sorghum.* Sorghum which does not meet the requirements for any of the classes White Sorghum, Yellow Sorghum, or Brown Sorghum.

* * * * *

(Secs. 5, 18, Pub. L. 94–582, 90 Stat. 2869, 2884 (7 U.S.C. 76, 87(e))

Dated: February 17, 1983.

Kenneth A. Gilles,

Federal Grain Inspection Service.

[FR Doc. 83-5585 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-EN-M

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7 CFR Part 810

Proposed Revision to the Basis of Determination of Odor for Wheat, Corn, Barley, Rye, Sorghum, Flaxseed, and Triticale

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes that the standards for wheat, corn, barley, rye, sorghum, flaxseed, and triticale be revised so the determination of odor may be performed either prior to or after mechanical cleaning of the sample of grain to be inspected. The Official U.S. Standards for Grain specify that the odor determination for all grains be performed before the removal of any material from the sample to be inspected. However, checking the odor of samples of grain which have not been mechanically cleaned may adversely affect the health of grain inspectors who repeatedly make this determination over a long period of time. Certain components, both natural and introduced, are commonly found in grain and if inhaled can be potentially harmful. Providing the grain inspector with the option of determining odor on the mechanically cleaned sample would reduce the degree of risk to grain inspectors for inhalation of certain elements in grain samples, while not affecting the accuracy of the inspection results and final grade.

DATE: Comments must be submitted on or before May 3, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 0667 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above) telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the action will not markedly change the overall inspection procedure or adversely affect the accuracy of inspection results. Changing the basis of determination of odor in the standards for wheat, corn, barley, rye, sorghum, flaxseed, and triticale would offer an alternative which provides a greater measure of safety than the present method of determining odor in grain while maintaining the accuracy required in the inspection process. Inspections are performed by FGIS delegated states and designated official agencies. These limited number of delegated states and designated official agencies are not considered small entities because they are dominant in their areas of operation based upon the mandated delegation/designated process under the Grain Standards Act. Further, most users of official services are not considered to be small entities.

Review of Standards

Standards for wheat, corn, barley, oats, rye, sorghum, flaxseed, soybeans, triticale, and mixed grain (7 CFR Part 810) have been established under the authority of the United States Grain Standards Act, (7 U.S.C. 71 *et. seq.*, the Act). Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the Act, (7 U.S.C. 76(b)), upon request, such information may be presented orally in an informal manner. It should be noted that pursuant to section 4(b) of the Act no standards established or amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator the public health, interest or safety requires that they become effective sooner.

FGIS has determined that the health and safety aspects involved with this proposal would warrant an effective date of less than one calendar year after promulgation and therefore anticipates that these proposed revisions, if adopted, will be made effective 30 days after promulgation.

The U.S. Standards for Grain specify that odor is a grade determining factor and must be performed prior to removal of any material from the sample of grain, i.e., on the basis of the sample as a whole, grain as a whole, or test portion of the original sample.

The standards for wheat, corn, barley, rye, sorghum, flaxseed, and triticale include procedures to mechanically clean samples of grain by use of the Carter Dockage Tester or any other equipment approved by the Administrator. The standards for oats, soybeans, and mixed grain do not, however, include a process to mechanically clean samples which are officially inspected.

To correctly determine if an odor is present in a sample of grain, the inspector must thoroughly smell the grain. However, determining odor on the sample before it is mechanically cleaned may result in the inhalation of potentially irritating and/or toxic materials such as grain dust, molds, and pesticides. Repeated inhalation may result in irritation or blockage of the nasal passages.

Grain dust is a constituent normally found in small quantities in samples of harvested grain. Molds and pesticides are not present in all lots or samples of grain but are commonly found. Mold commonly occurs in grain which is not

stored under optimum conditions. Pesticides and their residues are found in grain which has been treated to prevent or eliminate insect or other infestation.

All of these properties may represent a potential health hazard to the grain inspector if inhaled repeatedly over a long period of time. Grain dust is known to be an irritant to the respiratory system. Dust also acts as a carrier of molds which have the potential for causing respiratory diseases. Pesticides and their residues may be potentially harmful or toxic, even in low concertrations, if inhaled repeatedly.

The option to mechanically clean grain prior to the determination of odor would reduce the potential health hazard to the grain inspector. Extracting dockage from wheat, barley, rye, flaxseed, and triticale; dockage and that part of the broken kernels, foreign material, and other grains which will pass through a $\frac{5}{64}$ inch triangular-hole sieve from sorghum; and broken corn and foreign material (BCFM) from corn, cleans the grain by eliminating a large portion of the grain dust and foreign matter and has a tendency to aerate the grain. Aeration hastens the dissipation of insecticides and other pesticides, if present, and helps reduce the concentration to which the grain inspector may be exposed when determining odor.

The absence of a procedure to mechanically clean soybeans, oats, and mixed grain necessitates that odor determinations of these grains be performed on the grain as a whole, that is, the test portion of the original sample. This should not, however, have any effect on the health of grain inspectors. Although a sizable number of soybean inspections are performed, this grain is seldom treated with pesticides and generally contains less dust than the other types of grain. The total number of official oat and mixed grain inspections performed is low compared to the total number of inspections performed on the majority of the other grains for which standards have been established. In fiscal year 1981 oats and mixed grain inspections comprised approximately 0.8 and 0.4 percent, respectively, of the total number of grain inspections performed by official inspection agencies, delegated states, and FGIS; therefore, the frequency of contact with grain dust and pesticides through inspection of these grains is minimal. Therefore, no changes are proposed for the soybeans, oats and mixed grain standards at this time.

No adverse effects on the grain marketing process would be expected if the basis of determination of odor in the standards for wheat, corn, barley, rye, sorghum, flaxseed, and triticale is revised. Few contaminants could impart an odor to a sample of grain prior to cleaning but leave no trace of odor, the concentration of seeds in the sample is usually high and a carry-over of odor to the grain occurs. If an odor was suspected in a mechanically cleaned sample, the separations could be recombined after the other inspection procedures are completed and the odor checked again. FGIS Instructions will be revised to address this situation.

Included also in this proposal are miscellaneous nonsubstantive changes to make "Basis of determination" plural in §§ 810.203, 810.303, 810.352(a), 810.553, and 810.653, and to delete the word "grade" in § 810.409(a). These nonsubstantive changes are being made to achieve uniformity in format and structure of all the standards under the Act.

List of Subjects in 7 CFR Part 810

Exports, Grain.

PART 810—GRAIN STANDARDS

Accordingly, it is proposed that § 810.203; § 810.303(b) and (c); § 810.352(a); § 810.409(a); § 810.508; § 810.553; and § 810.653 (b) and (c) be revised.

1. Section 810.203 is proposed to be revised to read as follows:

United States Standards for Barley

Principles Governing the Application of the Standards

§ 810.203 Basis of determinations.

Each determination of dockage, moisture, temperature, garlic, live weevils or other insects injurious to stored grain, crotalaria seeds, large stones, castor beans, broken glass, animal filth, an unknown foreign substance, a commonly recognized harmful or toxic substance, and otherwise distinctly low quality shall be upon the basis of the grain as a whole. Each determination of heat-damaged kernels, white aleurone layers in Six-rowed Malting Barley; and blue aleurone layers in Six-rowed Blue Malting Barley shall be determined on a test portion of pearled, dockage-free barley. All other determinations shall be on a test portion of barley when free from dockage, except the determination of odor shall be upon either the basis of the grain as a whole or the grain when free from dockage.

United States Standards for Wheat

Principles Governing Application of Standards

2. Section 810.303 (b) and (c) are proposed to be revised as follows:

§ 810.303 Basis of determinations

(a) *Distinctly low quality* * * *

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crolataria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, temperature, an unknown foreign substance, and a commonly recognized harmful or toxic substance shall be upon the basis of the sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage; except that the determination of heat-damaged kernels, damaged kernels (total), and foreign material shall be upon the basis of the grain when free from dockage and shrunken and broken kernels; and the determination of odor shall be upon either the basis of the sample as a whole or the grain when free from dockage.

* * * * *

United States Standards for Corn

3. Section 810.352(a) is proposed to be revised as follows:

§ 810.352 Principles governing the application of the standards.

* * * * *

(a) *Basis of determinations.* Each determination of class, damaged kernels, heat-damaged kernels, flint corn, and flint and dent corn shall be upon the basis of the grain after the removal of the broken corn and foreign material. All other determinations shall be upon the basis of the grain as a whole, except the determination of odor shall be upon either the basis of the grain as a whole or the grain after removal of the broken corn and foreign material.

* * * * *

United States Standards for Rye

4. Section 810.409(a) is proposed to be revised as follows:

§ 810.409 Grade factors; definitions.

(a) *Basis of determinations.* Each determination of dockage, temperature, garlic, and live weevils or other insects injurious to stored grain shall be upon the basis of the grain as a whole. All other determinations shall be upon the basis of the grain when free from

dockage, except the determination of odor shall be upon either the basis of the grain as a whole or the grain when free from dockage.

* * * * *

United States Standards for Flaxseed

5. Section 810.508 is proposed to be revised as follows:

§ 810.508 Basis of determinations.

Each determination of moisture, test weight per bushel, heat-damaged flaxseed, and damaged flaxseed shall be upon the basis of the grain after the removal of that part of the dockage which can be removed readily by the use of appropriate sieves and cleaning devices. All other determinations shall be upon the basis of the grain as a whole, except the determination of odor shall be on either the basis of the grain as a whole or the grain after the removal of that part of the dockage which can be removed readily by the use of approved sieves and cleaning devices.

United States Standards for Sorghum

Principles Governing Application of Standards

6. Section 810.553 is proposed to be revised as follows:

§ 810.553 Basis of determinations.

Each determination of broken kernels, foreign material, and other grains shall be determined on a test portion of the grain sample when free from dockage. Each determination of class, damaged kernels, heat-damaged kernels, and stones shall be determined on a test portion of the grain sample when free from dockage, and that part of the broken kernels, foreign material, and other grains which will pass through a $\frac{7}{64}$ inch triangular-hole sieve (see § 810.552(k)). All other determinations shall be on a test portion of the original sample, except the determination of odor shall be on either a test portion of the original sample or a test portion of the grain sample when free from dockage, and that part of the broken kernels, foreign material, and other grains which will pass through a $\frac{7}{64}$ inch triangular-hold sieve.

United States Standards for Triticale

Principles Governing The Application of the Standards

7. Section 810.653 (b) and (c) are proposed to be revised as follows:

§ 810.653 Basis of determinations.

(a) *Distinctly low quality* * * *

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crotalaria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, temperature, an unknown foreign substance, and a commonly recognized harmful or toxic substance shall be upon the basis of the sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage; except that the determination of heat-damaged kernels, damaged kernels (total), material other than wheat or rye, and foreign material (total) shall be upon the basis of the grain when free from dockage and shrunken and broken kernels; and the determination of odor shall be upon either the basis of the sample as a whole or the grain when free from dockage.

* * * * *

(Secs. 5, 18, Pub. L. 95-583, 90 Stat. 2869, 2884 (7 U.S.C. 78, 87 (e)))

Dated: February 17, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 83-5571 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-EN-M

Food Safety and Inspection Service

9 CFR Parts 317, 318, and 319

[Docket No. 79-714E]

Requirements for Cured Pork Products; Updating of Provisions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 10, 1982, the Food Safety and Inspection Service (FSIS) published in the **Federal Register** (47 FR 50900-50914) a proposed rule which, if adopted, would modernize the regulatory program assuring that cured pork products are accurately labeled at all stages of commerce. Information has been received which suggest that the original comment period may not be adequate to permit a thorough discussion of this proposal. In view of the importance of the proposed rule FSIS is hereby extending the comment period for 45 days.

DATE: Comments must be received on or before April 25, 1983.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. B. F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3840.

SUPPLEMENTARY INFORMATION: On November 10, 1982, the Food Safety and Inspection Service (FSIS) published a proposed rule which, if adopted, would amend the sections of the meat inspection regulations assuring that cured pork products are accurately labeled at all stages of commerce. The proposal would modernize the regulations by requiring that labeling statements be based on the style and type of product; that standards specifying a minimum meat protein content on a fat free basis (PFF) present in the finished cured pork products replace the current standards limiting the amount of added water and other substances; and that restrictions on optional ingredients in the standard for "chopped ham" be eliminated. Compliance procedures to assure conformance with the proposed standards were also proposed, as were provisions for relabeling and/or processing products not in conformance with regulatory standards. Interested persons were given until March 10, 1983, to submit comments on these proposed changes.

FSIS has received information indicating that the original comment period may not be sufficient for a full discussion of the issues presented in the proposal. In view of the importance of this proposal and since FSIS is interested in developing a complete record prior to taking any final action, the Administrator has decided to extend the comment period for an additional 45 days. In all other respects, the proposed rule as published on November 10, 1982, is unaffected by this notice.

Done at Washington, DC, on: February 28, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-5598 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Removal of Appendices A Through H

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations pertaining to financial protection requirements and indemnity agreements by removing Appendices A through H from 10 CFR Part 140. Appendix A contains the Facility Form nuclear liability insurance policy provided by certain licensees as evidence of financial protection required under the Price-Anderson Act. Appendices B through H, except for Appendix F, are standard form indemnity contracts. The purpose of this amendment is to make the information contained in the Appendices available in the form of a Regulatory Guide and to remove unnecessary detail from the regulations.

DATE: Submit comments by April 4, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send Comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Services Branch.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–9884.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice published on February 18, 1981 (46 FR 12750), the Commission sought public comment on the question of whether it should reconsider its traditional approach of publishing in 10 CFR 140.91 (Appendix A to Part 140) the entire Facility Form of nuclear liability insurance policy (and endorsements to that policy) furnished by certain licensees as evidence of financial protection. The Commission requested comments on the alternative approach of publishing only those provisions of the policy and endorsements relating to the NRC responsibilities for protection of the public.

After evaluating comments received on that notice, as well as further consideration of this issue, the Commission decided that because of the level of detail in the Facility Form policy and the fact that this policy is merely one form which would be acceptable to the Commission rather than the required form, it would be more appropriate to publish Appendix A as a Regulatory Guide. Further, the Commission has also decided that, in the interest of making the regulations less detailed, Appendices B through H should also be removed from 10 CFR Part 140 and published as a Regulatory Guide. Appendices B, C, D, E, G, and H are standard form indemnity contracts executed by the Commission and its licensees. Appendix F is not a form of indemnity agreement but a determination by the Commission of what the boundaries of indemnity locations should encompass when multiple reactors exist as part of a single operating station. References to the Appendices in the text of Part 140 will also be deleted.

Commissioner Asselstine disagrees with the Commission majority's decision to issue a proposed rule to delete Appendices A through H to 10 CFR Part 140 from the Commission's regulations. He agrees with the advice of the NRC's Committee to Review Generic Requirements (CRGR) that this decision creates the potential for protracted licensing hearings by permitting case-by-case litigation on the forms of indemnity contracts and insurance agreements. Commissiner Asselstine believes that as a fundamental concept of regulatory reform, the Commission should seek to resolve issues generically through rulemaking where possible, thereby reducing the number of issues that must be addressed on a case-by-case basis in individual plant licensing proceedings. He believes the Commission majority's action in this instance directly violates that concept. Commissioner Asselstine would particularly appreciate comments on the potential for duplicative and protracted litigation in individual licensing proceedings if the proposed rule to eliminate Appendices A through H is made final.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.), the NRC has made a determination that this rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule affects in part two named nuclear liability insurance underwriting pools. These two pools are the only ones in the U.S. writing nuclear liability policies, and do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C 553, notice is hereby given that adoption of the following amendments to 10 CFR Part 140 is contemplated.

The authority citation for this document is: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201), and Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

§§ 140.91—140.108 [Removed]

1. Appendices A, B, C, D, E, F, G, H, (§ 140.91 through § 140.108) are removed.

2. In § 140.2, paragraph (c) is revised to read as follows:

§ 140.2 Scope.

* * * * *

(c) (1) Subpart E of this part sets forth the procedures the Commission will follow and the criteria the Commission will apply in making a determination as to whether or not there has been an extraordinary nuclear occurrence. Subpart E is included in this part pursuant to Pub. L. 89–645 (80 Stat. 891).

(2) Pursuant to Pub. L. 89–645 (80 Stat. 891), the Commission also requires certain facility licensees to have and maintain financial protection (e.g., nuclear energy liability insurance policies) and execute indemnity agreements with the Commission. These documents include provisions requiring the licensees to waive certain defenses in the event of an extraordinary nuclear occurrence. These provisions provide additional assurance of prompt compensation under available indemnity and underlying financial protection for injury or damage resulting from the hazardous properties of radioactive materials or radiation. They in no way detract from the protection to the public otherwise provided under this part.

§ 140.9 [Removed]

3. Section 140.9 is removed.

4. In §140.15, paragraphs (a)(1)–(2) are revised to read as follows:

§ 140.15 Proof of financial protection.

(a) (1) Licensees who maintain financial protection in whole or in part in the form of liability insurance shall (with respect to that insurance) provide proof of financial protection that consists of a copy of the liability policy (or policies) together with a certificate by the insurers issuing that policy that states that the copy is a true copy of a currently effective policy issued to the licensee.

(2) Proof of financial protection may alternatively consist of a copy of the declarations page of a nuclear energy liability policy issued to the licensee: Provided, that the insurers have filed that policy form with the Commission. The licensee shall include with the declarations page a certificate in which the insurers state that the copy is a true copy of the declarations page of a currently effective policy. The insurers shall also identify the policy (including endorsements) by reference to the policy form they have filed with the Commission.

* * * * *

§ 140.20 [Amended]

5. In § 140.20, paragraphs (f) (1) (i)-(ii) and (f) (2) are removed, and paragraph (f) (3) is redesignated paragraph (f).

6. Section 140.22 is revised to read as follow:

§140.22 Commission guarantee and reimbursement agreements.

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11 (a) (4) shall execute an indemnity agreement with the Commission that provides for Commission payment of deferred premiums and licensee reimbursement to the Commission.

§ 140.52 [Amended]

7. In § 140.52, paragraphs (b) (1)–(2) are removed, and paragraph (b) (3) is redesignated as paragraph (b).

§140.72 [Amended]

8. In § 140.72, paragraphs (b) (1)–(2) are removed, and paragraph (b) (3) is redesignated as paragraph (b).

Dated at Washington, DC this 25th day of February 1983.

For the Nuclear Regulatory Commission.

Samuel Chilk,

Secretary of the Commission.

[FR Doc. 83-5344 Filed 3-3-83; 8:45

BILLING CODE 7590-01 M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 939

[Docket No. 30105-04]

La Parguera National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: These proposed regulations define which activities are allowed and which are prohibited within the proposed La Parguera National Marine Sanctuary, the procedures by which persons may obtain permits for research of activities normally prohibited, and the penalties for committing prohibited acts without a permit. The purpose of designating the La Parguera National Marine Sanctuary is to protect and preserve a representative cross-section of tropical habitat and a coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

DATES: Comments will be accepted until May 3, 1983. After the close of the comment period and review of comments received, final regulations will be published in the Federal Register.

ADDRESS: Send comments to Dr. Nancy Foster, Deputy Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20205.

FOR FURTHER INFORMATION CONTACT: Edward Lindelof, 202/634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f)(1) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

In May 1979, six sites were nominated for consideration as a National Marine Sanctuary by the Department of Natural Resources (DNR), Commonwealth of Puerto Rico. The sites were Cordillera/Culebra/Vieques, Salinas/Jobos, Cayo Berberia/Caja de Muertos, La Parguera, Mona/Monito Islands and Desecheo Island. Information was distributed to the public for comment on the feasibility of these sites as marine sanctuaries. As a result of public review, three sites were selected for further analysis: Cordillera/Culebra/Vieques, La Parguera, and Mona/Monito Islands. In May 1981, an Issue Paper was distributed and workshops held on the final three sites.

Following the workshops a decision was made by NOAA and DNR to develop draft regulations, a draft management plan and draft environmental impact statement (DEIS) on the proposed La Parguera site. The regulations found herein are also included as part of the draft management pain/DEIS. The public review period for the management plan/DEIS runs concurrently with this comment period. Following the end of the comment period final regulations, a final environmental impact statement and management plan will be developed for public review. The next step is review and approval by the President after which the Secretary of Commerce formally designates the area as a national marine sanctuary and the final regulations take effect. The Governor of Puerto Rico then has 60 days to disapprove the designation or any of its terms and both Houses of Congress also have 60 days to adopt a concurrent resolution which disapproves the designation or any of its terms.

The proposed sanctuary contains hundreds of species of marine organisms including Caribbean corals, endangered and threatened sea turtles, significant mangrove stands and diverse tropical fuana and floral communities. The area provides exceptional recreational experiences and unique scientific value as an ecological, recreational and aesthetic resource.

Other Matters

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in (1) an annual effect on the economy of $100 or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic

regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or export markets." The economic activity supported by the area within the sanctuary consists of a diversity of small scale commercial and recreational activities.

Most of the activities in the sanctuary are not affected by sanctuary regulations; the economic impacts on affected activities in the sanctuary are minor and regulations do not restrict recreational activities. Because the impact of the regulations on economic interests is minor or because the activities are not regulated at all, the Assistant Administrator has determined that this is not a "major rule" under E.O. 12291. For the same reasons, the Assistant Administrator has determined that the proposed rules will not have a significant economic impact on small entities in the sanctuary under the Regulatory Flexibility Act. These regulations will impose no information collection requirements of the type covered by Pub. L. 96–511 on affected State governments. Publication does not constitute major Federal action significantly affecting the quality of the human environment.

List of Subjects in 15 CFR Part 939

Administrative practice and procedure, Environmental protection, Marine resources, and Natural resources.

Dated: February 25, 1983.

William Matuszeski,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

(Federal Domestic Assistance Catalog Number 11.419, Coastal Zone Management Program Administration)

Accordingly, Part 939 is proposed to be added as follows:

PART 939—LA PARGUERA NATIONAL MARINE SANCTUARY DRAFT REGULATIONS

Sec.

Authority: Secs. 302(f) and (g) and 303, Pub. L. 92–532, 86 Stat. 1061 and 1062; 16 U.S.C. 1431–1434.

§ 939.1 Authority.

The Sanctuary will be designated by the Secretary of Commerce pursuant to the authority of Section 302(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as amended (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

§ 939.2 Purpose.

The purpose of designating the La Parguera National Marine Sanctuary is to protect and preserve a representative cross-section of tropical habitat and a coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

§ 939.3 Boundaries.

The sanctuary consists of a 68.27 square nautical mile area of the Caribbean Sea off southwest Puerto Rico. The exact boundaries are:

Pt. No.	*Latitude and Longitude*	
1–1	N17°57'15.00"	W67°12'50.00"
1–2	N17°56'20.36"	W67°11'52.00"
1–3	N17°52'58.51"	W67°11'52.00"
1–4	N17°52'54.79"	W67°11'09.16"
1–5	N17°52'56.19"	W67°10'10.18"
1–6	N17°52'32.19"	W67°09'30.74"
1–7	N17°51'53.88"	W67°08'38.85"
1–8	N17°51'39.22"	W67°07'55.81"
1–9	N17°51'39.21"	W67°07'00.57"
1–10	N17°51'51.82"	W67°05'57.46"
1–11	N17°52'05.29"	W67°05'27.63"
1–12	N17°52'08.29"	W67°04'38.59"
1–13	N17°52'33.66"	W67°04'05.56"
1–14	N17°52'41.86"	W67°03'14.66"
1–15	N17°52'25.95"	W67°02'46.07"
1–16	N17°52'32.05"	W67°02'28.82"
1–17	N17°52'53.65"	W67°02'03.24"
1–18	N17°53'10.06"	W67°01'16.09"
1–19	N17°53'08.68"	W67°00'42.29"
1–20	N17°53'19.81"	W66°59'33.56"
1–21	N17°53'51.37"	W66°58'00.00"
1–22	N17°56'43.00"	W66°58'00.00"

§ 939.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA).

(b) "Assistant Administrator" means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration or his/her successor, or designee.

(c) "Secretary" means the Secretary of the Department of Natural Resources, Commonwealth of Puerto Rico.

(d) "Persons" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any State or local unit of the government.

(e) "The Sanctuary" means the La Parguera National Marine Sanctuary.

§ 939.5 Management and Enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The Puerto Rico Department of Natural Resources (DNR) will assist NOAA in the administration of the Sanctuary, and act as the onsite manager, in conformance with the draft Designation Document between DNR and NOAA. DNR shall conduct surveillance and enforcement of these regulations pursuant to 16 U.S.C. 1432(f)(4), or other appropriate legal authority.

§ 939.6 Allowed Activities.

All activities except those specifically prohibited by § 939.7 may be carried on within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

§ 939.7 Activities Prohibited or Controlled.

(a) Unless permitted by the Assistant Administrator in accordance with § 939.10, or as may be necessary for the national defense, or to respond to an emergency threatening life, property or the environment, the following activities are prohibited or controlled within the Sanctuary. All prohibitions and controls must be applied consistently with international law. Refer to § 939.9 for penalties for commission of prohibited acts.

(1) *Taking and Damaging Natural Resources.* (i) No person shall break, cut, or similarly damage or destroy the coral, bottom formation, or any marine plant, except institutions conducting scientific or educational activities that were exempted pursuant to Article 4 of the Regulations to Control the Extraction, Possession, Transportation, and Sale of Coral Resources in Puerto Rico (under authority conferred by Law No. 23 of June 20, 1972 and Law No. 83 of May 13, 1936, as amended). These eligible institutions are the University of Puerto Rico, Administration of Regional Colleges, Interamerican University, Catholic University, Center for Energetic and Environmental Research,

Environmental Quality Board, and the Puerto Rico Department of Natural Resources.

(ii) No person shall cut, damage, or similarly destroy any red mangrove *(Rhizophora mangle)* except as part of a program of routine channel maintenance.

(iii) No person shall use poisons, electrical charges, explosives, or similar methods to take any marine animal or plant.

(iv) There shall be a presumption that any items listed in this paragraph found in the possession of a person within the Sanctuary have been collected or removed from the Sanctuary.

(2) *Operation of Vessels.* (i) No vessel shall approach closer than 200 feet to a fishing vessel or a vessel displaying a diving flag except at a maximum speed of three knots.

(ii) No vessel or person shall interfere with any fishing activity.

(iii) All vessels from which diving operations are being conducted shall fly in a conspicuous manner, the international code flag alpha "A."

(3) *Discharging of Polluting Substances.* No person shall litter, deposit, or discharge any materials or substances of any kind except:

(i) Indigenous fish or fish parts;

(ii) Cooling waters from vessels;

(iii) Effluents from marine sanitation devices allowable under Coast Guard standards.

(iv) On a temporary basis, sewage from existing shoreline houses known as casetas with recognized permits from COE. This exception shall expire upon the completion and operation of an area wide sewage collection and treatment system or until the expiration of the Memorandum of Understanding between the Governor of Puerto Rico and the U.S. Army Corps of Engineers for the La Parguera area dated June 13, 1978, whichever is earlier.

(4) *Underwater Trails.* (i) No person shall fish within the underwater trails.

(ii) No person shall mark, deface, or injure in any way, or displace, remove, or tamper with underwater trails, signs, markers, or buoys.

(5) *Removing or Damaging Cultural Resources.* No person shall remove, damage, or tamper with any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

(6) *Damage to Fish Traps.* No person shall disturb, harm, or tamper with any legal fishing gear, nets, traps, or pots.

(7) *Taking of Sea Turtles.* (i) No person shall ensnare, entrap, or fish any sea turtle while it is a threatened or endangered species as defined by the Endangered Species Act of 1973.

(ii) No person shall possess or use any nets or similar fishing gear with a mesh size in excess of eight inches.

(b) The prohibitions in this section will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 939.8 Other Authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 939.7 unless such activity meets the criteria stated in § 939.10(a), (c) and (d) and is specifically authorized by the Assistant Administrator.

§ 939.9 Penalties for Commission of Prohibited Acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Part 922 of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

§ 939.10 Permit Procedures and Criteria.

Under special circumstances where the prohibited activity is research or education needed to better understand the Sanctuary environment and improve management decisionmaking and judged not to cause long-term or irreparable harm to the resources, a permit may be granted by NOAA in cooperation with the Secretary of DNR.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in cooperation with the Secretary of the Department of Natural Resources, Commonwealth of Puerto Rico in accordance with this section may conduct the specific activity in the Sanctuary including any activity specifically prohibited under § 939.7 if such activity is (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator, ATTN: Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. An application shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit, the Assistant Administrator shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the methods being proposed to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and (4) the end value of the activity.

(d) Permits may be issued by the Assistant Administrator for activities otherwise prohibited under § 939.7. In addition to meeting the criteria in § 939.10 (a) and (c), the applicant must also satisfactorily demonstrate to the Assistant Administrator that: (1) The activity shall be conducted with adequate safeguards for the environment, and (2) the environment shall be returned to the condition which existed before the activity occurred. A permit issued according to the provisions for an otherwise prohibited activity shall be appropriately conditioned, and the activity monitored to ensure compliance.

(e) In considering an application submitted pursuant to this Section, the Assistant Administrator shall seek and consider the view of the Secretary of the Department of Natural Resources. The Assistant Administrator may also seek and consider the views of any other person or entity, within or outside of the Federal Government, and may hold a public hearing, as he/she deems appropriate.

(f) The Assistant Administrator may, at his/her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed necessary, and shall attach to any permit grant for research related to the Sanctuary stipulations to the effect that: (1) The Assistant Administrator, Secretary of Department of Natural Resources, or their designated representatives may observe any activity permitted by this section; and (2) any information obtained in the research site shall be made available to the public; and/or the submission of one or more reports of the status of progress of such activity may be required.

(g) A permit granted pursuant to this section is nontransferable.

(h) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely if, in his/her view, the permit holder (the Holder) had acted in violation of the terms of the permit or of the applicable regulations; or the Assistant Administrator may do so for other good cause shown. Any such action shall be communicated in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder in relation to whom such action has been taken may appeal the action as provided for in § 939.11.

§ 939.11 Appeals of Administrative Action.

(a) The applicant for a permit, the Holder, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 939.10 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator may request the Appellant, and the permit applicant or Holder if other than the Appellant, to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 939.10 (a), (c), and (d) any information relative to the application on file, any information provided by the Appellant, and such other consideration as is deemed appropriate. The Administrator shall notify the Appellant of the final decision and the reason(s) therefor, in writing normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested or, if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose, after first giving notice of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the applicant or permit holder, if different, and, other interested persons may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the interested persons of his/her decision, and the reason(s) therefore in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action for the Agency for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this section may be extended by the Administrator for good cause for a period not to exceed 30 days, either upon his/her own motion or upon written request from the Appellant, permit applicant or Holder, stating the reason(s) therefore.

[FR Doc. 83-5436 Filed 3-3-83; 8:45 am]
BILLING CODE 3510-08-M

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Rules of Practice for Adjudicative Proceedings and Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Trade Commission proposes to amend its rules of Practice so that non-attorney experts may participate personally in the cross-examination of other experts in the same discipline. The commission has tentatively concluded that, in some cases, cross-examination by a non-attorney expert will elicit more precise and useful information from an expert witness than would cross-examination by an attorney. This notice invites comment on the desirability of greater participation by non-attorney experts than at present and on the rule revisions that would permit such participation.

DATE: Written comments must be received on or before April 18, 1983.

ADDRESS: Send comments to the Secretary, Federal Trade commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580. Comments will be available for public inspection in Room 130 at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman, Deputy Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3521.

SUPPLEMENTARY INFORMATION: The Commisson's current rules governing the conduct of adjudicatory proceedings are written on the assumption that only attorneys participate personally in the examination of witnesses. While experts in various professional disciplines often advise the attorneys in a case, they do not themselves participate in hearings, except as witnesses.

The Commission believes that there may well be value in allowing a more active role by non-attorney experts. In particular, permitting one expert to cross-examine another may yield a sharper delineation of issues, and especially a quicker and more precise identification of areas of agreement and disagreement, than if the questions are posed by an attorney who lacks technical expertise in the particular discipline. See Miller, Regulators and Experts: A Modes Proposal, Regulation, Nov./Dec. 1977, at 36.

The proposed rule preserves the Administrative Law Judge's control over the proceeding by requiring the law judge's permission before a non-attorney may participate personally. In addition, both the expert and the attorney who designates the expert to conduct cross-examination will be held accountable for the latter's adherence to the same legal and ethical standards as apply to an attorney interrogator. See 16 CFR 3.42(c)(6), (d).

List of Subjects

16 CFR Part 3

Administrative practice and procedure.

16 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy, Sunshine Act.

For these reasons, Part 3, Subpart E, and Part 4 of Chapter I of Title 16, Code of Federal Regulations, are proposed to be amended as follows.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. By revising § 3.43 to read as follows:

§ 3.43 Evidence.

* * * * *

(g) Excluded evidence. When an objection to a question propounded to a witness is sustained, the questioner may make a specific offer of what he expects to prove by the answer of the witness, or the Administrative Law Judge may, in his discretion, receive and report the

evidence in full. Rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

PART 4—MISCELLANEOUS RULES

2. By adding § 4.1(a)(3) to read as follows:

§ 4.1 Appearances.

(a) * * *

(3) At the request of counsel representing any party in an adjudicative proceeding, the Administrative Law Judge may permit an expert in the same discipline as an expert witness to conduct all or a portion of the cross-examination of such witness.

* * * * *

(15 U.S.C. 46(g))

Dated: February 23, 1983.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

Separate Statement of Commissioner Bailey

By this notice, the Commission proposes to change its rules in order to allow non-attorney experts to cross-examine expert witnesses in the same discipline during Commission adjudicative proceedings. I am concerned about the proposal for a variety of reasons and would appreciate comments on the following questions:

(1) What is the nature of the problem addressed by this proposal that would be alleviated by the change?

(2) Have respondents in Commission trials experienced any disadvantage in the presentation of their cases attributable to inadequate cross-examination of experts by attorneys?

(3) Are any potential problems posed by allowing a non-attorney expert to participate in a trial as both witness and advocate?

(4) Does the proposed change authorize non-attorneys to engage in the practice of law? In a related vein, does this proposal expand or alter the scope of legal representation under Section 555(b) of the Administrative Procedures Act?

(5) How would the term "same discipline" be defined in the context of qualifying experts for giving testimony and conducting cross-examination? Reference, where possible, to specific examples from past Commission cases in which experts were used would be helpful in this regard.

(6) According to the proposed change in Rule 4.1(a), an expert (in the same discipline as an expert witness) may be permitted "to conduct all *or a portion* of the cross-examination of such witness." (emphasis added) Are any issues of fairness raised by a rule which would allow and even encourage two (or more) persons representing the government to cross-examine a witness?

(7) Questioning of an expert witness by another expert in the field has apparently been used successfully in proceedings to gather "legislative" facts, particularly in the context of scientific and technological fact-finding (*e.g.*, in such areas as nuclear power, environmental protection, public health and transportation). Are there any studies or actual experiences with this technique in the context of adjudicative proceedings where one party may be subject to a cease and desist order, or other similar relief?

(8) According to the notice " . . . [B]oth the expert and the attorney who designates the expert to conduct cross-examination will be held accountable for the latter's adherence to the same legal and ethical standards as apply to an attorney interrogator." (a) What, in practical effect, is the meaning of that phrase? (b) Can a non-attorney be held personally accountable for ethical standards applicable to attorneys? (c) As regards a respondent, in particular, does the attorney remain the party accountable for the conduct of a respondent's case?

(d) Should this change be made, would it be advisable or necessary to expect or require non-attorney examiners to be trained in the rules of evidence and procedures?

(e) Should the non-attorney examiner be subject to the same evidentiary objections as an attorney?

(f) Should the non-attorney examiner, or the attorney designating him or her, be responsible for defending against objections to questions?

(9) Especially where more than one "expert" may appear for either party, would this change impose additional burdens on the proceedings in terms of delay, confusion or potential clarity of the record?

(10) The purpose of the proposed rules change is said to be to "yield a sharper delineation of issues, and especially a quicker and more precise identification of areas of agreement and disagreement." Is that purpose likely to be fulfilled by this proposal, given the general purpose of cross-examination? Why or why not?

(11) Are there any additional constitutional, procedural or ethical concerns raised by this proposal?

[FR Doc. 83-5708 Filed 3-3-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-186 (Colorado-35)]

High-Cost Gas Produced From Tight Formations; Colorado

February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the "J" Sand Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the "J" Sand Formation located in Adams, Arapahoe, and Elbert Counties, Colorado, be designated as a tight formation. Colorado also submitted to the Commission on February 15, 1983, an order which corrected the land description of the original order. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the "J" Sand Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies portions of Adams, Arapahoe, and Elbert Counties, Colorado. The area of concern is located approximately 12 miles east of the city of Denver, Colorado, and consists of approximately

223,040 acres of fee and state lands. The "J" Sand ranges in thickness from 40 to 95 feet beginning from the base of the "D" Sand and extends to the top of the Skull Creek Shale. The average depth to the top of the "J" Sand Formation is 8,100 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–37, Order No. NG–37–1 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate, set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the "J" Sand Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submtted in Docket No. RM79–76–186 (Colorado-35), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(169) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(121) through (168) [Reserved]

(169) *"J" Sand Formation in Colorado.* RM79–76–186 (Colorado-35).

(i) *Delineation of formation.* The "J" Sand Formation is located in Adams, Arapahoe, and Elbert Counties, Colorado, approximately 12 miles east of the city of Denver. The "J" Sand Formation underlies Township 2 South, Range 63 West, Sections 7, 18, 19, 30, 31 and S½ of Section 32; Township 2 South, Range 64 West, Sections 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 65 West, Sections 25 through 36; Township 3 South, Range 63 West, Sections 1 through 12; Township 3 South, Range 64 West, All; Township 3 South, Range 65 West, All; Township 4 south, Range 64 West, Sections 1 through 30 and 32 through 36; Township 4 South, Range 65 West, Sections 1 through 30; Township 5 South, Range 63 West, All; Township 5 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36; Township 6 South, Range 63 West, Sections 1 through 35; Township 6 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 34 through 36; Township 7 South, Range 63 West, Sections 4 through 9, 16 through 21, and 28 through 33; Township 7 South, Range 64 West, Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The "J" Sand Formation ranges in thickness from 40 to 95 feet, and begins at the base of the "D" Sand and extends to the top of the Skull Creek Shale. The average depth to the top of the "J" Sand Formation is 8,100 feet.

[FR Doc. 83–5506 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–185 (New Mexico-21)]

High-Cost Gas Produced From Tight Formations; New Mexico

February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Uner 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 formantions. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Abo Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

I. Background

On January 23, 1983, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Abo Formation located in San Miguel, Torrance, Guadalupe, DeBaca, Lincoln, and Chaves Counties, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Abo Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Abo Formation is defined as being from the base of the Yeso Formation, vertically downward to the top of the Hueco Limestone, or in the absence of said Hueco lime, to the top of the Pennsylvanian Limestone, or in the absence of both Hueco lime and Pennsylvanian lime, to the top of the Pre-Cambrian, provided however, that tongues of the Hueco lime overlain and underlain by the Abo mudstones, sand or shales, shall be considered to be part of the Abo Formation. The average depth to the top of the Abo is 3,025 feet. The average thickness of the formation throughout the recommended area is 1,058 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7598 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Abo Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-185 (New Mexico-21), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(168) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(121) through (167) [Reserved]

(168) *Abo Formation in New Mexico.* RM79-76-185 (New Mexico-21).

(i) *Delineation of formation.* The Abo Formation is located in San Miguel County: Townships 10 and 11 North, Ranges 14 and 15 East; Torrance County: Townships 1 through 9 North, Ranges 14 and 15 East; Guadalupe County: Townships 2 through 4 North, Ranges 16 through 19 East, Township 5 North, Ranges 16 through 23 East, Township 6 North, Ranges 16 through 24 East, and Township 7 through 11 North, Ranges 16 through 26 East; DeBaca County: Townships 1 through 4 North, Ranges 20 through 27 East, Township 5 North, Ranges 24 through 26 East, Township 6 North, Ranges 25 and 26 East, Township 1 South, Ranges 20 through 27 East, Township 2 South, Ranges 20 and 21 East, and Township 3 South, Range 21 East; Lincoln County: Township 1 North, Ranges 16 through 19 East, Townships 1 through 5 South, Ranges 14 through 19 East, Township 6 South, Ranges 15 through 20 East, Township 7 through 9 South, Ranges 15 through 20 East, excepting, however, all lands within the Capitan Wilderness Area, Townships 10 and 11 South, Ranges 15 through 20 East, and Townships 12 and 13 South, Ranges 17 through 20 East; Chaves County: Township 3 South, Range 20 East, Townships 4 and 5 South, Ranges 20 and 21 East, and Township 14 South, Ranges 17 through 21 East, NMPM, containing some 5,775,360 acres, more or less, and designated by New Mexico as the Pecos Slope Extension area.

(ii) *Depth.* The Abo Formation, for designation as a tight formation in the Pecos Slope Extension Area, shall be defined as being from the base of the Yeso Formaton vertically downward to the top of the Hueco Limestone, or in the absence of said Hueco lime, to the top of the Pennsylvanian Limestone, or in the absence of both Hueco lime and Pennsylvania lime, to the top of the PreCambrian, provided however, that tongues of the Hueco lime overlain and underlain by the Abo mudstones, sand or shales, shall be considered to be part of the Abo Formation. The average

depth to the top of the Abo Formation is 3,025 feet. The average thickness of the Abo Formation is 1,058 feet.

[FR Doc. 83-5503 Filed 3-3-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-172 (Texas—21 Addition)]

High-Cost Gas Produced From Tight Formations; Texas

February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the James Limestone Formation located in Nacogdoches and Shelby Counties, Texas be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the James Limestone Formation located Nacogdoches and Shelby Counties, Texas, be designated as a tight formation. The Commission previously adopted a recommendation that the James Limestone Formation in parts of San Augustine and Shelby Counties, Texas be designated as a tight formation [Order No. 246, issued August 4, 1982, in Docket No. RM79-76-106 (Texas—21)]. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the James Limestone Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the James Limestone Formation located in Nacogdoches and Shelby Counties, Texas, Railroad Commission District 6, be designated as a tight formation. The James Limestone in east Texas is included as a subdivision of the Trinity Group of Lower Cretaceous (Commanchean) age. The top of the James Lime ranges from approximately 7,150 feet to 7,425 feet subsea in depth. The James Lime overlies the Pine Island Shale and underlies the Bexar Shale.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the James Limestone Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submited in Docket No. RM79-76-172 (Texas—21 Addition) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(92) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(92) *James Limestone Formation in Texas.* RM79-76 (Texas—21). * * *

(ii) *Nacogdoches and Shelby Counties.*

(A) *Delineation of formation.* The James Limestone Formation is found in all of Nacogdoches and Shelby Counties, east Texas.

(B) *Depth.* The depth to the top of the James Limestone Formation ranges from approximately 7,150 feet to 7,425 feet subsea.

[FR Doc. 83-5504 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-164 (Texas-32)]

High-Cost Gas Produced from Tight Formations; Texas

February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that a portion of the Granite Wash Formation in the Anadarko Basin be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

I. Background

On December 13, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that a portion of the Granite Wash Formation in the Anadarko Basin located in Ochiltree, Lipscomb, Roberts, Hemphill and Wheeler Counties, Texas be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Granite Wash Formation in the Anadarko Basin be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that a portion of the Granite Wash Formation of the Anadarko Basin located in the panhandle area of Texas, Railroad Commission District 10, be designated as a tight formation. The recommended area includes all of Hemphill and Roberts Counties; all sections north of an east-west line passing through the southern boundary of Section 21, Block A-9 in Wheeler County with the exception of Section 3, 5 and 6 of the A.B. & M. Survey and Section 4, Block L of the J. M. Lindsey Survey; Sections 45 through 396 of Block 43, H & TC RR Survey, southern Lipscomb and Ochiltree Counties; and Sections 89 through 152 of Block 13, T & NO RR Survey, southern Ochiltree County.

The top of the Granite Wash Formation varies in depty from 6,934 feet in Roberts County in the northwest part of the designated area to 11,386 feet in Wheeler County to the southeast and thickness from north to south toward the Amarillo uplift which bounds the Anadarko Basin on the south. The Granite Wash Formation has been subdivided into the A-1, A, B, C, D, E, F, G, and H zones based on wireline log characteristics. Although some granite wash type clastics may occur above the A-1 zone, the interval recommended is from the top of the A-1 zone to the base of the Granite Wash Formation. The type log, the log of the Diamond Shamrock Corporation's Leslie Webb "M" No. 1 well, located in Section 191, Block C, Hemphill County, shows a complete section of the Granite Wash Formation from zone A-1 through zone H. On the log, the Granite Wash Formation is the interval between 9,664 feet and 10,850 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on October 13, 1982, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas futher asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the portion of the Granite Wash Formation in the Anadarko Basin as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-164 (Texas—32) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission.

Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(164) to read as follows:

§271.703 Tight formation.

* * * * *

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

(121) through (163) [Reserved]

(164) *Granite Wash Formation in the Anadarko Basin in Texas.* RM79–76 (Texas—32).

(i) *Delineation of formation.* The Granite Wash Formation in the Anadarko Basin is located in the panhandle area of Texas, Railroad Commission District 10. The designated area includes all of Hemphill and Roberts Counties; Sections 45 through 396 of Block 43, H & TC RR Survey, Lipscomb and Ochiltree Counties; Sections 89 through 152 of Block 13, T & NO RR Survey, Ochiltree County; and all sections north of an east-west line passing through the southern boundary of Section 21, Block A–9 in Wheeler County except Sections 3, 5, and 6, A.B. & M. Survey, and Section 4, Block L, J.M. Lindsey Survey.

(ii) *Depth.* The Granite Wash Formation is that interval from the top of the A–1 zone to the base of the Granite Wash Formation. The top of the A–1 zone ranges in depth from 6,934 feet in Roberts County to 11,386 feet in Wheeler County.

[FR Doc. 83–5500 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM 79–76–170 (Texas–33)]

High-Cost Gas Produced from Tight Formations: Texas

February 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commssion 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 Commssion determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 C.F.R. § 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Devonian/Strawn/Detrital Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On December 23, 1982, the railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that a portion of the Devonian/Strawn/Detrital Formation locate in Crockett and Terrell Counties, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that a portion of the Devonian/Strawn/Detrital Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Devonian/Strawn/Detrital Formation encountered in northeast Terrell County and adjoining portions of western Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area includes:

Terrell County

Sections 10–31, 73, Block 1, I & GN RR. Co. Survey;
Section 19, Mrs. M. E. Hope Survey;
Section 21, J. M. Anderson Survey;
Section 22, C. M. Shaw Survey (J. D. Blair);
Section 23, P. H. Terry Survey;
Section 24, Mrs. N. King Survey;
Section 1, Block A–4, J. McMurty Survey;
Section 2, Block A–4, A. C. W. Survey;
Section 3, Block A–4, P. L. Kinman Survey;
Section 4, Block A–4, F. Baumgarner Survey;
Section 5, Block A–4, J. H. Felps Survey;
Section 6, Block A–4, J. L. Cunningham Survey;
Section 7, Block A–4, J. A. Manes Survey;
Section 8, Block A–4, Mrs. A. Pride Survey;
Section 9, Block A–4, Mrs. L. Martin Survey;
Section 10, Block A–4, I. N., Bloodworth Survey;
Section 11, Block A–4, J. E. R. Survey;
Sections 1–12, Block 176, TM RR Survey;
Sections 1–38, Block B–2, CCSD & RGNG Survey.

Crockett County

Sections 24–38, 40–42, 45, 48–50, Block 2, I&GN RR Co. Survey;
Sections 39–46, Block ST, TC RR Survey;
Sections 199, 200, L & SV Survey;
Section 48, Block ST, T C RR Survey;
Sections 13–20, Block 2, J. H. Gibson Survey;
Sections 99, 100, Block NN, GC & SF Survey;
Section 22, Block NN–2, Wm. Hornsbuckle (A–4873)
Section 48½, J. B. Brown Survey;
Section 1, Block NN, L. G. Moses;
Section 2, Block NN, W. L. Lacy Survey;
Sections 3, 4, Block NN, Robert Rankin Survey;
Sections 22–35, Block 1, I & GN RR Co. Survey;
Sections 14, 22–24, west half of 25, Block 29, University Lands Survey.

The top of the Strawn section of the recommended formation is encountered at measured depths ranging from 8,442

feet in the east to 10,200 feet in the southwest, with a calculated average depth of 9,246 feet. The Strawn varies in thickness from 28 feet in the northeast to 205 feet in the western portion of the recommended area. The top of the Detrital section is measured at depths ranging from 8,520 feet in the east to 10,310 feet in the southwest. The thickness of the Detrital varies from 46 feet in the east to 230 feet in the southwest. The top of the Devonian section of the recommended formation is encountered at measured depths ranging from 8,570 fet in the east to 10,900 feet in the southwest. The Devonian varies in thickness from 275 feet in the north central portion of the recommended area to 600 feet in the northwest. In the western one third of the recommended area, the Detrital and Devonian sections of the recommended formation are separated by a wedge of Mississippian age rock units up to 500 feet thick.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the recommended portion of the Devonian/Strawn/Detrital Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-170 (Texas—33) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(165) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(121) through (164) [Reserved]

(165) *Devonian/Strawn/Detrital Formation in Texas.* RM79-76-170 (Texas 33).

(i) *Delineation of formation.* The Devonian/Strawn/Detrital Formation is found in northeast Terrell County and adjacent portions of western Crockett County in Texas. The designated area consists of the listed portions of the following Terrell County surveys: Sections 10-31, 73, Block 1, I & GN RR Co.; Section 19, Mrs. M. E. Hope; Section 21, J. M. Anderson; Section 22, C. M. Shaw (J. D. Blair); Section 23, P. H. Terry; Section 24, Mrs. N. King; Section 1, Block A-4, J. McMurty; Section 2, Block A-4, A. C. W.; Section 3, Block A-4, P. L. Kinman; Section 4, Block A-4, F. Baumgarner; Section 5, Block A-4, J. H. Felps; Section 6, Block A-4, J. L. Cunningham; Section 7, Block A-4, J. A. Manes; Section 8, Block A-4, Mrs. A. Pride; Section 9, Block A-4, Mrs. L. Martin; Section 10, Block A-4, I. N., Bloodworth; Section 11, Block A-4, J. E. R.; Sections 1-12, Block 176, TM RR; Sections 1-38, Block B-2, CCSD & RGNG; and the following, Crockett County surveys: Sections 24-38, 40-42, 45, 48-50, Block 2, I&GN RR Co.; Sections 39-46, Block ST, TC RR; Sections 199, 200, L & SV; Section 48, Block ST, TC RR; Sections 13-20, Block 2, J. H. Gibson; Sections 99, 100, Block NN, GC & SF; Section 22, Block NN-2, WM. Hornsbuckle (A-4873); Section 48½, J. B. Brown; Section 1, Block NN, L. G. Moses; Section 2, Block NN, W. L. Lacy; Sections 3, 4, Block NN, Robert Rankin; Sections 22-35, Block 1, I & G N RR Co.; Sections 14, 22-24, west half of 25, Block 28, University Lands.

(ii) *Depth.* The top of the Strawn section of the Devonian/Strawn/Detrital ranges from a measured depth of 8,442 feet in the east to 10,200 feet in the southwest. The Strawn varies in thickness from 28 feet in the east to 205 feet in the west. The top of the Detrital section ranges from a measured depth of 8,520 feet in the east of 10,310 feet in the southwest. The Detrital varies in thickness from 46 feet in the east to 230 feet in the southwest. The top of the Devonian section ranges from a measured depth of 8,570 feet in the east to 10,900 feet in the southwest. The Devonian varies in thickness from 275 feet in the north central to 600 feet in the northwest. In the western third of the designated area the Detrital and Devonian sections are separated by a wedge of Mississippian age rock units up to 500 feet thick.

[FR Doc. 83-5502 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-173 (Texas—34)]

High-Cost Gas Produced From Tight Formations; Texas

February 28, 1983

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Pettit Lime Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Pettit Lime Formation located in Leon, Houston, and Cherokee Counties in the eastern part of the state of Texas, excluding the Navarro Crossing (Pettit) Field in Houston County and the Reklaw (Pettit) Field in Cherokee County, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Pettit Lime Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Pettit Lime Formation encountered in the eastern portion of the state of Texas, in Leon, Houston, and Cherokee Counties in Railroad Commission Districts 5 and 6, excluding the Navarro Crossing (Pettit) Field in Houston County and the Reklaw (Pettit) Field in Cherokee County, be designated as a tight formation. The Pettit Lime Formation is part of the Lower Glen Rose series of Cretaceous age. It is usually encountered at depths ranging from 8,500 feet to 11,000 feet. Thickness varies from approximately 200 feet on the west in Leon County to 1,000 feet on the east in Sabine County.

The Pettit Lime Formation is overlain by the Pine Island shale and is the lowest member of the Glen Rose group.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on June 19, 1982, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Pettit Lime Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-173 (Texas-34), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentve price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams, Director,

Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d) (166) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(119) through (165) [Reserved] * * *

(166) *Pettit Lime Formation in Texas.* RM79-76 (Texas-34)

(i) *Delineation of formation.* The Pettit Lime Formation is located in Leon, Houston and Cherokee Counties, Texas, Railroad Commission Districts 5 and 6. The designated area does not include

the Navarro Crossing (Pettit) Field in Houston County and the Reklaw (Pettit) Field in Cherokee County.

(ii) *Depth.* The depth to the top of the Pettit Formation ranges from 8,500 feet to 11,000 feet. Thickness varies from approximately 200 feet on the west in Leon County to 1,000 feet on the east in Sabine County.

[FR Doc. 83-5501 Filed 3-3-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-178 (Texas—35)]

High-Cost Gas Produced From Tight Formations, Texas; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Devonian, Fusselman and Montoya Formations be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on April 15, 1983.

Public Hearing: no public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 16, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, (202) 357-8511,

or

Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, OPRR

Issued: March 1, 1983.

I. Background

On January 14, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Devonian, Fusselman and Montoya Formations, located in Reeves County, Texas, be designated as tight formations. Pursuant to § 271.703(c)(4) of the regulations, this notice of proposed rulemaking is hereby issued to determine whether Texas' recommendation that the Devonian, Fusselman, and Montoya Formations be designated as tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Devonian, Fusselman and Montoya Formations in the Nine Mile Draw Field area of Reeves County, Texas (Railroad Commission District 8), be designated as tight formations. The recommended area lies within the Delaware Basin of west Texas and is located approximately 18 miles southwest of the town of Pecos, Texas, encompassing approximately 18 square miles.

The Devonian Formation lies beneath the Woodford Shale and just above the Silurian. The top of the Devonian formation varies between measured depths of 13,080 feet and 14,120 feet, with a uniform thickness of approximately 100 feet.

The top of the Silurian age Fusselman formation is encountered between measured depths of 13,340 feet and 14,396 feet, with a thickness of approximately 80 feet. The top of the Montoya Formation is encountered between measured depths of 13,395 feet and 14,490 feet, with an average thickness of 475 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of these formations will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Devonian, Fusselman and Montoya Formations, as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 15, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM 79-76-178 (Texas-35) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to who communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 16, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (c)(167) to read as follows:

§ 271.703 Tight formations.

* * * * *

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

(121) through (166) [Reserved]

(167) *Devonian, Fusselman and Montoya Formations in Texas.* RM79-76 (Texas-35). (i) *Delineation of formation.* The Devonian, Fusselman and Montoya Formations are located in the Nine Mile Draw Field area of Reeves County, Texas, Railroad Commission District 8. The designated area consists of Sections 12, 13, 24, 25, 36, and 37 of T&P RR Block 55, and Sections 5, 6, 11, 12, 13, 14, 17, 18, 19, 20, 21, and 22 of T&P RR Block 54, TWP 7, Reeves County, Texas.

(ii) *Depth.* The top of the Devonian Formation is encountered between the measured depths of 13,080 and 14,120 feet, with an approximate thickness of 100 feet. The Fusselman Formation is encountered between the measured depths of 13,340 and 14,396 feet, with an approximate thickness of 80 feet. The Montoya Formation is encountered between the measured depths of 13,395 and 14,490 feet, with an approximate thickness of 475 feet.

[FR Doc. 83-5594 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 79P-0349]

Cheese and Cheese Products; Proposal To Permit Use of Antimycotics on Surface of Bulk Cheeses and To Provide for Declaration of Animal, Plant, and Microbial Enzymes as "Enzymes"

Correction

In FR Doc. 83-1680 beginning on page 2779 in the issue of Friday, January 21, 1983, make the following corrections.

1. On page 2779, third column, second line under **FOR FURTHER INFORMATION CONTACT,** "(HHF-215)" should read "(HFF-215)".

2. On page 2781, third column, the second line of § 133.155(f), should read: "usual name of each of the".

3. On page 2782, first column, fifth line of § 133.181(f), "or" should read "of".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Parts 170, 172, 181, and 573

[Docket No. 77N-0222]

Use of Sodium Nitrite, Sodium Nitrate, Potassium Nitrite, and Potassium Nitrate: Withdrawal of Proposed Rule and Proposed Declaration That No Prior Sanction Exists

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposals.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing the proposed rules that the agency published on November 3, 1972 and December 21, 1979 on the prior-sanctioned status of the use of nitrates and nitrites in red meat and poultry products. The 1972 proposal also proposed to delete certain "non-essential" uses of nitrates and nitrites. In the Federal Register of January 14, 1983, FDA published a final rule that the use of nitrates and nitrites in red meat and poultry products is prior sanctioned as a result of approvals issued by the United States Department of Agriculture (USDA) under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) prior to September 6, 1958.

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

SUPPLEMENTARY INFORMATION: In the Federal Register of November 3, 1972 (37 FR 23456), FDA published a proposed rule to delete certain "non-essential" uses of nitrates and nitrites and to codify prior sanctions for the use of nitrates and nitrites in meat and poultry products. As used in this document, the term "nitrates" includes sodium and potassium nitrate, and the term "nitrites" includes sodium and potassium nitrite.

FDA's proposal to codify prior sanctions for the use of nitrates and nitrites in meat and poultry products was based on the agency's presumption that USDA had sanctioned these uses under the FMIA (21 U.S.C. 451 et seq.) and the PPIA (21 U.S.C. 71 et seq.), respectively, prior to September 6, 1958.

Although USDA confirmed that it had sanctioned the use of nitrates and nitrites in red meat under the FMIA prior to 1958, in 1977 USDA advised FDA that a prior sanction did not exist under the PPIA for the use of nitrates and nitrites in poultry products. FDA searched its files and failed to find any evidence that the agency had issued such a prior sanction under the Federal Food, Drug, and Cosmetic Act (FFDCA). Therefore, in the Federal Register of December 21, 1979 (44 FR 75662), FDA published a proposed rule to declare that no prior sanction exists for the use of nitrates and nitrites in poultry products.

In that proposal, FDA solicited comments from all interested persons, especially those who believed that a prior sanction exists under the FFDCA. FDA indicated that if the agency received comments relating to the question of whether USDA had issued a prior sanction, it would forward those comments and any supporting documentation to USDA for consideration and for any action USDA deemed appropriate.

In response to that proposal, FDA received from the Special Poultry Research Committee (SPRC) a submission that related primarily to the SPRC's contention that USDA had issued a prior sanction for the use of nitrates and nitrites in poultry products. FDA sent this submission to USDA. After reviewing the submission, USDA concluded that it had sanctioned this use under the PPIA before the enactment of the Food Additives Amendment of 1958.

Thus, USDA has advised FDA that the use of nitrates and nitrites in both cured meat and poultry products is subject to prior sanctions.

Section 201(s)(4) of the FFDCA (21 U.S.C. 321(s)) defines a "prior-sanctioned substance" as follows:

> (4) any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following);

When USDA has determined that it has issued a prior sanction for a substance under the FMIA or the PPIA, that substance may be used under that sanction, regardless of whether FDA has issued a parallel prior sanction under the FFDCA. Consequently, USDA's determination that it has issued a prior sanction for nitrates and nitrites in poultry products under the PPIA makes it unnecessary for FDA to determine whether it had issued such a prior sanction under the FFDCA. Therefore,

FDA is withdrawing the December 21, 1979 proposal.

In addition, USDA's determination eliminates the need to adopt the prior sanction regulations that FDA proposed in the November 3, 1972 **Federal Register** document. As explained in the **Federal Register** document published on January 14, 1983 (48 FR 1702), the agency has decided merely to codify the determinations made by USDA. Thus, FDA is withdrawing the portion of the November 3, 1972 notice that deals with the prior sanction issue.

In the 1972 **Federal Register** document FDA also proposed to delete "non-essential" uses of nitrates and nitrites. This proposal was made because of information that these substances may react with secondary and tertiary amines to form harmful nitrosamines in food and in the human gastrointestinal tract. The agency proposed to limit the uses of nitrates and nitrites to those that are necessary for inhibiting the growth of *C. botulinum* and for obtaining the essential characteristics of cured meats. "Non-essential" uses that FDA proposed to delete include (1) sodium nitrite in canned pet food containing meat or fish under § 121.223 (recodified as §573.700 in the **Federal Register** of September 10, 1976; 41 FR 38618), (20 sodium nitrate in smoked cured sablefish, salmon, and shad under § 121.1063, (3) sodium nitrite in smoked tuna fish products under § 121.1064, and (4) potassium nitrate in cod roe under § 121.1132 (recodified as §§ 172.170, 172.175, and 172.160, respectively, in the **Federal Register** of March 15, 1977; 42 FR 14302).

FDA has decided to withdraw this portion of the 1972 proposal also. Ten years have passed since the agency proposed to delete the "non-essential" uses of nitrate and nitrite, and in the intervening period many scientific studies have been undertaken regarding the effects of nitrates and nitrites in food. It would be inappropriate for FDA to proceed at this time to delete the "non-essential" uses, as proposed in 1972, without thoroughly evaluating the scientific data that have been produced and presenting the conclusions the agency has reached on the basis of those data for public comment. The agency has decided that there are significant issues that it must reconsider before taking any action to delete the previously permitted uses of nitrate and nitrite salts. The agency is therefore withdrawing the proposed regulations that would have deleted the "non-essential" uses of these substances. If the agency decides after reconsidering these uses that further regulatory action is necessary, the agency will publish an appropriate proposal in a future issue of the **Federal Register**.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 701(a), 52 Stat. 1055, 72 Stat. 1784 (21 U.S.C. 321(s) and 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), FDA is withdrawing the proposal published in the **Federal Register** of November 3, 1972 (37 FR 23456) to codify prior sanctions for the use of nitrates and nitrites in meat and poultry products and to delete certain "non-essential" uses of nitrates and nitrites and the proposal published in the **Federal Register** of December 21, 1979 (44 FR 75662) to declare that no prior sanction exists under the Federal Food, Drug, and Cosmetic Act for the use of nitrates and nitrites in poultry products. The rulemaking proceedings begun by these proposals are terminated.

Dated: February 28, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-5478 Filed 3-3-83; 8:45 am]

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21 CFR Part 184

[Docket No. 78N-0281]

Magnesium Carbonate, Magnesium Chloride, Magnesium Hydroxide, Magnesium Oxide, Magnesium Phosphate, Magnesium Stearate, and Magnesium Sulfate; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 83-1683 beginning on page 2782 in the issue of Friday, January, 21, 1983, make the following corrections.

1. On page 2788, second column, second line of § 184.1431(a), "No. 1390-48-4" should read "No. 1309-48-4".

2. On page 2788, third column, eleventh line of § 184.1434(b), "29418", should read "20418".

BILLING CODE 1505-01-M

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21 CFR Part 357

[Docket No. 79N-0378]

Anthelmintic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In FR Doc. 83-2331 appearing on page 4003 in the issue of Friday, January 28, 1983, make the following correction:

In the heading of the document, reference to the docket number was omitted. It should have read "[Docket No. 79N-0378]".

BILLING CODE 1505-01M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary of Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-83-1071]

One-Time Mortage Insurance Premium

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a new system for collecting mortgage insurance premiums in connection with certain single family mortgages which HUD insures under section 203 of the National Housing Act. At present, mortgage insurance premiums under section 203 are set at ½ percent per year of the amount of the outstanding principal obligation of the loan, and are collected on a monthly basis. Under the proposed system, the Borrower would pay a one-time premium when the mortgage loan is colsed. This payment would purchase insurance coverage for the entire life of the insured loan, and most of it could be added to the mortgage amount and amortized along with the underlying loan. The premium would be based upon the projected costs payable from the insurance reserves, discounted to present value.

As required by section 201(b) of the Omnibus Budget Reconciliation Act of 1982, provision would be made for the refund of unearned premiums if the mortgage insurance is terminated in the early years of the mortgage. Provision would also be made for the payment of distributive shares to borrowers under the new premium system who terminate their mortgage insurance in the later years of the mortgage. The rule would specify the manner of determinig and paying distributive shares, and would provide for their payment on the same basis to mortgagors, irrespective of whether their primiums were paid under the current or the proposed system. The new system would be available for mortgages which are insured pursuant to applications for conditional commitments received on or after the rule's effective date and which are

obligations of the Mutual Mortgage Insurance Fund.

The proposed rule would also implement the authority contained in section 201 for the 1982 Reconciliation Act to increase the otherwise-determined maximum dollar mortgage amounts by the amount of the one-time premium, and to exclude the premium amount from "cost of acquisition" for purposes of determining minimum downpayment requirements.

DATE: Comment Due Date: Comments must be submitted on or before May 3, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above addresss.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold H. Diamond, Director, Office of Financial Management, Room 6188, 451 tth Street, SW., Washington, D.C. 20410, telephone number (202) 426-4325. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 203(c) of the National Housing Act authorizes HUD to fix mortgage insurance premium (MIP) charges for the insurance of mortgages under title II of the Act, and to require payment of one or more of these charges at the time the mortgage is insured. HUD proposes to implement this authority by establishing a one-time MIP collection system for mortgages insured prusuant to applications for conditional commitments received on or after the rule's effective date and which are obligations of the Mutual Mortgage Insurance Fund (MMIF) under 24 CFR Part 203.

The Part 203 MMIF programs include HUD's basic home mortgage insurance program under section 203(b) of the Act, mortgage insurance for single family homes in outlying areas under section 203(i), mortgage insurance for single-unit cooperatives under section 203(n), and graduated payment mortgages under section 245. Single family mortgages insured on a coinsurance basis pursuant to section 244 are also obligations of the MMIF in 24 CFR Part 204. Although this proposed rule would not apply to Part 204, HUD intends to include the one-time MIP provisions in a general revision of Part 204 currently under development as a proposed rule. The proposed rule also would not apply to "open-end" advances insurable under 24 CFR 203.44. Insured "open-end" advancers can be made with respect to mortgages previously insured under section 203 to cover certain repairs and improvements. Given the little activity under this authority and potential issues with respect to charging a one-time payment for the insurance of advances which may be spread out in time well into the life of the underlying loan, the Department is still considering the feasibility and desirability of extending the one-time premium concept to this authority. The Department invites comment on this question.

This proposed rule would not cover insuring authorities under section 203 which are obligations of the General Insurance Fund or the Special Risk Insurance Fund, or other National Housing Act single family programs. HUD intends to bring these programs under the new system by separate rulemaking.

At present, MIP's under the section 203 single family authorities are set at ½ percent per year of the amount of the outstanding principal obligation of the loan at any time, and are collected on a monthly basis. Under the proposed system, the borrower would pay a premium, when the mortage loan is closed, representing the total premium obligation for the insured loan. The premium would be based upon the projected costs payable from the MMIF reserves, discounted to present value.

The proposed system has a number of advantages, which may be summarized as follows. The system would make possible a matching of Fund income against default losses that is safer than the present system. Precollection of MIP's would enable HUD to cover the period of maximum individual insurance risk—the early years of the loan term—and recognizes the fact that risk declines with the seasoning of the mortgage loan portfolio. Mortgage insurance operations of private companies and certain nations with FHA-type programs all use some variation of precollection.

Lump-sum collection would also afford improved cash management opportunities. It would provide the Fund a source of interest-free funds for immediate investment by HUD in interest-bearing securities. The proposal would also eventually substantially reduce HUD's present accounting workload of periodic billing, collection, and allocation of premiums amortized as a separate component of the mortgage as those mortgages terminate over the years. Finally, it would relieve lenders of the burden of collecting and remitting to HUD monthly installment mortgage insurance premiums as they are received, as is required by section 530 of the National Housing Act, when mortgages subject to section 530 terminate.

In proposing this rule, HUD had to address two fundamental issues: can the proposed MIP collection system be implemented without impairing the current affordability of FHA mortage insurance to low- and moderate-income homebuyers, and can it be operated on a financially and actuarially sound basis?

With respect to homeowner affordability, buyers would have the option of paying the up-front premium in cash, or of adding part of it—up to practically the entire amount, as explained below—to the amount of the mortgage and having this amount amortized along with the underlying loan. The rule would implement the authority provided in section 201 of the Omnibus Budget Reconciliation Act of 1982 to increase the otherwise applicable maximum dollar mortgage amount by the amount of the premium payment added to the mortgage, and to exclude the MIP from "cost of acquistion" for purposes of determining mimimum downpayment requirements. These provisions would assure that implementation of the proposal would not reduce the amount of house a buyer could purchase or result in an increase in the required downpayment, except for such small amounts as may result from application of maximum loan-to-value ratios (as explained below). Moreover, the increase in the monthly debt service required to repay the amount borrowed to pay for the up-front premium may be less than the monthly mortgage insurance premium that would otherwise have been collected for the mortgage.

In addition to statutory provisions directly addressing downpayment requirements, the amount of the required downpayment is also affected by maximum loan-to-value ratios. For example, section 203(b)(2) of the National Housing Act provides that insured loans may not exceed an amount equal to the sum of 97% of the first $25,000 of the "appraised value" of the property and 95% of the "appraised value" in excess of $25,000. No amendment to this and other loan-to-value ratio requirements was included in the 1982 Reconciliation Act. By long-standing administrative practice, the Department has calculated maximum loan-to-value ratios on a basis which included closing costs in "appraised value." Consistent with this practice, the Department intends to include also the amount of the up-front premium as an element of "appraised value" for the

purpose of calculation of the maximum loan-to-value ratio. The result of this will be that in the case of loans which are at the maximum ratio before consideration of the up-front premium, the required downpayment will be increased by the percentage resulting from the applicable loan-to-value ratio (5% in the case of a loan covered by the ratio provision cited above where the value exceeds $25,000). The rule would, however, exclude any part of the one-time premium which is amortized from the lender's originating and closing fees under 24 CFR 203.27.

The Department's practice of including closing costs in "appraised value," and the fact that this practice alone could result in a loan-to-value ratio in excess of 100% when based on selling price, was disclosed to Congress in connection with its consideration of the amendments adopted in the 1982 Reconciliation Act. An expectation by Congress that the up-front mortgage premium would result in further increases in the loan-to-value ratio when considered on the basis of selling price is explicitly evidenced in the Conference Report on the 1982 Reconciliation Act. Accordingly, the Department believes that inclusion of the up-front premium as an element of "appraised value" is permissible and consistent with Congressional expectations.

With respect to the actuarial soundness of the proposed rule, adding the amount of the MIP to the principal obligation of the loan increases the loan-to-value ratio based on selling price, as noted above. Research on the subject shows a positive correlation between high loan-to-value ratios and the incidence of default. Depending upon the amount of premium needed by HUD and rates of appreciation in home purchase prices and values, the proposed rule may result in an indebtedness in excess of the property's value during the first few years of the mortgage term. Clearly, such a situation could increase the risk to the Fund.

One factor mitigating that risk is the rule's provision that refunds of unearned premiums, which are normally available to mortgagors upon early termination of the insurance contract, would not be available to defaulting mortgagors. The loss of a potentially large refund offers a disincentive to default in cases where negative equity might otherwise dispose mortgagors to early default.

As an additional "fail-safe," the rule would require that the premium, refund, and distributive share amounts be determined in accordance with sound financial and actuarial practice. In addition, the proposed rule would give HUD explicit discretion to reinstitute use of the present MIP system, during such periods as HUD may find it appropriate, if HUD determines that use of the one-time MIP during such periods would not be consistent with sound financial and actuarial practice or would significantly increase financial burdens on mortgagors. This "fail-safe" feature is consistent with the admonition in the Conference Report on the 1982 Reconciliation Act that, if the new system is not actuarially sound, HUD preserve the current affordability of FHA insurance.

Specific provisions of the proposed rule would work as follows.

Calculation of the One-time Premium

The amount of the one-time MIP would equal the amount of the mortgage to be insured, multiplied by the applicable premium percentage. This percentage would be determined in accordance with sound financial and actuarial practice, taking into account the costs projected by HUD to be payable out of the reserves of the MMIF, discounted at a rate of interest determined by HUD. Costs would include insurance claim losses, salaries and expenses attributable to the Fund, and refunds of unearned premiums (discussed below). The discount rate would equal the rate of return expected to be earned by investment of the Fund's reserves. In accordance with section 203(c) of the National Housing Act, however, the discount rate could not exceed the rate of interest specified in the mortgage to be insured. The applicable premium percentage would be published by notice in the **Federal Register** at least once a year.

Switching to a MIP calculated on the basis of projected costs to the Fund would provide a sounder basis for determining the necessary MIP than does the present method of applyiing ½ percent per year to the average outstanding balance of the loan. Moreover, moving to a cost-basis calculation would reduce the effective premiums for mortgages insured under the rule by approximately 12 percent. In accordance with section 203(c) of the National Housing Act, application of the premium percentage determined under the proposed system could not result in a MIP in excess of an amount equivalent to 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time.

Premium Refunds

Section 201(b) of the 1982 Reconciliation Act amended section 203(c) of the National Housing Act to provide for a refund, where appropriate, of a portion of the one-time MIP paid, where the principal obligation of the loan is paid before the number of years on which the premium's discounted value was based, or where the property is sold subject to the mortgage or is sold and the mortgage is assumed before that time. The Secretary has determined that it is appropriate to provide for refunds of unearned premiums only where the contract of insurance covering the mortgage is terminated by payment of the mortgage in full or by voluntary termination.

In the case of other transfers of the property in which the insured loan remains outstanding, the mortgage insurance would remain in force. Because the total MIP obligation has been satisfied, the purchaser would not be required to make an additional MIP payment, but would be entitled to a refund or distributive share if he or she subsequently terminated the mortgage insurance contract. Typically, the sales price negotiated between the purchaser and seller would reflect this, providing the seller with what, in effect, would be a "refund" of a portion of the MIP he or she paid. Moreover, it would be administratively infeasible and would present actuarial problems to provide for a refund of the MIP while the mortgage is still an obligation of the Fund. For these reasons, HUD has determined that refunds would be appropriate only where the mortgage insurance contract has been terminated.

The proposed rule requires HUD to provide for a refund to the borrower of a portion of the one-time MIP, if the insurance contract is terminated voluntarily or by payment in full of the mortgage within 11 years from the date the mortgage was endorsed for insurance. The amount of the refund would be determined by multiplying the amount of the one-time MIP paid by the applicable premium refund percentage for mortgages insured in the year the mortgage was endorsed for insurance. The applicable percentage would be determined for each year in an equitable manner and in accordance with sound financial and actuarial practice, taking into account projected salaries and expenses, prospective losses generated by insurance claims, expected future payments of premium refunds and the impact on the insurance reserve resulting from the premium refunds. Refund percentages would be published by notice in the **Federal Register** at least annually.

HUD has decided that a mortgagor should not be entitled to receive both a distributive share and a refund or an unearned premium because if the

mortgagor receives a refund, he or she forgoes his or her prospective claim for a share of the Participating Reserve Account Surplus. Since the proportion of the premium recouped by the mortgagor in the 12th year of amortization is greater through receipt of a distributive share, as compared to a premium refund, premium refunds will be payable only during the first 11 policy years.

Distributive Shares

Section 205(c) of the National Housing Act authorizes HUD to distribute to mortgagors a share of the MMIF's Participating Reserve Account upon termination of the contract of insurance without payment of a claim. This reflects the mutuality feature of the Fund, and represents the homeowner's share of the net earnings to the Fund. Shares are required to be equitable and determined in accordance with sound actuarial and accounting practice, and are only paid with respect to mortgages that have been contributing premium income for 11 or more years.

The proposed rule would amend § 203.423 of 24 CFR to make eligible for distributive shares mortgagors who pay the proposed one-time MIP and to provide for a uniform method of calculating the shares for all mortgagors. Under the rule, shares could be paid if the contract of insurance is terminated after 11 years from the date the mortgage was endorsed for insurance. The amount of the distributive share would be determined by multiplying the amount of the premium or premiums paid by the applicable distributive share percentage for mortgages insured in the year the mortgage was endorsed for insurance. This percentage would be determined in an equitable manner and in accordance with sound financial and actuarial practice, taking into account the cumulative actual financial and actuarial experiences through the end of the most recent fiscal year. The applicable percentage would be published by notice at least annually in the **Federal Register.**

Payment of Refunds and Distributive Shares

Under existing practice, the Department is responsible for notifying mortgagors of eligibility to receive a distributive share by sending a notice to the mortgagor's last known address as provided by the mortgagee upon termination of insurance. The share is paid upon application of the mortgagor. The proposed rule would simplify this procedure by simply requiring mortgagors to apply to HUD within three years of the termination of the insurance contract for either a refund or a distributive share. To provide for an orderly transition to the new system, mortgagors who are eligible for a distributive share before the rule's effective date would be given three years for such date in which to submit their applications.

This rule constitutes a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981 (Executive Order 12291). The rule does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, nor does it significantly adversely effect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. However, analysis of the proposed rule indicates that it would have an annual effect on the economy of $100 million or more. However, the Director of the Office of Management and Budget, pursuant to section 6(a)(4) of Executive Order 12291, has waived the requirement of section 3 of the Executive Order with respect to the proposed rule. This waiver is based on the Director's determination that the function of the regulatory impact analysis has largely been fulfilled by the extensive joint examination of this initiative undertaken by OMB and HUD, during the past year, together with the Department's report prepared for the Senate and House Banking Committees on the methodology used in determining the one-time premium.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC. 20410.

This rule was listed as Item H–139–82 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48426) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.117, 14.118 and 14.161.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. To the extent the rule has any impact on small entities—in this instance small mortgage lenders—the impact should be positive in the long run, since one-time premiums will reduce the recordkeeping and paperwork burden associated with the regular submission to HUD of periodic premium payments.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs: housing and community development, Mortgage insurance, Solar energy.

Accordingly, it is proposed that 24 CFR Part 203 be amended as follows:

PART 203—[AMENDED]

1. By adding a new paragraph (d) to § 203.18b, to read as follows:

§ 203.18b Increased mortgage amount.

* * * * *

(d) The dollar limitations provided in § 203.18(a)(1) and in this section (as such amounts may be increased by §§ 203.18a and 203.29) shall be increased by the amount of any one-time mortgage insurance premium paid pursuant to § 203.280 of this part.

2. By revising paragraph (a)(1) of § 203.19 to read as follows:

§ 203.19 Mortgagor's minimum investment.

(a) * * *

(1) In all cases (except those involving a veteran meeting the requirements of § 203.18(a)(3)), the minimum investment shall be at least three percent of the Commissioner's estimate of the cost of acquisition (excluding the amount of any one-time mortgage insurance premium payable pursuant to § 203.280) or such larger amount as the Commissioner may determine.

* * * * *

3. By revising paragraph (a) of § 203.22 to read as follows:

§ 203.22 Payment of insurance premiums or charges; prepayment privilege.

(a) *Payment of periodic insurance premiums or charges.* Except with

respect to mortgages for which a one-time mortgage insurance premium is paid pursuant to § 203.280 of this part, the mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth of the annual mortgage insurance premium payable by the mortgagee to the Commisoner. If the mortgage contains a provision permitting the holder to make future "open-end" advances or is amended or modified to include such a provision, the mortgage may provide for a monthly payment by the mortgagor of an amount equal to one-twelfth of the annual charge, payable by the mortgagee to the Commissioner for insurance of such advances. Such payments shall continue only so long as the contract of insurance shall remain in effect.

* * * * *

4. By revising paragraph (a)(1) of § 203.24 to read as follows:

§ 203.24 Application of payments.

(a) * * *

(1) Premium charges under the contract of insurance (other than a one-time mortgage insurance premium paid pursuant to § 203.280), and charges for open-end advances;

* * * * *

5. By revising paragraph (a) of § 203.26 to read as follows:

§ § 203.26 Mortgagor's payments when mortgage is executed.

(a) The mortgagor must pay to the mortgagee, upon execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the last date on which each such charge would have been paid under the normal lending practices of the lender and local custom (if each such date constitutes prudent lending practice), and ending on the due date of the first full installment payment under the mortgage, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment under the mortgage or, where applicable, the one-time mortgage insurance premium payable pursuant to § 203.280.

* * * * *

6. By revising subdivisions (i) and (ii) of paragraph (a)(2) of § 203.27 to read as follows:

§ 203.27 Maximum charges, fees or discounts.

(a) * * *

(2) * * *

(i) $20 or one percent of the original principal amount of the mortgage (excluding any one-time mortgage insurance premium paid pursuant to § 203.280), whichever is the greater; or

(ii) $350 or two and one-half percent of the original principal amount of the mortgage (excluding any one-time mortgage insurance premium paid pursuant to § 203.280), whichever is the greater, with respect to mortgages on property under construction or to be constructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction.

* * * * *

7. By revising paragraph (k) of § 203.43c to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(k) The mortgagee shall collect from the mortgagor upon the execution of the mortgage (1) a sum that will be sufficient to pay the mortgage insurance premium for the period beginning on the date of the closing of the loan and ending on the date of the first monthly payment under the mortgage or (2), where applicable, the one-time mortgage insurance premium payable pursuant to § 203.280.

* * * * *

§ 203.44 Amended.

8. By removing, in paragraph (d) of § 203.44, the reference to "§ 203.269" and by substituting in lieu thereof "§ 203.270".

9. By adding, immediately after the undesignated center heading entitled "Mortgage Insurance Premiums—In General", new § § 203.259 and 203.259a, to read as follows:

§ 203.259 Method of payment of MIP

The payment of any MIP under this subpart shall be made to the Commissioner by the mortgagee either in cash or debentures at par plus accrued interest.

§ 203.259a Scope.

For mortgages which are insured pursuant to applications for conditional commitments received on or after (insert effective date) and which are obligations of the Mutual Mortgage Insurance Fund under this part, the Commissioner shall charge a one-time MIP pursuant to § 203.280. The periodic MIP provisions of § § 203.260 through 203.269 shall not apply to these mortgages, except that the Commissioner shall have discretion to reinstitute use of the periodic MIP, during such period as the Commissioner may find it appropriate, if the Commissioner determines that use of the one-time MIP would not be consistent with sound financial and actuarial practice or would significantly increase financial burdens on mortgagors. Any such reinstitution of the periodic MIP, as well as any reinstitution of the one-time MIP, shall apply only with respect to mortgages insured pursuant to applications for conditional commitments received after such date as the Commissioner shall specify.

10. By adding, immediately after § 203.259a, a new undesignated center heading, to read as follows:

Mortgage Insurance Premiums—Periodic Payment

11. By revising § § 203.260 through 203.268, to read as follows:

§ 203.260 Amount of mortgage insurance premium (periodic MIP).

The mortgagee shall pay to the Commissioner an initial MIP in an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the first year of amortization. After payment of the initial MIP, the mortgagee shall pay to the Commissioner an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the 12-month period preceding each subsequent anniversary date of the beginning of amortization.

§ 203.261 Calculation of periodic MIP.

The amount of any periodic MIP shall be calculated in accordance with the original amortization provisions of the mortgage, without taking into account delinquent payments, prepayments, agreements to postpone payments, or agreements to recast the mortgage.

§ 203.262 Due date of periodic MIP.

The full initial or annual MIP shall be due on the anniversary date of the beginning of amortization.

§ 203.263 Adjustment of initial MIP.

If the Mortgage Insurance Certificate was issued prior to the beginning of amortization, the initial MIP shall be adjusted to include an additional premium from the date of issuance of the Mortgage Insurance Certificate to the date of the beginning of amortization. If the Mortgage Insurance Certificate was issued in the second half of the amortization year, the initial MIP shall be adjusted to include only that part of the premium year from the date of the issuance of the Mortgage Insurance Certificate to the first anniversary date of the beginning of amortization.

§ 203.264 Payment of periodic MIP.

(a) *Time of Payment.* Any portion of the periodic MIP received by the mortgagee from the mortgagor on or after September 1, 1982 shall be paid to the Commissioner on or before the tenth day of the month following the month in which it was received, provided that the full initial or annual MIP shall be due on the anniversary date of the beginning of amortization and payable not later than ten days after such date even if not collected by the mortgagee from the mortgagor.

(b) *Payment of Outstanding MIP.* All MIP that have been collected by mortgagees from mortgagors prior to September 1, 1982, but not remitted pursuant to an annual HUD billing shall be remitted to the Commissioner not before September 1, 1982, but not later than September 10, 1982. All annual MIP bills received by mortgagees from HUD prior to September 1, 1982 shall be paid on their specified due dates.

§ 203.265 Mortgagee's late charge and interest.

(a) Periodic MIP which are remitted to the Commissioner after the payment dates prescribed by §§ 203.262 and 203.264 shall include a late charge of four percent of the amount paid.

(b) In addition to the late charge provided in paragraph (a), the mortgagee shall pay interest on any periodic MIP which are remitted to the Commissioner more than 20 days after the payment dates prescribed in § 203.264. Such interest rate shall be paid at a rate set in conformity with the Treasury Fiscal Requirements Manual.

§ 203.266 Periodic covered by periodic MIP.

The initial MIP shall cover the period beginning with the date of the issuance of a Mortgage Insurance Certificate and ending on the next anniversary of the beginning of amortization. Subsequent premium payments shall cover the twelve-month period preceding each subsequent anniversary date.

§ 203.267 Duration of periodic MIP.

The mortgagee shall pay MIP to the Commissioner until the deed to the Commissioner is filed for record or the contract of insurance is terminated.

§ 203.268 Pro rata payment of periodic MIP.

(a) If the insurance contract is terminated before the due date of the initial MIP, the mortgagee shall pay a portion of the MIP prorated from the following dates to the date of termination:

(1) From the beginning of amortization if the Mortgage Insurance Certificate is issued in the first half of the amortization year, or

(2) From the date of the issuance of the Mortgage Insurance Certificate if the Certificate is issued at any time prior to the beginning of amortization or during the second half of the amortization year.

(b) If the insurance contract is terminated after the due date of the initial MIP, the mortgagee shall pay a portion of the current annual MIP prorated from the due date of the last annual MIP to the date of termination.

(c) A pro rata MIP shall not be due or payable where the mortgagee notifies the Commissioner that foreclosure or other action to acquire the property has been completed and that the property will not be conveyed to the Commissioner in exchange for insurance benefits. Any MIP due and paid after the institution of foreclosure or the date the property was otherwise acquired by the mortgagee will be refunded to the mortgagee upon receipt by the Commissioner of the notice from the mortgagee that the property will not be conveyed to the Commissioner.

§ 203.269 [Redesignated as § 203.270] and § 203.270 [Redesignated as § 203.269]

12. By redesignating § 203.269 as § 203.270, and § 203.270 as § 203.269, and by adding a new undesignated center heading immediately after § 203.269 as redesignated, to read as follows:

Open-end Insurance Charges—All Mortgages

13. By revising § 203.270 as redesignated, to read as follows:

§ 203.270 Open-end insurance charges.

(a) *Required charge.* In the case of an insured open-end advance the mortgagee shall pay to the Commissioner an open-end insurance charge.

(b) *Payment of charge for mortgages with periodic MIP.* The amount of any insured open-end advance shall be added to the average outstanding principal obligation of the mortgage for the purpose of determining the amount of periodic MIP as provided in §§ 203.260 through 203.268, except that the initial additional charge shall be prorated to cover the period beginning with the first day of the month following the issuance of a certificate evidencing the insurance of the open-end advance and ending on the due date of the next MIP.

(c) *Payment of charge for mortgages with one-time MIP.* In the case of a mortgage with a one-time MIP pursuant to § 203.280, the insurance charge shall be in an amount equal to ½ percent per annum of the outstanding principal obligation of the open-end advance. Sections 203.260 through 203.268 shall apply to the open-end charge on a mortgage with a one-time MIP, except that all references to amortization dates shall refer to amortization dates of the open-end advance, references to MIP shall refer to the open-end insurance charge, and references to outstanding principal obligation of the mortgage shall refer to outstanding principal obligation of the open-end advance.

(d) *Method of payment—all mortgages.* The payment of any open-end insurance charge under this subpart shall be made to the Commissioner by the mortgagee either in cash or debentures issued by the Mutual Mortgage Insurance Fund at par plus accrued interest.

14. By adding, immediately after § 203.270, a new undesignated center heading and new §§ 203.280—203.282, to read as follows:

Mortgage Insurance Premiums—One-Time Payment

§ 203.280 One-time MIP.

For mortgages for which a one-time MIP is to be charged in accordance with § 203.259a, the mortagee shall, at the time of and as a condition to the endorsement of the mortgage for insurance, pay to the Commissioner for the account of the mortgagor a premium representing the total obligation for the insuring of the mortgage by the Commissioner.

§ 203.281 Calculation of one-time MIP.

(a) The amount of the one-time MIP shall equal the amount of the mortgage to be insured multiplied by the applicable premium percentage.

(b)(1) The Commissioner shall determine the applicable premium percentage in accordance with sound financial and actuarial practice, taking into account the costs projected by the Commissioner to be payable out of the reserves of the Mutual Mortgage Insurance Fund, discounted at a rate of interest determined by the Commissioner, but not to exceed the interest rate specified in the mortgage. For purposes of this determination, (i) costs shall include insurance claim losses, salaries and expenses attributable to the Fund, and refunds of unearned premiums pursuant to § 203.282 of this subpart, and (ii) the discount rate shall equal the rate of return expected to be earned by investment of the reserves to the Fund.

(2) Application of the premium percentage determined under this paragraph shall not result in a MIP in excess of an amount equivalent to 1 per

centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments.

(c) The applicable premium precentage will be published by notice at least annually in the **Federal Register.**

§ 203.282 Refund of one-time MIP.

(a) The Commissioner shall provide for the refund to the mortgagor of a portion of the MIP paid pursuant to § 203.280 if the contract of insurance covering the mortgage is terminated within eleven years from the date the mortgage is endorsed for insurance, by payment in full or by voluntary termination approved by the Commissioner.

(b) The Commissioner shall determine the amount of the premium refund by multiplying the amount of the premium paid at the time the mortgage was insured by the applicable premium refund percentage for mortgages insured in the year the mortgage was endorsed for insurance. The Commissioner shall determine the applicable premium refund percentage for each year in an equitable manner and in accordance with sound financial and actuarial practice, taking into account (1) projected salaries and expenses, (2) prospective losses generated by insurance claims, (3) expected future payments of premium refunds, and (4) the impact on the insurance reserve resulting from the premium refunds.

(c) The applicable premium refund percentages will be published by notice at least annually in the **Federal Register.**

(d) To qualify for a refund, the mortgagor shall submit an application to the Commissioner within three years of the date of the termination of the insurance.

15. By revising § 203.402, paragraph (d), to read as follows:

§ 203.402 Items included in payment—conveyed properties.

* * * * *

(d) Periodic MIP or open-end insurance charges;

* * * * *

16. By revising § 203.423 to read as follows:

§ 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account if the contract of insurance is terminated, after eleven years from the date the mortgage was endorsed for insurance, by payment in full or by voluntary termination approved by the Commissioner.

(b) The Commissioner shall determine the amount of the distributive share by multiplying the amount of the premium or premiums paid by the applicable distributive share percentage for mortgages insured in the year the mortgage was endorsed for insurance. The Commissioner shall determine the applicable distributive share percentage in an equitable manner and in accordance with sound financial and actuarial practice, taking into account the cumulative actual financial and actuarial experiences through the end of the most recent fiscal year.

(c) The applicable distributive share percentages will be published by notice at least annually in the **Federal Register.**

(d) To qualify for a distributive share, the mortgagor shall submit an application to the Commissioner within the later of three years from (insert effective date) or the date the contract of insurance is terminated.

Authority: (Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d), sec. 211, National Housing Act (21 U.S.C. 1715b).

Dated: January 28, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-5577 Filed 3-3-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[EE-111-80]

Public Inspection of Exempt Organization Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the public inspection of returns of certain tax exempt organizations. The regulations clarify the rules relating to the disclosure of certain information of exempt organizations. Additionally, the regulations reflect changes made by Pub. L. 96-603 and Pub. L. 95-488.

DATE: Written comments and requests for a public hearing must be delivered or mailed by May 3, 1983.

ADDRESSES: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE-111-80, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LE:T, 202-566-3430 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 6104(b).

Statutory Provision

Section 6104(b) provides for the disclosure to the public of the information required to be furnished by sections 6033, 6034, and 6058. However, the section does not authorize the disclosure of the name or address of any contributor to any organization or trust that is required to furnish such information. This exception does not apply to any private foundation, as defined in section 509(a).

Nondisclosure of Certain Information

The proposed regulation continues the rule that the names and addresses of contributors to an organization (other than a private foundation) will not be made available to the public.

However, the amounts of contributions and bequests to such an organization shall be disclosed to the public unless disclosure can reasonably be expected to identify the name or address of any contributor. This amendment is necessary to reflect current Service procedure with respect to the disclosure of the amounts of contributions and bequests to organizations or trust that are not private foundations.

Comments and Requests for a Public Hearing

Before adopting this proposed regulation, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner has determined that this proposed regulation is not a

major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of this regulation is Mary M. Levontin of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Disclosure of information.

Proposed Amendments to the Regulations

PART 301—[AMENDED]

The proposed amendments to 26 CFR Part 301 are as follows:

Paragraph 1. Paragraph (a)(3) of § 301.6104(b)–1 is removed.

Par. 2. Paragraphs (b) and (c) of § 301.6104(b)–1 are designated as paragraphs (c) and (d) and the following new paragraph (b) is inserted in the appropriate place:

§ 301.6104(b)–1 Publicity of information on certain information returns and annual reports.

* * * * *

(b) *Nondisclosure of certain information.*—(1) *Names and addresses of contributors.* The names and addresses of contributors to an organization other than a private foundation shall not be made available for public inspection under section 6104 (b).

(2) *Amounts of contributions.* The amounts of contributions and bequests to an organization shall be available for public inspection unless the disclosure of such information can reasonably be expected to identify any contributor. Notwithstanding the preceding sentence, the amounts of contributions and bequests to a private foundation shall be available for public inspection.

(3) *Foreign organizations.* The names, addresses, and amounts of contributions or bequests of persons who are not citizens of the United States to a foreign organization described in section 4948 (b) shall not be made available for public inspection under section 6104(b).

(4) *Confidential business information.* Confidential business information of contributors to any trust described in section 501(c)(21) (black lung trusts) shall not be available for public inspection under section 6104(b) provided:

(i) A request if filed with the office with which the trustee filed the documents in which the information to be withheld is contained,

(ii) Such request clearly specifies the information to be withheld and the reasons supporting the request for withholding, and

(iii) The Commissioner determines that such information is confidential business information.

Information such as the contributor's estimated total liability for black lung benefits, the contributor's coal pricing policies, or any background information necessary to establish estimated total liability or coal pricing policies are examples of confidential business information that shall not be disclosed to the public under this subparagraph.

Par. 3. Paragraph (c), as redesignated paragraph (d), of § 301.6104(b)–1 is amended by striking out "6033 and 6034 and the annual report required by section 6056" and inserting in lieu thereof "6033, 6034, and 6058" in subparagraph (2) and by striking out "or 6056" and inserting in lieu thereof "or 6058" in subparagraph (3).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-5580 Filed 3-3-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 886

Abandoned Mine Land Program; Grants—Administrative Procedures

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) proposes to amend portions of the abandoned mine land reclamation rules relating to the administrative procedures for State Reclamation Grants. The proposed amendment will eliminate provisions concerning "Recipients' Release" and "Recipients' Assignments of Refunds, Rebates and Credits" when closing out grants. OSM proposes to eliminate forms OSM–62 and OSM–63. This would reduce the number of forms required from the recipient for closing out OSM financial assistance grants. In OSM's effort to reduce the paperwork burden on the recipient as much as possible, it was decided that the forms were unnecessary.

DATES: Written comments must be received on or before 5 p.m. April 14, 1983 at the address listed under **"ADDRESSES"**.

Meetings may be scheduled at the address listed under **FOR FURTHER INFORMATION CONTACT** between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays. Any person interested in a meeting with OSM should contact Don Willen, Chief, Division of Grants Administration, for an appointment at the address or phone number listed under **"FOR FURTHER INFORMATION CONTACT"**.

ADDRESSES: Comments may be mailed or hand carried to: Office of Surface Mining, U.S. Department of the Interior, Administrative Record Number (AML–28), Room 5315, 1100 L Street, N.W., Washington, D.C. 20240, Telephone (202) 343–7896.

FOR FURTHER INFORMATION CONTACT: Donald W. Willen, Chief, Division of Grants Administration, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue N.W., Washington, D.C. 20240, Telephone (202) 343–7951 or 343–4225.

SUPPLEMENTARY INFORMATION

Background

The Abandoned Mine Land Reclamation (AMLR) Program was established under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (the "Act") in response to concern over extensive environmental damage caused by the failure of past coal mining activities to adequately reclaim disturbed lands. Funds are generated by a fee imposed on each ton of coal produced. Congress then appropriates the funds for: (1) Grants to States and Indian tribes to plan and carry out reclamation programs and projects; (2) for Federal reclamation projects carried out by the Secretary of the Interior through OSM and other Interior agencies; and (3) for the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Service.

Proposed Rule Revisions

Section 886.20 presently reads as follows:

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property, and related requirements contained in Office of Management and Budget Circular No. A-102 and use the following forms: OSM-60 (Report of Government Property), OSM-62 (Recipients' Release), and OSM-63 (Recipients Assignments of Refunds, Rebates and Credits).

OSM is proposing to revise 30 CFR 886.20 to eliminate forms OSM-62 and OSM-63. This would reduce the number of forms required from the recipient for closing out OSM financial assistance grants. In OSM's effort to reduce the paperwork burden on the recipient as much as possible, it was decided that the forms were unnecessary.

Form OSM-62 was developed to release OSM from all obigations under the grant or cooperative agreement funding being closed out. OSM Proposes that this information be provided in the grantee's transmittal letter at the time the grantee submits the final close out report.

The transmittal letter will indicate that the recipient discharges the Government from all obligations arising from the agreement, unless any exceptions are noted. Information on audit exceptions will also be included.

The purpose of Form OSM-63 is to provide OSM with a statement indicating that OSM will be entitled to its share and payment of all refunds, rebates, and credits arising from the performance of the agreement.

OSM will be certain that a statement will be included in each grant agreement that will suffice for form OSM-63. This statement will indicate that OSM will be entitled to its share and payment of all refunds, rebates and credits arising from the performance of the agreement.

Procedural Matters

The following determinations have been made by OSM in reference to the proposed rule change:

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility act (5 U.S.C. 601 et seq.).

The Department of the Interior has determined, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), that this action will not have a significant effect on the human environment and an Environmental Impact Statement need not be prepared.

The information collection requirements in the existing AMLR rules were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029-0059.

Form OSM-62 was assigned number 1029-0077 and Form OSM-63 was assigned number 1029-0068.

Author of Rule Change: Carole L. Battle, Division of Grants Administration, Telephone: (202) 343-7921.

List of subjects in 30 CFR Part 886

Coal mining, Grant program natural resources, Reporting requirements, Surface mining, Underground mining.

For the reasons set forth in this preamble, 30 CFR 886.20 is proposed to be revised, as set forth herein.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

Dated: February 3, 1983.

PART 886—STATE RECLAMATION GRANTS

Section 886.20 is revised to read as follows:

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property, and related requirements contained in Office of Management and Budget Circular No. A-102 and use the following form: OSM-60 (Report of Government Property).

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-5463 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on an Amendment to the West Virginia Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of West Virginia to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed program amendment consists of proposed regulations to revise and replace those approved and currently in force as emergency regulations.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments must be received on or before 4 p.m. on April 4, 1983. A public hearing on the proposal will be held from 7 p.m. to 9 p.m. on March 28, 1983, at the OSM Charleston Field Office listed below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston Field Office by the close of business on March 18, 1983. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to:

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the West Virginia program amendment and administrative record on the West Virginia program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. David H. Halsey, Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION: Copies of the West Virginia program amendment, the West Virginia program and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158

Office of Surface Mining, 1100 "L" Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896
West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–9160

In addition, copies of the amendment are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining, Morgantown Area Office, Post Office Box 886, Morgantown, West Virginia 26505, Telephone: (304) 291–4004
Office of Surface Mining, Beckley Area Office, 119 Appalachian Drive, Beckley, West Virginia 25801, Telephone: (304) 255–5265

On February 16, 1983, the State of West Virginia submitted to OSM an amendment to its conditionally approved permanent regulatory program. The West Virginia program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5915–5956). The proposed program amendment consists of proposed regulations to revise and replace those approved and currently in force as emergency regulations. In addition, West Virginia indicated that the proposed regulations do not incorporate the provisions of the Technical Handbook of Standards and Specifications for Mining Operations as regulation as done in the State's conditionally approved program. Instead, design criteria have been incorporated into the proposed regulations and, where necessary, appropriate references made to the Technical Handbook. The Technical Handbook now serves as a technical guideline, rather than regulation. Therefore, this amendment deletes the Technical Handbook from regulation and incorporates it as a program element.

In accordance with the provisions of 30 CFR 732.17, OSM is seeking comments from the public on the adequacy of the proposed program amendment. Upon the close of the public comment period, the Director of the Charleston Field Office will forward transcripts, public comments and a recommendation to the Director of OSM.

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 does not impose any new requirements; rather, it ensures 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 948

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

Dated: March 1, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–5683 Filed 3–3–83; 8:45 am]
BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans Educational Assistance Program Basic Eligibility Criteria; Refund of Participant's Contributions

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations, issued jointly by the VA (Veterans Administration) and Department of Defense, are designed to implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). They make the eligibility criteria for this program more restrictive. These regulations will implement the applicable provisions of this law.

DATES: Comments must be received on or before April 4, 1983. In keeping with Pub. L. 97–66, the VA and Department of Defense propose that these regulations be made effective October 17, 1981.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until April 13, 1983. Anyone visiting Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received in the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: The proposed regulations provide additional criteria which individuals must meet before they can establish basic eligibility to educational benefits under chapter 32, Title 38, United States Code. They also expand the circumstances under which a participant in the Post-Vietnam Era Veteran's Educational Assistance Program may receive a partial refund of his or her contributions. These policy changes are required by law.

The agencies have determined that these proposed regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations therefore are

exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

These regulations will affect only individual VA benefit recipients. They will have no significant impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—Education, Loan programs—Education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 11, 1983.
Approved: February 7, 1983.
By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.
R. Dean Tice,
Deputy Assistant Secretary of Defense.

PART 21—[AMENDED]

1. Section 21.5040 is revised as follows:

§ 21.5040 Basic eligibility.

(a) *Individuals not on active duty.* Whether an individual has basic eligiblity under 38 U.S.C. ch. 32 for educational assistance depends upon when he or she entered the military service, the length of that service, and the character of that service (38 U.S.C. 1602; Pub. L. 97–66, 95 Stat. 1026).

(b) *Service requirements for all individuals not on active duty.* (1) An individual not on active duty—

(i) Must have entered the military service after December 31, 1976;

(ii) Must not have and must not have had basic eligibility under 38 U.S.C. ch. 34;

(iii) Must have received an unconditional discharge or release under conditions other than dishonorable from any period of service upon which eligibility is based;

(iv) Must either have—

(A) Served on active duty for at least 181 continuous days, or

(B) Been discharged or released from active duty for a service-connected disability.

(2) The Veterans Administration will consider that the veteran has an unconditional discharge or release if—

(i) The individual was eligible for complete separation from active duty on the date a discharge or release was issued to him or her, or

(ii) The provisions of § 3.13(c) of this chapter are met.

(3) The provisions of § 3.12 of this chapter as to character of discharge and § 3.13 of this chapter as to conditional discharges are applicable (38 U.S.C. 1602).

(c) *Additional active duty service requirements for some individuals not on active duty—Chapter 32.* (1) Unless exempted by paragraph (d) of this section, perons who originally enlist in a regular component of the Armed Forces after September 7, 1980, or who enter on active duty after October 16, 1981 (either as an enlisted member or an officer) to be eligible under 38 U.S.C. ch. 32, must first complete the shorter of—

(i) 24 continuous months of active duty, or

(ii) The full period for which the individual was called or ordered to active duty.

(2) For the purpose of paragraph (c)(1) of this section the Veterans Administration considers that an enlisted person originally enlisted in a regular component of the Armed Forces on the date he or she entered on active duty even though he or she may have signed a delayed-entry contract on an earlier date.

(3) In computing time served for the purpose of this paragraph, the Veterans Administration will exclude any period during which the individual is not entitled to credit as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous (38 U.S.C. 1602, 3103A; Pub. L. 97–66, 95 Stat. 1026).

(d) *Individuals exempt from additional active duty requirements.* (1) An individual who originally enlists in a regular component of the Armed Forces after September 7, 1980, or who enters on active duty after October 16, 1981 (either as an enlisted member or officer), will be eligible to receive benefits under 38 U.S.C. ch. 32 based upon the ensuing period of active duty, and is exempt from the provisions of paragraph (c) of this section if he or she subsequently—

(i) Is discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(ii) Is found by the Veterans Administration to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in § 3.4(b) of this chapter. Once the Veterans Administration makes this finding, the exemption will continue to apply even if the disability subsequently improves and becomes noncompensable.

(2) An individual who enters on a period of active duty after October 16, 1981 is also exempt from the provisions of paragraph (c) of this section if he or she—

(i) Previously completed a continuous period of active duty of at least 24 months, or

(ii) Was discharged or released from a previous period of active duty under 10 U.S.C. 1171 (early-out discharge).

(3) In computing time served for the purpose of this paragraph, the Veterans Administration will exclude any period during which the individual is not entitled to credit for service as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous (38 U.S.C. 1602, 3103A; Pub. L. 97–66, 95 Stat. 1026).

(e) *Savings provision.* An individual may become a participant and establish basic eligibility under the provisions of this section based upon a period of active duty service which began October 16, 1981. He or she would not lose the basic eligibility based upon that period of service if, following a release from active duty, the individual reenters on active duty after October 16, 1981 and fails to meet the requirements of paragraph (c) of this section or qualify for an exemption under paragraph (d) of this section. He or she will receive a refund of any contributions he or she may make to the fund during the second period of active duty. See § 21.5065 (38 U.S.C. 1602, 3103A; Pub. L. 97–66, 95 Stat. 1026).

(f) *Individuals on active duty.* To establish basic eligibility under 38 U.S.C. ch. 32 for educational assistance an individual on active duty—

(1) Must have entered into military service after December 31, 1976 (38 U.S.C. 1602),

(2) Must have served on active duty for a period of 181 or more continuous days after December 31, 1976, and

(3) If not enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate, must have completed the lesser of the following two periods of active duty: (38 U.S.C. 1631(b))

(i) The individual's first obligated period of active duty which began after December 31, 1976, or

(ii) The individual's period of active duty which began after December 31, 1976, and which is 6 years in length,

(4) If enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate, the individual—

(i) Must be an enlisted member of the Armed Forces,

(ii) Must be a participant

(iii) Must be training during the last 6 months of his or her first period of active duty, or any time thereafter, and

(5) If he or she originally enlisted after September 7, 1980, must have completed at least 24 months of his or her original enlistment (38 U.S.C. 1631(b), 10 U.S.C. 977).

2. Section 21.5065 is revised as follows:

§ 21.5065 Refunds without disenrollment.

(a) *Refunds made without disenrollment following a discharge or release under dishonorable conditions*— (1) *A discharge or release under dishonorable conditions may result in a partial refund of contributions.* If an individual who would have been eligible, but for the fact of his or her re-enlistment, for the award of a discharge or release under conditions other than dishonorable at the time he or she completed an obligated period of service, later receives a discharge or release under dishonorable conditions, the Veterans Administration may refund a portion of his or her contribution (38 U.S.C. 101, 1623).

(2) *Amount of refund.* The Veterans Administration shall refund to the individual all of his or her remaining contributions made to the fund after the individual completed the obligated period of service (38 U.S.C. 101, 1623).

(3) *Date of refund.* The Veterans Administration shall refund all monies due the individual—

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt by the Veterans Administration of notice of the individual's discharge or release, whichever is later (38 U.S.C. 101, 1623, 1632).

(b) *Refunds made without disenrollment following a short period of active duty.* (1) An individual who has contributed to the fund during more than one period of active duty may be required to receive a refund of those contributions made during the most recent period of active duty. When an individual who meets all the criteria in paragraph (b)(2) of this section is discharged, the Veterans Administration will refund all contributions he or she made during the most recent period of active duty unless the individual meets one or more of the criteria stated in either paragraph (b) (4) or (5) of this section. If he or she meets one of those criteria, the contributions will not be refunded unless the individual voluntarily disenrolls.

(2) Unless a compulsory refund is prohibited by paragraph (b) (4) or (5) of this section, the Veterans Administration will refund all contributions made by an individual during the most recent period of active duty when the individual—

(i) Completed at least one period of active duty before the most recent one during which he or she established entitlement to Post-Vietnam Era Veterans' Educational Assistance;

(ii) Reentered on his or her most recent period of active duty after October 16, 1981;

(iii) Contributed to the fund during his or her most recent period of active duty; and

(iv) Is discharged.

(3) The circumstances which prohibit an automatic refund of monies contibuted during the individual's most recent period of active duty do not relate only to the most recent period of active duty which began after October 16, 1981, but also to the individual's prior periods of active duty regardless of whether they began before, after or on October 16, 1981.

(4) Meeting one or more of the following criteria concerning periods of active duty before the most recent one will be sufficient to prohibit a compulsory refund of contributions made during the most recent period of active duty. The individual—

(i) Before the most recent period of active duty began, completed at least one continuous period of active duty of at least 24 months, or

(ii) Was discharged or released under 10 U.S.C. 1171 (early-out discharge) from any period of active duty before the most recent one.

(5) Meeting one or more of the following criteria concerning the most recent period of active duty will be sufficient to prohibit a compulsory refund of contributions made during the most recent period of active duty. The individual—

(i) For the most recent period of active duty completes 24 months of continuous active duty, or the full period for which the individual was called or ordered to active duty, whichever is shorter; or

(ii) Is discharged or released from the most recent period of active duty under 10 U.S.C. 1171 (early-out discharge) or 11173 (hardship discharge); or

(iii) Is discharged or released from the most recent period of active duty for a disability incurred or aggravated in line of duty; or

(iv) Has a service-connected disability which give him or her basic entitlement to disability compensation as described in § 3.4(b) of this chapter.

(6) In computing time served for the purpose of this paragraph, the individual is not entitled for credit for service as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous.

(7) The Veterans Administration shall refund all monies due the individual—

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt of notice by the Veterans Administration of the individual's discharge or release, whichever is later.

(38 U.S.C. 1602, 1623, 1632, 3103A; Pub. L. 97-66, 95 Stat. 1026).

[FR Doc. 83-5516 Filed 3-3-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL-2314-6]

Proposed National Priorities List, Appendix B of the National Oil and Hazardous Substances Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") proposes to add to the proposed National Priorities List (47 FR 58476) one additional site, Times Beach, Missouri. The National Priorities List ("NPL") was proposed on December 30, 1982, as an amendment to the National Oil and Hazardous Substances Contingency Plan ("NCP") (47 FR 31180). The NCP was promulgated as required by Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") which also required that the NCP include a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants in the United States, and that the list be revised at least annually. The NPL identifies priority releases for Fund-financed remedial action and enforcement under CERCLA. EPA is taking this step pursuant to the requirement of CERCLA. Placement of Times Beach on the NPL at this time allows the Agency an opportunity to evaluate the widest range of long and short term responses to the release, taking into account the threat to public health and current dislocation of most residents and businesses.

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

ADDRESSES: Comments on this action may be mailed to Russell H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548-E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the NPL will contain the applicable Hazard Ranking System score sheets for the Times Beach site as well as a Documentation Record.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance 382-2203.

SUPPLEMENTARY INFORMATION: The NPL was proposed on December 30, 1982. Subsequent to its proposal, the Times Beach site came to the Agency's attention as a serious candidate for inclusion on the NPL.

The Time Beach, Missouri, site was one of over 100 sites in the State of Missouri at which dioxin contamination was suspected in November 1982. Extensive sampling by EPA in Times Beach in late November-early December 1982 confirmed the presence of dioxin along roadway areas. After the area was flooded in December, EPA returned to re-sample the area and again confirmed the presence of dioxin in residences and yards as well as the roadway areas.

The second round of sampling provided adequate data to assess the nature and extent of the release and to assist in determining its priority for Fund-financed response as required by § 300.66(b) of the National Contingency Plan. The results of the scoring indicated Times Beach should be placed on the NPL.

The decision to add Times Beach to the NPL immediately rather than waiting for the first update stems from the serious nature of the problem. Dioxin is one of the most toxic substances known to man; it is carcinogenic and suspected to have effects on reproductive systems. The area where the dioxin is located was completely flooded and most of the residents are in temporary housing awaiting a determination of the appropriate action necessary to deal with the release. Placement of Times Beach on the NPL at this time allows the Agency an opportunity to evaluate the widest range of long and short term responses to the release, taking into account the threat to public health and current dislocation of most residents and businesses.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous material, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: February 22, 1983.

Anne M. Burford,

Administrator.

PART 300—[AMENDED]

It is proposed to add an additional site on the National Priorities List which is Appendix B, a proposed amendment to 40 CFR Part 300. The site would appear as the next to last site in Group 5, as follows:

GROUP 5

EPA region	State	City/county	Site name	Response status*
07	MO	Times Beach	Times Beach	D

* V = Voluntary or Negotiated Response, R = Federal and State Responses, E = Federal and State Enforcement, D = Actions to be Determined.

[FR Doc. 83-5487 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-01-M

Notices

Federal Register
Vol. 48, No. 44
Friday, March 4, 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 AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82-078]

Disqualification Under the Horse Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of disqualification.

SUMMARY: This notice is to advise the general public and the horse industry of certain individuals who have been disqualified under the Horse Protection Act, for specified terms, from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. Hall, Chief Staff Veterinarian, Interstate Inspection and Compliance Staff, Federal Building, Room 806, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection Act (15 U.S.C. 1825(c)) provides authority for disqualifying persons from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction. This document gives notice that the following individuals have been disqualified, for the terms specified, from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction.

1. Name: Don Bain
   Address: Ooltewah, Tennessee
   Disqualification Period: March 1, 1982, through February 28, 1983
2. Name: Steve Smith
   Address: Emporia, Kansas
   Disqualification Period: March 1, 1982, through February 28, 1983
3. Name: Rodney W. Dick
   Address: Franklin, Tennessee
   Disqualification Period: June 1, 1982, through May 31, 1985

Any person who knowingly fails to obey a disqualification order shall be subject to a civil penalty of not more than $3,000 for each violation. Any horse show, exhibition, sale, or auction, or its management, which knowingly allows any disqualified person to judge, manage, or participate in a horse show, exhibition, sale, or auction in violation of a disqualification order shall be subject to a civil penalty of not more than $3,000 for each violation.

Done at Washington, D.C., this 28th day of February 1983.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-5572 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-34-M

Office of the Secretary

Privacy Act of 1974; Amendment of Existing Systems of Records

AGENCY: Department of Agriculture.

ACTION: Notice of amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act System of Records: USDA/FNS-5, Investigations of Fraud, Theft, or Other Unlawful Activities of Individuals Involving Food Stamps. The amendment updates information in the Privacy Act System of Records and provides for automation of subcategories of data within the system. A full description of the existing System of Records was last published in the Federal Register on November 2, 1978, at 43 FR 51302.

EFFECTIVE DATE: The amendment to the USDA/FNS Privacy Act System of Records is effective April 4, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, Privacy Act Officer, Administrative Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. Telephone (703) 756-3234.

SUPPLEMENTARY INFORMATION: The Department maintains a System of Records relating to individuals investigated for fraud or other unlawful activities involving food stamps. The system is currently maintained manually through file folders indexed by name, State and fiscal year of receipt. The amendment provides for automation of subcategories of data within the system. The Department is presently establishing an automated data base containing information on individuals disqualified from participation in the Food Stamp Program for intentional Program violation. The amendment also updates certain information in the system to reflect changes which have occurred in the intervening years since it was last published in full, such as changes in addresses and authority for maintenance of the system.

Dated: February 25, 1983.

John R. Block,

Secretary.

USDA/FNS-5

SYSTEM NAME:

Investigations of Fraud, Theft, or Other Unlawful Activities of Individuals Involving Food Stamps—USDA/FNS.

SYSTEM LOCATION:

Office of the Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Room 1138, Alexandria, Virginia, 22302, and FNS Regional Offices located in: Atlanta, Georgia which covers the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; Burlington, Massachusetts which covers the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont; Chicago, Illinois which covers the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; Dallas, Texas which covers the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas; Denver, Colorado which covers the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming; Robbinsville, New Jersey which covers the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia; San Francisco, California which covers the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territories of the Pacific, and Washington.

The address of each Regional Office is listed in the telephone directory of the respective cities listed above under the heading "United States Government, Department of Agriculture, Food and Nutrition Service."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

78 Stat. 703 as amended; 7 U.S.C. 2011–2029; and 7 CFR 271–273.

* * * * *

STORAGE:

Records are maintained in file folders and in an on-line, direct access computer file at the addresses listed above.

RETRIEVABILITY:

Records are indexed by name, Social Security number, State and, in the case of the manual records, by fiscal year of receipt.

SAFEGUARDS:

Manual records are kept in either locked file cabinets or locked offices. The computer discs will have a password master file access and the discs will be kept in locked filing cabinets or locked offices in a secured area.

RETENTION AND DISPOSAL:

Manual records will be retained in active files until the end of the fiscal year following the fiscal year in which the investigations are closed. Thereafter, they are transferred to Federal Records Centers and maintained for three additional fiscal years before disposal. The computer files are to be maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302 (703–756–3026), or the appropriate Regional Food Stamp Program Director at the address listed above.

* * * * *

[FR Doc. 83-5284 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Environmental Impact; Spring Lake Watershed, Illinois

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Spring Lake Watershed, McDonough County, Illinois.

FOR FURTHER INFORMATION CONTACT: John J. Eckes, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois 61820, Telephone (217) 398–5267.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John J. Eckes, States Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are erosion, sedimentation, water quantity, and resource base degradation. The planned works of improvement include conservation tillage systems, terraces, diversions, outlets, land conversion, critical area treatment, grassed waterways, grade stabilization structures, field borders, wildlife habitat management, and livestock exclusion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John J. Eckes.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 16, 1983.

John J. Eckes,

State Conservationist.

[FR Doc. 83-5544 Filed 3-3-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Brown University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00346. Applicant: Brown University, Division of Biology and Medicine, Box G, Providence, Rhode Island 02912. Instrument: Digamax Gas Mixing Pump Type 2M 303/a–F 110V/60Hz. Manufacturer: H. Wosthoff, KG, West Germany. Intended use of instrument: See Notice on page 41411 in the **Federal Register** of September 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument produces three component gas mixtures, such as Oxygen, Carbon Dioxide and Nitrogen, to plus or minus three percent accuracy. The Department of Health and Human Services advises in its memorandum dated December 29, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-5518 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

University of Massachusetts at Amherst; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00314. Applicant: University of Massachusetts at Amherst, Amherst, MA 01003. Instrument: Minispin with Pocket Computer complete with Printer and Interface. Manufacturer: Molspin Ltd., United Kingdom. Intended use of instrument: See Notice on page 41797 in the **Federal Register** of September 22, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is a portable instrument with a sensitivity of better than 0.1×10^{-6} electromagnetic units per cubic centimeter. The National Bureau of Standards advises in its memorandum dated January 18, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-5513 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00320. Applicant: University of Rochester, 601 Elmwood Avenue, Rochester, NY 14642. Instrument: Pulsating Bubble Surfactrometer without Recorder and Accessories. Manufacturer: Surfactometer International, Canada. Intended use of instrument: See Notice on page 41798 in the **Federal Register** of September 22, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument makes measurement at body temperature and humidity as well as at a normal breathing rate. The Department of Health and Human Services advises in its memorandum dated December 29, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purpose as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory, Import Programs Staff.

[FR Doc. 83-5515 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

Carbon Steel Wire Nails From Japan; Announcement of Second Quarter Monitoring Prices

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of Second Quarter 1983 Monitoring Prices for Carbon Steel Wire Nails from Japan.

SUMMARY: The Department of Commerce continues to monitor imports of carbon steel wire nails from Japan in accordance with an August 11, 1981 memorandum of understanding which expires two years from its inception. The Department announces that second quarter 1983 monitoring prices for carbon steel wire nails from Japan have declined 1.5 percent from the first quarter 1983 levels. The second quarter 1983 monitoring price applies to those products exported to the United States on or after April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Juanita S. Kavalauskas, Agreements Compliance Division, Import Administration, Room 3099, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION: In compliance with a memorandum of understanding submitted August 10, 1981, Japanese nail manufacturers provided assurances that all contracts for the sale of carbon steel wire nails to the United States below trigger prices ceased on or about March 5, 1981, and that all sales of the product for a two year period beginning August 11, 1981 would be made at prices at or above the relevant trigger prices.

The Japanese nail manufacturers agreed to supply all costs of production and transportation information necessary to monitor the import prices. The Japanese manufacturers agreed that if the Trigger Price Mechanism (TPM) were terminated or suspended prior to the two year period, they would continue to provide TPM type cost information through the Japanese Ministry of International Trade and Industry (MITI) in order that the Department of Commerce could continue to calculate monitoring prices. The TPM was suspended January 11, 1982 and trigger price monitoring was

reinstated only for stainless steel round wire products in April 1982.

Commerce will continue to monitor imports of certain carbon steel wire nails from Japan through the use of Special Summary Steel Invoices to assure compliance with the second quarter 1983 price levels.

For its calculation of monitoring price levels the dollar/yen exchange rate the Department uses to convert Japanese steel producers' yen-denominated production cost to dollars is the average of the 36 months preceding the calculation and publication of the quarter's monitoring price levels. The exchange rate used in the Department's second quarter 1983 production cost estimate is 232 yen to the dollar (the yen/dollar exchange rate average for February 1980 through January 1983).

Commerce's dollar valued estimate of the current production cost to Japan's wire nail producers declined 1.5 percent from the first quarter 1983 level, due to a decline in the cost of wire rod.

Other Charges

The second quarter 1983 carbon steel wire nail monitoring prices are an estimate of the Japanese nail manufacturers' production cost plus the cost of transporting to the United States and handling in the United States. Thus, charges for ocean freight, interest, handling and insurance must be added to the production costs described above and reflected in monitoring price base and extras the freight and handling charges remain unchanged from first quarter 1983 levels. Interest charges have been adjusted to reflect the current prime interest rate.

A list of the carbon steel wire nails subject to monitoring and applicable base prices and extras are reproduced in the Appendix to this notice.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1983.

Appendix—Monitoring Prices for Carbon Steel Wire Nails From Japan

AISI CATEGORY 20

[2d quarter base price per metric ton—$393]

Charges to CIF	Ocean freight	Handling	Interest
Pacific Coast	$51	$9	$9
Gulf Coast	65	5	12
Atlantic Coast	70	4	12
Great Lakes	79	4	14

Insurance 1% of base price + extras + ocean freight.

Extras:

1. General Extras.

2. Regular and Semi-Regular Wire Nails.

3. Smooth Shank Specialty Wire Nails Special Order Size Extras.

4. Ring, Screw and Fluted Shank Specialty Wire Nails Special Order Size Extras.

1. General.

	Extras
A. Machine use quality	38
B. Packing standard 50 lb. carton (loose).	Base.
100 lb. carton	Base.
1 lb. × 50	215
5 lb. × 10	129
C. Palletizing	17
D. Quantity:	
Less than 2,400 lb. per: Size, order, marking, destination, shipment.	14

BILLING CODE 3510-25-M

Regular and Semi-Regular Nail Extras ($/M.T.)

(1) Bright Common Nails

		Size Extra
2 d ASWG	# 15 x 11/64" x 1"	$ 91
3 d	# 14 x 13/64" x 1-1/4"	75
4 d	# 12-1/2 x 1/4" x 1-1/2"	61
5 d	# 12-1/2 x 1/4" x 1-3/4"	50
6 d	# 11-1/2 x 17/64" x 2"	33
7 d	# 11-1/2 x 17/64" x 2-1/4"	31
8 d	# 10-1/4 x 9/32" x 2-1/2"	26
9 d	# 10-1/4 x 9/32" x 2-3/4"	26
10 d	# 9 x 5/16" x 3"	22
12 d	# 9 x 5/16" x 3-1/4"	22
16 d	# 8 x 11/32" x 3-1/2"	18
20 d	# 6 x 13/32" x 4"	Base
30 d	# 5 x 7/16" x 4-1/2"	31
40 d	# 4 x 15/32" x 5"	31
50 d	# 3 x 1/2" x 5-1/2"	31
60 d	# 2 x 17/32" x 6"	37

(2) Bright Smooth Box Nails

2 d ASWG	# 15-1/2 x 3/16" x 1"	$110
3 d	# 14-1/2 x 7/32 x 1-1/4"	89
4 d	# 14 x 7/32" x 1-1/2"	72
5 d	# 14 x 7/32" x 1-3/4"	57
6 d	# 12-1/2 x 17/64" x 2"	44
7 d	# 12-1/2 x 17/64" x 2-1/4"	43
8 d	# 11-1/2 x 19/64" x 2-1/2"	37
9 d	# 11-1/2 x 19/64" x 2-3/4"	37
10 d	# 10-1/2 x 5/16" x 3"	31
12 d	# 10-1/2 x 5/16" x 3-1/4"	31
16 d	# 10 x 11/32" x 3-1/2"	29
20 d	# 9 x 3/8" x 4"	26
30 d	# 9 x 3/8" x 4-1/2"	44
40 d	# 8 x 13/32" x 5"	44

(3) Bright Finishing Nails Cupped Head

3 d ASWG	# 15-1/2 x # 12-1/2 x 1-1/4"	$109
4 d	# 15 x # 12 x 1-1/2"	87
5 d	# 15 x # 12 x 1-3/4"	80
6 d	# 13 x # 10 x 2"	53
8 d	# 12-1/2 x # 9-1/2 x 2-1/2"	50
9 d	# 12-1/2 x # 9-1/2 x 2-3/4"	50
10 d	# 11-1/2 x # 8-1/2 x 3"	44
12 d	# 11-1/2 x # 8-1/2 x 3-1/4"	44
16 d	# 11 x # 8 x 3-1/2"	43

(4) Bright Casing Nails

2 d ASWG	# 15-1/2 x # 12-1/2 x 1"	$125
3 d	# 14-1/2 x # 11-1/2 x 1-1/4"	99
4 d	# 14 x # 11 x 1-1/2"	76
5 d	# 14 x # 11 x 1-3/4"	69
6 d	# 12-1/2 x # 9-1/2 x 2"	51
7 d	# 12-1/2 x # 9-1/2 x 2-1/4"	50
8 d	# 11-1/2 x # 8-1/2 x 2-1/2"	44
9 d	# 11-1/2 x # 8-1/2 x 2-3/4"	44
10 d	# 10-1/2 x # 7-1/2 x 3"	43
12 d	# 10-1/2 x # 7-1/2 x 3-1/4"	43
16 d	# 10 x # 7 x 3-1/3"	37

(5) E/G (Electro Galvanized) Common Nails

2 d ASWG	# 15 x 11/64" x 1"	$194
3 d	# 14 x 13/64" x 1-1/4"	176
4 d	# 12-1/2 x 1/4" x 1-1/2"	163
5 d	# 12-1/2 x 1/4" x 1-3/4"	152
6 d	# 11-1/2 x 17/64" x 2"	121
7 d	# 11-1/2 x 17/64" x 2-1/4"	117
8 d	# 10-1/4 x 9/32" x 2-1/2"	111
9 d	# 10-1/4 x 9/32" x 2-3/4"	111
10 d	# 9 x 5/16" x 3"	107
12 d	# 9 x 5/16" x 3-1/4"	107
16 d	# 8 x 11/32" x 3-1/2"	104
20 d	# 6 x 13/32" x 4"	87
30 d	# 5 x 7/16" x 4-1/2"	117
40 d	# 4 x 15/32" x 5"	117
50 d	# 3 x 1/2" x 5-1/2"	117
60 d	# 2 x 17/32" x 6"	125

(6) E/G Smooth Box Nails

		Size	Extra
2 d	ASWG	# 14-1/2 x 3/16" x 1"	$213
3 d		# 14-1/2 x 7/32" x 1-1/4"	192
4 d		# 14 x 7/32" x 1-1/2"	174
5 d		# 14 x 7/32" x 1-3/4"	159
6 d		# 12-1/2 x 17/64" x 2"	133
7 d		# 12-1/2 x 17/64" x 2-1/4"	131
8 d		# 11-1/2 x 19/64" x 2-1/2"	125
9 d		# 11-1/2 x 19/64" x 2-3/4"	125
10 d		# 10-1/2 x 5/16" x 3"	117
12 d		# 10-1/2 x 5/16" x 3-1/4"	117
16 d		# 10 x 11/32" x 3-1/2"	115
20 d		# 9 x 3/8" x 4"	111
30 d		# 9 x 3/8" x 4-1/2"	133
40 d		# 8 x 13/32" x 5"	133

(7) E/G Finishing Nails Cupped Head

3 d	ASWG	# 15-1/2 x # 12-1/2 x 1-1/4"	$211
4 d		# 15 x # 12 x 1-1/2"	190
5 d		# 15 x # 12 x 1-3/4"	181
6 d		# 13 x # 10 x 2"	141
8 d		# 12-1/2 x # 8-1/2 x 2-1/2"	137
9 d		# 12-1/2 x # 9-1/2 x 2-3/4"	137
10 d		# 11-1/2 x # 8-1/2 x 3"	133
12 d		# 11-1/2 x # 8-1/2 x 3-1/4"	133
16 d		# 11 x # 8 x 3-1/2"	131
20 d		# 10 x # 7 x 4"	125

(8) E/G Casing Nails

2 d	ASWG	# 14-1/2 x # 12-1/2 x 1"	$227
3 d		# 14-1/2 x # 11-1/2 x 1-1/4"	203
4 d		# 14 x # 11 x 1-1/2"	178
5 d		# 14 x # 11 x 1-3/4"	170
6 d		# 12-1/2 x # 9-1/2 x 2"	140
7 d		# 12-1/2 x # 9-1/2 x 2-1/4"	138
8 d		# 11-1/2 x # 8-1/2 x 2-1/2"	133
9 d		# 11-1/2 x # 8-1/2 x 2-3/4"	133
10 d		# 10-1/2 x # 7-1/2 x 3"	131
12 d		# 10-1/2 x # 7-1/2 x 3-1/4"	131
16 d		# 10 x 7 x # 3-1/3"	125

(9) H/D (Hot Dip Galvanized) Common Nails

		Size	Extra
2 d	ASWG	# 15 x 11/64" x 1"	$337
3 d		# 14 x 13/64" x 1-1/4"	320
4 d		# 12-1/2 x 1/4" x 1-1/2"	306
5 d		# 12-1/2 x 1/4" x 1-3/4"	296
6 d		# 11-1/2 x 17/64" x 2"	264
7 d		# 11-1/2 x 17/64" x 2-1/4"	261
8 d		# 10-1/4 x 9/32" x 2-1/2"	255
9 d		# 10-1/4 x 9/32" x 2-3/4"	255
10 d		# 9 x 5/16" x 3"	252
12 d		# 9 x 5/16" x 3-1/4"	252
16 d		# 8 x 11/32" x 3-1/2"	248
20 d		# 6 x 13/32" x 4"	230
30 d		# 5 x 7/16" x 4-1/2"	261
40 d		# 4 x 15/32" x 5"	261
50 d		# 3 x 1/2" x 5-1/2"	261
60 d		# 2 x 17/32" x 6"	269

(10) H/D Smooth Box Nails

2 d	ASWG	# 15-1/2 x 3/16" x 1"	$357
3 d		# 14-1/2 x 7/32" x 1-1/4"	336
4 d		# 14 x 7/32" x 1-1/2"	317
5 d		# 14 x 7/32" x 1-3/4"	303
6 d		# 12-1/2 x 17/64" x 2"	277
7 d		# 12-1/2 x 17/64" x 2-1/4"	275
8 d		# 11-1/2 x 19/64" x 2-1/2"	269
9 d		# 11-1/2 x 19/64" x 2-3/4"	269
10 d		# 10-1/2 x 5/16" x 3"	261
12 d		# 10-1/2 x 5/16" x 3-1/4"	261
16 d		# 10 x 11/32" x 3-1/2"	258
20 d		# 9 x 3/8" x 4"	256
30 d		# 9 x 3/8" x 4-1/2"	277
40 d		# 8 x 13/32" x 5"	277

(11) H/D Finishing Nails Cupped Head

3 d	ASWG	# 15-1/2 x # 12-1/2 x 1-1/4"	$355
4 d		# 15 x # 12 x 1-1/2"	334
5 d		# 15 x # 12 x 1-3/4"	325
6 d		# 13 x # 10 x 2"	284
8 d		# 12-1/2 x # 9-1/2 x 2-1/2"	281
9 d		# 12-1/2 x # 9-1/2 x 2-3/4"	281
10 d		# 11-1/2 x # 8-1/2 x 3"	277
12 d		# 11-1/2 x # 8-1/2 x 3-1/4"	277
16 d		# 11 x # 8 x 3-1/2"	275
20 d		# 10 x # 7 x 4"	269

		Total Extra	Size Extra	H/D Extra
	(12) H/D Casing Nails			
2 d	ASWG. # 15-1/2 x # 12-1/2 x 1"	$371	($125)	($246)
3 d	# 14-1/2 x # 11-1/2 x 1-1/4"	345	(99)	(246)
4 d	# 14 x # 11 x 1-1/2"	322	(76)	(246)
5 d	# 14 x # 11 x 1-3/4"	315	(69)	(246)
6 d	# 12-1/2 x # 9-1/2 x 2"	281	(51)	(230)
7 d	# 12-1/2 x # 9-1/2 x 2-1/4"	280	(50)	(230)
8 d	# 11-1/2 x # 8-1/2 x 2-1/2"	274	(44)	(230)
9 d	# 11-1/2 x # 8-1/2 x 2-3/4"	274	(44)	(230)
10 d	# 10-1/2 x # 7-1/2 x 3"	273	(43)	(230)
12 d	# 10-1/2 x # 7-1/2 x 3-1/4"	273	(43)	(230)
16 d	# 10 x # 7 x 3-1/3"	267	(37)	(230)
	(13) Cement Coated Box Nails			
4 d	ASWG # 15 x 13/64" x 1-3/8"		$116	
4-1/2 d	# 15 x 7/32" x 1-1/2"		116	
5 d	# 15 x 7/32" x 1-5/8"		96	
6 d	# 13-1/2 x 1/4" x 1-7/8"		84	
7 d	# 13-1/2 x 1/4" x 2-1/8"		82	
8 d	# 12-1/2 x 17/64" x 2-3/8"		72	
9 d	# 12-1/2 x 17/64" x 2-5/8"		72	
10 d	# 11-1/2 x 19/64" x 2-7/8"		65	
	(14) Cement Coated Corkers Nails			
3 d	ASWG # 15 x 3/16" x 1-1/4"		$121	
4 d	# 13-1/2 x 7/32" x 1-1/2"		93	
5 d	# 13-1/2 x 7/32" x 1-5/8"		84	
6 d	# 12-1/2 x 1/4" x 1-7/8"		72	
7 d	# 12-1/2 x 1/4" x 2-1/8"		69	
8 d	# 11 x 9/32" x 2-3/8"		63	
9 d	# 11 x 9/32" x 2-5/8"		63	
10 d	# 10 x 5/16" x 2-7/8"		59	
12 d	# 10 x 5/16" 3-1/8"		57	
16 d	# 9 x 11/32" x 3-3/8"		56	
20 d	# 7 x 3/8" x 3-7/8"		50	
30 d	# 6 x 13/32" x 4-3/8"		63	
40 d	# 5 x 7/16" x 4-7/8"		63	
50 d	# 4 x 15/32" x 5-3/8"		63	
60 d	# 3 x 1/2" x 5-7/8"		72	

		Size Extra
	(15) Cement Coated Coolers Nails	
3 d	ASWG # 15-1/2 x 3/16" x 1-1/8"	$121
4 d	# 14 x 7/32" x 1-3/8"	93
5 d	# 13-1/2 x 15/64" x 1-5/8"	84
6 d	# 13 x 1/4" x 1-7/8"	72
7 d	# 12-1/2 x 17/64" x 2-1/8"	69
8 d	# 11-1/2 x 9/32" x 2-3/8"	63
9 d	# 11-1/2 x 9/32" x 2-5/8"	63
10 d	# 11 x 19/64" x 2-7/8"	59
	(16) Cement Coated or Vinyl Coated Sinkers Nails	
3 d	ASWG # 15-1/2 x 11/64" x 1-1/8"	$121
4 d	# 14 x 13/64" x 1-3/8"	93
5 d	# 13-1/2 x 7/32" x 1-5/8"	84
6 d	# 13 x 15/64" x 1-7/8"	72
7 d	# 12-1/2 x 1/4" x 2-1/8"	69
8 d	# 11-1/2 x 17/64" x 2-3/8"	63
10 d	# 11 x 9/32" x 2-7/8"	59
12 d	# 10 x 5/16" x 3-1/8"	57
16 d	# 9 x 11/32" x 3-1/4"	56
20 d	# 7 x 3/8" x 3-3/4"	50
30 d	# 6 x 13/32" x 4-1/4"	63
40 d	# 5 x 7/16" x 4-3/4"	63
60 d	# 3 x 1/2" x 5-3/4"	72
	(17) Cement Coated Apple Box Nails	
5 d	ASWG # 14 x 15/64" x 1-5/8"	$ 96
5-1/2 d	# 14 x 15/64" x 1-3/8"	96
	(18) Cement Coated Fruit Box Nails	
4 d	ASWG # 15 x 7/32" x 1-3/8"	$116
	(19) Cement Coated Orange Box Nails	
4 d	ASWG # 15 x 7/32" x 1-1/4"	$116
	(20) Cement Coated Egg Case Nails	
3 d	ASWG # 15 x 7/32" x 1-1/8"	$130

		Size & E/G Extra
	(21) Bright Barbed Roofing Nails	
ASWG	# 11 x 7/16" x 1"	$116
	# 11 x 7/16" x 1-1/4"	105
	# 11 x 7/16" x 1-1/2"	93
	# 11 x 7/16" x 1-3/4"	87
	# 11 x 7/16" x 2"	69
	# 12 x 3/8" x 1"	142
	# 12 x 3/8" x 1-1/4"	127
	# 12 x 3/8" x 1-1/2"	117
	# 12 x 3/8" x 1-3/4"	108
	# 12 x 3/8" x 2"	93
	(22) E/G (Electro Galvanized) Barbed Roofing Nails	
ASWG	# 11 x 7/16" x 1"	$156
	# 11 x 7/16" x 1-1/4"	143
	# 11 x 7/16" x 1-1/2"	130
	# 11 x 7/16" x 1-3/4"	125
	# 11 x 7/16" x 2"	105
	# 12 x 3/8" x 1"	178
	# 12 x 3/8" x 1-1/4"	166
	# 12 x 3/8" x 1-1/2"	156
	# 12 x 3/8" x 1-3/4"	150
	# 12 x 3/8" x 2"	130

		Total Extra	Size Extra	Head Extra
	(23) Bright Duplex Head Nails			
6 d ASWG	# 11-1/2 x 17/64" x 1-3/4"		$ 95	
8 d	# 10-1/4 x 9/32" x 2-1/4"		84	
10 d	# 9 x 5/16" x 2-3/4"		84	
16 d	# 8 x 11/32" x 3"		72	
	(24) Bright Smooth Joist Hanger Nails			
ASWG	# 11 x 9/32" x 1-1/4"		$ 98	
	# 10-1/4 x 9/32" x 1-1/2"		95	
	# 9 x 5/16" x 1-1/2"		95	
	(25) Tempered Hardened Steel Concrete Nails			
ASWG	# 9 x 3/16" x 1"	$253	($109)	($144)
	# 9 x 3/16" x 1-1/2"	249	(105)	(144)
	# 9 x 3/16" x 2"	235	(91)	(144)
	(26) Bright Smooth Shank Drywall Nails			
ASWG	# 12-1/2 x 19/64" x 1-1/8"		$105	
	# 12-1/2 x 19/64" x 1-3/8"		103	
	# 12-1/2 x 19/64" x 1-1/2"		98	
	(27) Bright Barbed Shank Plywood Nails			Barbed Extra
ASWG	# 9 x 5/16" x 2"	$ 92	($ 80)	($12)
	# 9 x 5/16" x 2-1/8"	92	(80)	(12)
	# 9 x 5/16" x 2-1/2"	88	(76)	(12)
	# 10-1/4 x 9/32" x 1-1/4"	98	(86)	(12)
	(28) Bright Barbed Shank Joist Hanger Nails			
ASWG	# 11 x 9/32" x 1-1/4"	$ 99	($ 87)	($12)
	# 10-1/4 x 9/32" x 1-1/2"	94	(82)	(12)
	# 9 x 5/16" x 1-1/2"	94	(82)	(12)
	(29) Bright Barbed Shank Truss Nails			
ASWG	# 11 x 9/32" x 1-1/2"	$ 99	($ 87)	($12)

3. Smooth Shank Specialty Nails Extras ($/M.T.)

		Total Extra	Size Extra	C.C. Extra	Head Extra
	(30) C.C. (Cement Coated) Plaster Board Nails				
ASWG	# 13 x 19/64" x 1"	$133	($107)	($26)	
	x 1-3/8"	133	(107)	(26)	
	x 1-1/2"	129	(103)	(26)	
	# 13 x 11/32" x 1-1/2"	161	(103)	(26)	($32)
	x 1-3/4"	161	(103)	(26)	(32)
	# 13 x 3/8" x 1-1/2"	161	(103)	(26)	(32)
	x 1-3/4"	161	(103)	(26)	(32)
	(31) C.C. Smooth Shank Drywall Nails				
ASWG	# 12-1/2 x 19/64" x 1-3/8"	$129	($103)	($26)	
	x 1-1/2"	124	(98)	(26)	
	# 12-1/2 x 1/4" x 1-3/8"	129	(103)	(26)	
	x 1-1/2"	124	(98)	(26)	
	# 12-1/2 x 11/32" x 1-1/2"	156	(98)	(26)	($32)
	(32) C.C. Barbed Shank Truss Nails				Barbed Extra
ASWG	# 11 x 9/32" x 1-1/2"	$131	($ 93)	($26)	($12)
	(33) C.C. (or Vinyl Coated) Barbed Drywall Nails				Barbed Extra
ASWG	# 14 x 1/4" x 1-1/4"	$145	($107)	($26)	($12)
	# 13 x 19/64" x 1-1/8"	141	(103)	(26)	(12)
	# 12-1/2 x 19/64" x 1-1/2"	136	(98)	(26)	(12)
	(34) Phosphate Coated Drywall Nails (Flat Head)				Phosphate Extra
ASWG	# 14 x 1/4" x 1-1/4"	$164	($107)		($57)
	# 13 x 19/64" x 1-5/8"	160	(103)		(57)

		Total Extra	Size Extra		
	(35) Phosphate Coated Drywall Nails (Full Cup Head)			Phosphate Extra	Full Cup Extra
ASWG	# 14 x 1/4" x 1-1/4"	$188	($107)	($ 57)	($24)
	# 13 x 9/32" x 1-3/8"	184	(103)	(57)	(24)
	# 13-1/2 x 19/64" x 1-5/8"	180	(99)	(57)	(24)
	(36) H/D Galv. Smooth Siding Nails			H/D Extra	
7 d ASWG	# 11-1/2 x 7/32" x 2-1/4"	$314	($ 84)	($230)	
8 d	# 11-1/2 x 7/32" x 2-1/2"	306	(76)	(230)	
	(37) Sterilized Blued Plaster Board Nails			Blued Extra	Head Size Extra
ASWG	# 13 x 19/64" x 1"	$179	($107)	($ 72)	
	x 1-1/8"	179	(107)	(72)	
	x 1-1/2"	175	(103)	(72)	
	# 13 x 3/8" x 1"	211	(107)	(72)	($32)
	(38) Sterilized Blued Lath Nails			Blued Extra	
3 d ASWG	# 15 x 11/64" x 1-1/8"	$205	($133)	($ 72)	
	(39) Sterilized Blued Shingle Nails			Blued Extra	
ASWG	# 15 x 7/32" x 1-1/4"	$205	($133)	($ 72)	

		Total Extra	Size Extra	E/G Extra
(40) E/G Smooth Siding Nails				
5 d ASWG	# 14 x 1-3/4"	$206	($105)	($101)
6 d	# 12-1/2 x 2"	178	(91)	(87)
7 d	# 12-1/2 x 2-1/4"	178	(91)	(87)
8 d	# 11-1/2 x 2-1/2"	171	(84)	(87)
(41) E/G Shingle Nails				
3 d ASWG	# 14 x 1/4" x 1-1/4"	$206	($105)	($101)
4 d	# 13 x 1/4" x 1-1/2"	199	(98)	(101)
(42) E/G Plaster Board Nails				
ASWG	# 13 x 19/64" x 1"	$208	($107)	($101)
	x 1-1/4"	208	(107)	(101)
	x 1-1/2"	199	(98)	(101)
(43) E/G Smooth Joist Hanger Nails				
ASWG	# 9 x 5/16" x 1-1/4"	$196	($ 95)	($101)
	x 1-1/2"	180	(93)	(87)
	# 10-1/4 x 9/32" x 1-1/4"	197	(96)	(101)

		Total Extra	Size Extra	E/G Extra	Barbed Extra
(44) E/G Barbed Shank Joist Hanger Nails					
ASWG	# 8 x 11/32" x 2"	$175	($ 76)	($ 87)	($12)
	# 9 x 5/16" x 1-1/2"	190	(91)	(87)	(12)
	# 10-1/4 x 9/32" x 1-1/2"	194	(95)	(87)	(12)
	# 11 x 19/64" x 1-1/4"	197	(98)	(87)	(12)

		Total Extra	Size Extra	E/G Extra	Barbed Extra
(45) E/G Barbed Shank Plywood Nails					
ASWG	# 10-1/4 x 7/16" x 1-7/8"	$194	($ 95)	($ 87)	($12)
(46) E/G Barbed Shank Truss Nails					
ASWG	# 11 x 9/32" x 1-1/2"	$197	($ 98)	($ 87)	($12)
(47) E/G Barbed Shank Siding Nails					
ASWG	# 14 x 3/16" x 1-3/4"	$218	($105)	($101)	($12)
	# 13-1/2 x 5/32" x 1-1/2"	211	(98)	(101)	(12)

		Total Extra	Size Extra	E/G Extra	T.H. Extra
(48) E/G Tempered Hardened Steel Concrete Stub Nails					
ASWG	# 9 x 5/16" x 1"	$354	($109)	($101)	($144)
	x 1-1/2	350	(105)	(101)	(144)
	x 2"	322	(91)	(87)	(144)

		Total Extra	Size Extra	E/G Extra	Paint Extra	Barbed Extra
(49) E/G Barbed Shank Painted Siding Nails						
ASWG	# 12-1/2 x 3/16" x 2"	$353	($ 91)	($ 87)	($163)	($12)
	x 2-1/2	353	(91)	(87)	(163)	(12)
	# 13 x 3/16" x 1-1/4"	382	(106)	(101)	(163)	(12)
	x 1-1/2"	381	(105)	(101)	(163)	(12)
	x 2"	357	(95)	(87)	(163)	(12)

SPECIAL ORDER SIZE EXTRAS FOR SMOOTH SHANK SPECIALTY NAILS
($/M.T.)

	Gauge								
Length	4-6-1/2	7-8-1/2	9-10-1/2	11-11-1/2	12-12-1/2	13-13-1/2	14-14-1/2	15-16-1/2	17-18
1/2			127						
5/8			110				146	156	174
3/4			101		116	121	136	150	166
7/8			98		109	113	128	144	159
1-1-3/8			95	98	101	105	121	136	
1-1/2-1-7/8			91	93	96	99	113	128	
2-2-3/8		91	87	87	91	95	109		
2-1/2-3		87	84	80	84	87			
3-1/8-4	84	84	76						
4-1/8-5	80	80	68						
5-1/8 up	76	76							

Note: Size extras determined from this table apply only to items 30-49.

3. Ring, Screwed and Fluted Shank Nail Extras ($/M.T.)

		Total Extra	Size Extra	E/G Extra
(50) Bright Annular Threaded Drywall Nails				
ASWG	# 12-1/2 x 19/64" x 1-3/8"	$186		
	# 12-1/2 x 19/64" x 1-1/2"	178		
	# 12-1/2 x 19/64" x 1-5/8"	178		
	# 12-1/2 x 1/4" x 1"	186		
	# 12-1/2 x 1/4" x 1-1/4"	186		
(51) Bright Ring Shank Underlay Nails				
ASWG	# 13 x 3/16" x 1"	$246		
	# 13 x 3/16" x 1-1/4"	242		
	# 13 x 3/16" x 1-3/4"	219		
	# 12-1/2 x 3/16" x 1-1/4"	186		
	# 12-1/2 x 3/16" x 1-3/8"	186		
	# 12-1/2 x 7/32" x 1"	186		
	# 12-1/2 x 7/32" x 1-1/4	186		
	# 12-1/2 x 7/32" x 1-1/2"	186		
	# 12-1/2 x 1/4" x 1-1/4"	186		
	# 12-1/2 x 1/4" x 1-3/8"	186		
	# 12-1/2 x 1/4" x 2"	174		
	# 14 x 3/16" x 1"	356		
(52) E/G Annular Threaded Drywall Nails				
ASWG	# 12-1/2 x 19/64" x 1-1/4"	$287	($186)	($101)
	# 12-1/2 x 19/64" x 1-3/8"	287	(186)	(101)
	# 12-1/2 x 19/64" x 1-1/2"	280	(179)	(101)
	# 12-1/2 x 19/64" x 1-5/8"	279	(178)	(101)
	# 13 x 19/64" x 1"	347	(246)	(101)
	# 13 x 19/64" x 1-5/8"	320	(219)	(101)
(53) E/G Annular Threaded Shake Nails				
ASWG	# 13 x 3/16" x 1-1/2"	$358	($257)	($101)
	# 13 x 3/16" x 1-3/4"	358	(257)	(101)
	# 13 x 3/16" x 2"	301	(200)	(101)

		Total Extra	Size Extra	Blued Extra
(54) Blued Annular Threaded Drywall Nail				
ASWG	# 12-1/2 x 19/64" x 1-1/4"	$258	($186)	($72)
	# 12-1/2 x 19/64" x 1-3/8"	258	(186)	(72)
	# 12-1/2 x 19/64" x 1-1/2"	250	(178)	(72)
	# 12-1/2 x 19/64" x 1-5/8"	250	(178)	(72)
(55) Blued Annular Threaded Underlay Nails				
ASWG	# 14-1/2 x 3/16" x 1"	$435	($363)	($72)
	# 14 x 3/16" x 1"	428	(356)	(72)
	# 14 x 3/16" x 1-1/4"	420	(348)	(72)
	# 13 x 3/16" x 1"	318	(246)	(72)
	# 13 x 3/16" x 1-3/4"	291	(219)	(72)
	# 12-1/2 x 7/32" x 1-1/4"	258	(186)	(72)
	# 12-1/2 x 7/32" x 1-1/2"	258	(186)	(72)
(56) C.C. Annular Threaded Drywall Nails				C.C. Extra
ASWG	#12-1/2 x 19/64" x 1-1/4"	$212	($186)	($26)
	#12-1/2 x 19/64" x 1-3/8"	212	(186)	(26)
	#12-1/2 x 19/64" x 1-1/2"	204	(178)	(26)
	#12-1/2 x 19/64" x 1-5/8"	204	(178)	(26)
	#13 x 19/64" x 1"	272	(246)	(26)
	#13 x 19/64" x 1-1/4"	272	(246)	(26)
(57) H/D Annular Threaded Shake Nails				H/D Extra
ASWG	# 14 x 5/32" x 1-3/8"	$571	($341)	($230)
	# 14 x 5/32" x 1-3/4"	556	(326)	(230)
	# 13 x 5/32" x 2"	428	(198)	(230)
	# 12-1/2 x 13/64" x 2-1/2"	400	(170)	(230)

		Total Extra	Size Extra
	(58) Tempered Hardened Steel Ring Shank Pole Barn Nails		T.H. Extra
ASWG #	7 x 3/8" x 4"	$322	($178) ($144)
#	7 x 3/8" x 5"	352	(208) (144)
	(59) Bright Drive Screw Nails (Regular Steel C-1023)		
ASWG #	12 x 1/4" x 1-1/2"	$174	
#	12 x 1/4" x 2"	170	
#	11-1/2 x 9/32" x 2-1/4"	166	
#	11 x 9/32" x 2-1/4"	166	
#	11 x 9/32" x 2-1/2"	159	
#	10 x 5/16" x 3"	159	
	(60) Bright Drive Screw Nails (Stiff Stock C-1030)		Grade Extra
ASWG #	11-1/2 x 9/32" x 2"	$194	($166) ($28)
#	11-1/2 x 9/32" x 2-1/4"	194	(166) (28)
#	11 x 9/32" x 2-1/2"	187	(159) (28)
	(61) Bright Drive Screw Nails (Stiff Stock C-1040)		Grade Extra
ASWG #	11-1/2 x 9/32" x 2"	$197	($166) ($31)
#	11-1/2 x 9/32" x 2-1/4"	197	(166) (31)
#	11 x 9/32" x 2-1/2"	190	(159) (31)
	(62) C.C. Drive Screw Nails (Regular Steel C-1023)		C.C. Extra
ASWG #	12 x 1/4" x 1-1/2"	$200	($174) ($26)
#	11-1/2 x 9/32" x 2"	192	(166) (26)
#	11-1/2 x 9/32" x 2-1/4"	192	(166) (26)
#	11 x 9/32" x 2-1/2"	185	(159) (26)
#	10 x 5/16" x 3"	185	(159) (26)
#	9 x 5/16" x 3-1/2"	185	(159) (26)

	Total Extra	Size Extra	T/H Extra
(63) Tempered Hardened Steel Drive Screw Nails			
ASWG # 11-1/2 x 9/32" x 2-1/4	$307	($164)	($143)
# 11 x 9/32" x 2-1/2"	301	(158)	(143)
(64) Tempered Hard Steel Drive Screw Flooring Nails			
6 d # 11-1/2 x 13/64" x 2"	$307	($164)	($143)
7 d # 11-1/2 x 13/64" x 2-1/4"	307	(164)	(143)
8 d # 11-1/2 x 13/64" x 2-1/2"	301	(158)	(143)
(65) Bright Annular Threaded Truss Nails			
ASWG # 11 x 9/32" x 1-1/2"	$169	($169)	
(66) Tempered Hardened Steel E/G Screw Siding Nails			E/G Extra
7 d ASWG # 11-1/2 x 7/32" x 2-1/4"	$393	($164)	($143) ($ 86)
8 d ASWG # 11-1/2 x 7/32" x 2-1/2"	395	(166)	(143) (86)
(67) Tempered Hardened Steel Fluted Masonry Nails			
ASWG # 9 x 5/16" x 1"	$336	($193)	($143)
x 1-1/4"	336	(193)	(143)
x 1-1/2"	327	(184)	(143)
x 2"	320	(177)	(143)
x 2-1/2"	302	(159)	(143)
(68) Tempered Hardened Steel H/D Galv. Screw Siding Nails			H/D Extra
7 d ASWG # 11-1/2 x 7/32" x 2-1/4"	$393	($164)	($143) ($ 86)
8 d ASWG # 11-1/2 x 7/32" x 2-1/2"	388	(159)	(143) (86)

SPECIAL ORDER SIZE EXTRAS FOR RING, SCREWED AND FLUTED SHANK SPECIALTY NAILS
($/M.T.)

	Gauge							
Length	4-6-1/2	7-8-1/2	9-10-1/2	11-11-1/2	12-12-1/2	13-13-1/2	14-14-1/2	15-16-1/2
3/4			235				409	
7/8			219			281	385	417
1-1-3/8			200	178	186	242	352	377
1-1/2-1-7/8			194	170	181	219	338	360
2-2-3/8			186	166	174	198	302	
2-1/2-3		166	166	161	166	181		
3-1/8-4	211	166	166					
4-1/2 up	227	200						

Note: Size extras determined from this table apply only to items 50-68.

[FR Doc. 83-5548 Filed 3-3-83; 8:45 am]
BILLING CODE 3510-25-C

Vitamin K From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On November 19, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain. The review covered the period January 1, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the net subsidy to be 3.09 percent *ad valorem*.

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Tom Hodge, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 52206) the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain (41 FR 50419, November 16, 1976). The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by the review is vitamin K, commercially known as menadione sodium bisulfite, imported directly or indirectly from Spain. Such imports are currently classifiable under item 412.6420 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981 and two programs: (1) A rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportacion; and (2) an operating capital loans program.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the notice of preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidy, 3.09 percent of the f.o.b. invoice price, on all shipments of vitamin K from Spain exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties of 2.78 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of November 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 24, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-5597 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

High-Capacity Pagers From Japan; Postponement of Final Decision and Postponement of Hearing

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of final antidumping determination and postponement of hearing.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from Matsushita Communication Industrial Co., Ltd. ("MCI") that the final determination be postponed until not later than 135 days after the date of the preliminary determination, as provided for in § 353.44(b) of the Department of Commerce Regulations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether high-capacity pagers from Japan have occurred at less than fair value until not later than June 16, 1983.

The hearing, originally scheduled for March 4, 1983, at 10:00 a.m., in Conference Room 6802, has been postponed. The new hearing date is April 8, 1983, at 10:00 a.m., in conference room 3708. The prehearing briefs will be due on April 1, 1983.

MCI is qualified to make this request since it is an exporter who accounts for a significant proportion of the merchandise which is the subject of the investigation. The additional time is necessary to enable MCI to prepare adequately for the hearing and to prepare the relevant briefs, which must address several issues raised by this investigation.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Import Administration Specialist, Office of Investigations, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; (202) 377–3464).

SUPPLEMENTARY INFORMATION: On September 15, 1982, the Department of Commerce published notice in the **Federal Register** (47 FR 40679) that it was initiating under section 732(b) of the Tariff Act of 1930 (19 U.S.C. 1673a(b)) an antidumping investigation to determine whether high-capacity pagers from Japan are being or are likely to be sold at less than fair value. The Department published an affirmative preliminary determination on February 1, 1983 (48 FR 4498). The notice stated that, unless the investigation were extended, the Department would issue a final determination not later than April 11, 1983. Section 735(a)(2) of the act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if an exporter who accounts for a significant proportion of the merchandise which is the subject of the investigation requests an extension after an affirmative preliminary determination.

Accordingly, the Department will issue a final determination in this case not later than June 16, 1983.

This notice is published pursuant to section 735(d) of the Act.

Dated: February 23, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-5663 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Fire Codes: Request for Proposals for Revisions of Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Bureau of Standards (NBS) on behalf of NFPA is being undertaken as a public service; NBS does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESS: Richard E. Stevens, Vice President & Chief Engineer, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Richard E. Stevens, at above address, (617) 328-9290.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes.

Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Richard E. Stevens, Vice President & Chief Engineer, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Each person who submits a proposal must include his or her name and address, must identify the notice, and must give reasons for the proposal. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

The NFPA will publish a copy of each written proposal that it receives and the disposition of each proposal by the NFPA Committee as the Technical Committee Report. The NFPA will send a copy of the Technical Committee Report to each person who submits a proposal.

Ernest Ambler,

Director, National Bureau of Standards.

Aviation:	
NFPA 409-1979, Aircraft Hangers	July 22, 1983.
NFPA 421-1973, Aircraft Interior Fire Protection Systems.	July 22, 1983.
Building Construction:	
Proposed NFPA 105, Smoke and Draft Control Door Assemblies.	July 22, 1983.
NFPA 204M-1982, Smoke and Heat Venting.	(Open).
NFPA 205MT-1973, Plastics in Building Construction.	(Open).
NFPA 206M-1976, Building Areas and Heights.	July 22, 1983.
NFPA 220-1979, Types of Building Construction.	July 22, 1983.
NFPA 241-1980, Safeguarding Building Construction and Demolition Operations.	July 22, 1983.
NFPA 703-1979, Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials.	July 22, 1983.
Carbon Dioxide: NFPA 12-1980, Carbon Dioxide Extinguishing Systems.	July 22, 1983.
Chemicals and Explosives:	
NFPA 40-1982, Cellulose Nitrate Motion Picture Film.	Dec. 31, 1985.
NFPA 40E-1981, Pyroxylin Plastic	July 15, 1984.
NFPA 43A-1980, Liquid and Solid Oxidizing Materials.	July 15, 1984.
Proposed NFPA 43B, Organic Peroxide.	July 15, 1984.
NFPA 43C-1980, Gaseous Oxidizing Materials.	July 15, 1984.
NFPA 43D-1980, Pesticides in Portable Containers.	July 15, 1984.
NFPA 45-1982, Laboratories Using Chemicals.	June 30, 1984.
NFPA 490-1980, Ammonium Nitrate	July 15, 1984.
NFPA 493-1978, Intrinsically Safe Process Control Equipment.	Jan. 15, 1984.
NFPA 495-1982, Explosive Materials	Dec. 31, 1984.
NFPA 496-1982, Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations.	Jan. 15, 1984.
NFPA 497-1975, Classification of Class 1 Hazardous Locations for Electrical Installations in Chemical Plants.	Jan. 15, 1984.
NFPA 497M-1983, Group Classification of Flammable and Combustible Vapors and Combustible Dusts.	Jan. 15, 1984.
NFPA 498-1982, Explosives Motor Vehicle Terminals.	Dec. 31, 1984.
Combustible Metals:	
NFPA 48-1981, Magnesium	June 30, 1985.
NFPA 482-1982, Zirconium	June 30, 1985.
NFPA 481-1982, Titanium	June 30, 1985.
Criteria for Accreditation of Fire Protection Education Programs: Proposed NFPA 1461, Criteria for Accreditation of Fire Protection Education Programs.	July 22, 1983.
Dust Explosion Hazards:	
NFPA 65-1980, Processing and Finishing of Aluminum.	(Open).
NFPA 651-1980, Manufacture of Aluminum or Magnesium Powder.	(Open).
Emergency Power Supplies: NFPA 110-1983, Emergency Power Supplies.	July 22, 1983.
Explosion Protection Systems:	
NFPA 68-1978, Explosion Venting	July 22, 1983.
NFPA 69-1978, Explosion Prevention Systems.	July 22, 1983.
Finishing Processes:	
NFPA 33-1982, Spray Application Using Flammable and Combustible Materials.	July 22, 1983.
NFPA 34-1982, Dipping and Coating Processes Using Flammable and Combustible Liquids.	July 22, 1983.
Fire Department Equipment:	
NFPA 1901-1979, Automotive Fire Apparatus.	July 22, 1983.
Proposed NFPA 1903, Testing Fire Dept. Pumpers.	July 22, 1983.
NFPA 1904-1980, Fire Dept. Aerial Ladders and Elevating Platforms.	Nov. 1, 1983.
Fire Hazards of Materials: NFPA 704-1980, Identification of Fire Hazards of Materials.	July 22, 1983.
Fire Hazards in Oxygen-Enriched Atmospheres: NFPA 53M-1979, Fire Hazards in Oxygen-Enriched Atmospheres.	July 22, 1983.
Fire Hose:	
NFPA 1962-1979, Care, Use and Maintenance of Fire Hose including Connections and Nozzles.	July 22, 1983.
Proposed NFPA 1964-1985, Nozzles and Tips for Use in Fire Fighting.	Jan. 13, 1984.
Fire Safety in Race Track Stable Areas: NFPA 150-1979, Fire Safety in Race Track Stables.	Jan. 13, 1984.
Fire Service Professional Standards Development for Fire Fighter Qualifications:	
NFPA 1003-1978, Airport Fire Fighter Professional Qualifications.	July 22, 1983.
Proposed NFPA 1004, Fire Fighter Medical Technician.	July 22, 1983.
Fire Safety for Recreational Vehicles:	
NFPA 501C-1982, Recreational Vehicles.	Jan. 13, 1984.
NFPA 501D-1982, Recreational Vehicle Parks.	Jan. 13, 1984.
Flammable Liquids:	
NFPA 32-1979, Drycleaning Plants	July 22, 1983.
NFPA 36-1978, Solvent Extraction Plants.	July 22, 1983.
NFPA 385-1979, Tank Vehicles for Flammable and Combustible Liquids.	July 22, 1983.
NFPA 386-1979, Portable Shipping Tanks.	July 22, 1983.
Forest:	
Proposed NFPA 297, Telecommunication Systems, Principles and Practices for Rural and Forestry Fire Services.	July 22, 1983.
Proposed NFPA 296, Air Operations for Forest, Brush and Grass Fires.	July 22, 1983.
Libraries, Museums and Historic Buildings:	
NFPA 910-1980, Protection of Library Collections from Fire.	Jan. 13, 1984.
NFPA 911-1980, Protection of Museum Collections from Fire.	Jan. 13, 1984.
Liquefied Natural Gas: NFPA 59A-1979, Liquefied Natural Gas.	July 22, 1983.
Loss Prevention Procedures and Practices:	
NFPA 27-1961, Organization, Training and Equipment of Private Fire Brigades.	Dec. 31, 1984.
NFPA 601-1961, Guard Service in Fire Loss Prevention.	Dec. 31, 1984.
NFPA 601A-1981, Guard Operations in Fire Loss Prevention.	Dec. 31, 1984.
Marine Fire Protection:	
NFPA 87-1980, Construction and Protection of Piers and Wharves.	July 22, 1983.
Proposed NFPA 307, Operation of Marine Terminals.	July 22, 1983.
Mining Facilities: NFPA 121-1961, Mobile Surface Mining Equipment.	July 22, 1983.
Motor Vehicle and Highway Fire Protection: NFPA 502-1981, Limited Access Highways, Tunnels, Bridges, Elevated Roadway and Air Right Structures.	July 22, 1983.
Protective Equipment for Fire Fighters:	
NFPA 1971-1981, Protective Clothing for Structrual Fire Fighting.	Nov. 1, 1983.
Proposed NFPA 1974, Protective Boots for Fire Fighters.	Nov. 1, 1983.
Proposed NFPA 1975, Station Uniforms.	Nov. 1, 1983.
NFPA 1981-1981, Self Contained Breathing Apparatus.	Nov. 1, 1983.
Proposed NFPA 1983, Personnel Ropes.	Nov. 1, 1983.
Pyrotechnics:	
NFPA 1121L-1982, Model State Fireworks Law.	July 1, 1985.
NFPA 1122-1982, Code for Unmanned Rockets.	July 1, 1985.

NFPA 1123-1982, Public Display of Fireworks.	July 1, 1985.
NFPA 1124, Fireworks (existing NFPA 44A-1974).	April 1, 1983.
Proposed NFPA 1125, Sale and Use of Fireworks.	April 1, 1983.
Signaling Systems:	
Proposed NFPA 72FT-1985, Emergency Communication Systems for High Rise and Other Occupied Buildings.	July 22, 1983.
Proposed NFPA 72G-1985, Audible and Visual Signaling Appliances for Protective Signaling Systems.	July 22, 1983.
Storage:	
NFPA 231-1979, Indoor General Storage.	May 15, 1983.
NFPA 231C-1980, Rack Storage of Materials.	(Open).
Water Extinguishing Systems:	
NFPA 13-1982, Installation of Sprinkler Systems.	July 22, 1983.
Proposed NFPA 13S, Limited Protection Sprinkler Systems for Small Buildings.	July 22, 1983.
NFPA 14-1982, Standpipe and Hose Systems.	(Open).
NFPA 20-1982, Fire Pumps	(Open).
NFPA 22-1981, Water Tanks	April 1, 1983.

[FR Doc. 83-5642 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-13-M

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its fall meeting in November or its annual meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1983 Fall Meeting. The publication of this notice by the National Bureau of Standards (NBS) on behalf of NFPA is being undertaken as a public service; NBS does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Technical Committee Reports will be available for distribution February 25, 1983. Comments received on or before May 13, 1983, will be considered by the NFPA before final action is taken on the proposals.

ADDRESS: The 1983 Fall Technical Committee Reports are available from NFPA, Publications Department, Batterymarch Park, Quincy, Massachusetts 02269. (No charge for single copies.) Comments on the reports should be submitted to Richard E. Stevens, Vice President & Chief Engineer, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Richard E. Stevens, at above address, (617) 328-9290.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment in its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Richard E. Stevens, Vice President & Chief Engineer, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before May 13, 1983, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by September 26, 1983, prior to the Fall Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 14-17, 1983, at the Orlando Hyatt, Orlando, Florida, by NFPA members.

Ernest Ambler,

Director, National Bureau of Standards.

Action at the NFPA Fall Meeting in November 1983 is being proposed on the NFPA standards listed below:

1983 Fall Meeting—Technical Committee Reports

Committee	Document	Action
Aviation:		
Aircraft Rescue Fire Fighting	NFPA 412, Evacuating Foam Fire Fighting Equipment on Aircraft Rescue and Fire Fighting Vehicles.	R.
Chimneys and Other Heat and Vapor Removal Equipment:		
Chimneys, Fireplaces and Venting Systems for Heat Producing Appliances	NFPA 97M, Glossary of Terms Relating to Chimneys, Vents & Heat Producing Appliances.	O-P.
	NFPA 211, Chimneys, Fireplaces, Vents and Solid Fuel Appliances	O-P.
Venting Systems for Cooking Appliances	NFPA 96, Removal of Smoke and Grease-laden Vapors from Commercial Cooking Equipment.	O-P.
Cutting and Welding Practices	NFPA 51B, Cutting and Welding Processes	O-P.
Dust Explosion Hazards:		
Agricultural Dusts	NFPA 61A, Manufacturing and Handling Starch	O-C.
	NFPA 61C, Feed Mills	O-C.
	NFPA 61D, Milling of Agricultural Commodities for Human Consumption	O-C.
Fundamentals of Dust Explosion and Control	NFPA 66, Pneumatic Conveying Systems for Feed, Flour, Grain and Other Agricultural Dusts.	W.
	NFPA 650, Pneumatic Conveying Systems for Combustible Materials	N-O.
Electrical Metalworking Machine Tools, Plastics Machinery and Mass Production Industrial Equipment.	NFPA 79, Metalworking Machine Tools and Plastics Processing Machinery	O-P.
Fire Department Organization	NFPA 1201, Organization for Fire Services	O-C.
Fire Service Training	NFPA 13E, Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems.	O-P.
Fire Tests	NFPA 252, Door Assemblies	O-P.
	NFPA 253, Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.	O-P.
	NFPA 255, Surface Burning Characteristics of Building Materials	O-P.
	NFPA 262, Electrical Tubing and Insulated and Jacketed Wiring	O-P.

1983 FALL MEETING—TECHNICAL COMMITTEE REPORTS—Continued

Committee	Document	Action
Health Care Facilities	NFPA 99, Health Care Facilities Code (incorporating existing NFPA 3M, Emergency Preparedness; NFPA 56A, Inhalation Anesthetics; NFPA 56B, Respiratory Therapy; NFPA 56C, Laboratories; NFPA 56D, Hyperbaric Facilities; NFPA 56E, Hypobaric Facilities; NFPA 56G, Inhalation Anesthetics in Ambulatory Care Facilities; NFPA 56HM, Home Use of Respiratory Therapy; NFPA 56K, Medical Surgical Vacuum Systems; NFPA 76A, Essential Electrical Systems; NFPA 76B, Safe Use of Electricity; NFPA 76C, High Frequency Electricity).	O–C.
Industrial and Medical Gases	NFPA 50A, Gaseous Hydrogen Systems at Consumer Sites	O–P.
	NFPA 51A, Acetylene Cylinder Charging Plants	O–P.
Liquefied Petroleum Gases	NFPA 59, Liquefied Petroleum Gases at Utility Gas Plants	O–P.
Marine Fire Protection	NFPA 302, Motor Craft	O–C.
	NFPA 303, Marinas and Boatyards	O–P.
Mining Facilities	NFPA 120 (existing NFPA 653), Coal Preparation Plants	O–C.
Motor Vehicle and Highway Fire Protection	NFPA 512, Truck Fire Protection	O–P.
	NFPA 513, Motor Freight Terminals	O–P.
Ovens and Furnaces	NFPA 86C, Industrial Furnaces Using a Special Processing Atmosphere	O–C.
Public Fire Services Communications	NFPA 1221, Public Fire Service Communications	O–C.
Rural Fire Prevention and Control	NFPA 1231, Water Supplies for Suburban and Rural Fire Fighting	O–C.
Signaling Systems:		
Household Fire Warning Equipment	NFPA 74, Household Fire Warning Equipment	O–P.
Protective Signaling Systems	NFPA 72H, Testing Fire Alarm Systems	N–O.
Storage:		
	231E, Storage of Baled Cotton	N–O.
General Storage	NFPA 231F, Storage of Roll Paper	N–O.
Water Extinguishing Systems:		
Private Water Supply Piping Systems	NFPA 24, Private Fire Service Mains and their Appurtenances	O–P.

Types of Action

Proposed Action on Official Documents
- O–P Partial Amendments
- O–C Complete Revision

Proposed Action on New Documents
- N–O Official Adoption

Proposed Action on Tentative Documents
- T–O Official Adoption

Other Proposed Action
- R Reconfirmation
- W Withdrawal

[FR Doc. 83–5641 Filed 3–3–83; 8:45 am]
BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA Commerce.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will meet to report on Swordfish Fishery Management Plan (FMP) public hearings, to date; update the Snapper-Grouper FMP and review activities to date on the Billfish and Calico Scallop FMP's; give a tentative review of the remaining FY 83 budget and discuss other management business as necessary.

DATE: The public meetings will convene on Monday, March 21, 1983, at approximately 1:30 p.m., and will adjourn on Thursday, March 24, 1983, at approximately noon.

ADDRESS: The public meetings will take place at the Council's Headquarters Office, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: March 1, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–5640 Filed 3–3–83; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Export Visa Requirement for Down and Feather-Filled Apparel From India

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring an export visa for down and feather-filled apparel in Categories 353, 354, 653, and 654, produced or manufactured in India.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 21, 1982 between the Government of the United States and India now includes coverage of down and feather-filled apparel. Accordingly, on and after the effective date of this action, it will be necessary for shipments of these products to be visaed by the Government of India in the same manner as other categories of textile products subject to this agreement are currently required to be visaed.

EFFECTIVE DATE: April 15, 1983 for goods exported on and after that date.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On February 9, 1981, there was published in the **Federal Register** (46 FR 11571) a letter dated February 4, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs which permitted entry, effective on February 9, 1981 and until further notice, of down and feather-filled jackets, coats and vests in Categories 353, 354, 653, and 654, produced or manufactured in certain specified countries, including India, without an export visa. This agreement now covers down and feather-filled apparel. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements further amends the directive of February 4, 1981 to the Commissioner of Customs to require export visas for these products,

produced or manufactured in India, effective on April 15, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 1, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the letter of February 4, 1981, which directed you to waive, effective on February 9, 1981 and until further notice, the export visa requirement for feather-filled apparel in Categories 353, 354, 653, and 654 from designated countries, including India.

Effective on April 15, 1983 and until further notice, an export visa will be required for merchandise in Categories 353, 354, 653, and 654, produced or manufactured in India and exported on and after that date.

The actions taken with respect to the Government of India and with the respect to imports of cotton and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Comissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-5511 Filed 3-3-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERLY HANDICAPPED

Procurement List 1983 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: March 4, 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 July 23, 1982, August 6, 1982, and November 12, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 31915, 47 FR 34181, 47 FR 51180) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101):

After consideration of the revelant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

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 services listed.

c. The actions will result in authorizing small entities to provide services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1983:

SIC 7369

Commissary Shelf Stocking, Naval Training Center, Great Lakes, Illinois
Commissary Shelf Stocking, Naval Air Station, Brunswick, Maine
Commissary Shelf Stocking, Naval Construction Battalion Center, Gulfport, Mississippi
Commissionary Shelf Stocking, Naval Administrative Unit, Scotia, New York
Commissionary Shelf Stocking, Naval Air Station, Whidbey Island, Oak Harbor, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 83-5649 Filed 3-3-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983 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 1983 commodities 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: April 6, 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 commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 7690

Folders, Chapel Program, 7690-00-NSH-0001, 7690-00-NSH-0002 (Illustrative Sheets), (Requirements for Wright-Patterson AFB, Ohio only)

Class 8465

Sheath, Tool, Pulaski, 8465-01-067-9999
Sheath, Plastic, Axe, 8465-01-110-2078

SIC 7349

Janitorial/Custodial Services, Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland
Janitorial/Custodial Services, U.S. Army Reserve Center and U.S. Readiness Group, Fort Snelling, Minnesota

C. W. Fletcher,

Executive Director.

[FR Doc. 83-5650 Filed 3-3-83; 8:45]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy, Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Vistors, United States Military Academy
Date of Meeting: 26 April 1983
Place of Meeting: Washington, D.C. (Exact location TBD)
Time of Meeting: 9:30 a.m.
Proposed Agenda: Election of officers; selection of Executive Committee; scheduling of meetings for remainder of year; and identification of areas of interest for 1983.

All proceeding are open. For further information contact Colonel D. P. Tillar, Jr., United States Military Academy, West Point, N.Y. 10996.

For the Board of Visitors:

D. P. Tillar, Jr.,

Executive Secretary, Board of Visitors.

[FR Doc. 83-5576 Filed 3-3-83; 8:45 am]

BILLING CODE 3710-92-M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension (Adjustment to burden only)

Application for Uniformed Services Identification and Privilege Card (DD Form 1172).

Application for Uniformed Services Identification and Privilege Card by retired members, survivors, and other qualified personnel.

Individuals; 204,000 respondents; 51,000 burden hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, DC 20301, telephone (202) 697-1195.

A copy of the information collection request may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695-0643. This survey is under contract.

March 1, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-5389 Filed 3-3-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Nuclear Waste Policy Act of 1982; Public Hearing To Announce Proposal To Nominate Basalt Waste Isolation Project Site, Washington; for Characterization Studies

AGENCY: Department of Energy.

ACTION: Notice of public hearing and solicitation of comments.

SUMMARY: The U.S. Department of Energy has identified a potentially acceptable site in Washington State for a high level radioactive waste repository and proposes to nominate this site for site characterization pursuant to Section 113 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). Pursuant to section 112, an Environmental Assessment will accompany such nomination. Further, a Site Characterization Plan will be developed if the site is approved by the President as a candidate site. The site, referred to as the Basalt Waste Isolation Project (BWIP) site, is located near Richland, Washington on the Department of Energy's Hanford Site. A major objective of the site characterization activity will be the acquisition of geologic information necessary for the evaluation of the suitability of the BWIP site for a repository. Site characterization activities at all candidate sites must be completed within the next four years to support a Departmental recommendation to the President and subsequent Presidential recommendation of a site for a repository to the Congress by March 31, 1987. This notice establishes the hearing date and location, and a public comment period to solicit comments on the nomination, issues to be included in an Environmental Assessment supporting the nomination, and issues to be addressed in the Site Characterization Plan.

DATES: The Hearing is scheduled for March 25, 1983, from 9:00 a.m. to 12:00 noon, 2:00 p.m. to 5:00 p.m., and 7:00 p.m. to 9:00 p.m.

Written requests to schedule time for oral presentation are due by March 20, 1983. Written comments on issues being addressed in the hearing are due by March 31, 1983.

ADDRESSES: The Hearing will be held at the Federal Building, Auditorium, 825 Jadwin Avenue, Richland, Washington.

FOR FURTHER INFORMATION CONTACT: For requests to speak at the hearing, and copies of the draft environment assessment and site characterization report: B. J. Melton, U.S. Department of Energy, Richland Operations Office; P.O. Box 550, Richland, Washington 99352; (509) 376-7162.

Written comments should be submitted to: J. William Bennett, Director, Geologic Repository Division, Nuclear Waste Policy Act Project Office, U.S. Department of Energy, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

Public Hearings

A hearing will be conducted by the Department of Energy (DOE) in Richland, Washington on March 25, 1983. The purpose of this Hearing is to inform residents of the area around the Hanford Site in Washington State of the proposed nomination of the Basalt Waste Isolation Project (BWIP) Site for site characterization. In addition, and pursuant to section 112(b)(2) of the Nuclear Waste Policy Act of 1982, the Department will solicit and receive recommendations of such residents with respect to issues that should be addressed in the Environmental Assessment required by Section 112(b)(1)(E) of the Nuclear Waste Policy Act of 1982, to accompany such nomination, and the Site Characterization Plan described in Section 113(b)(1) of that Act. The BWIP site is located on the DOE managed Hanford Site near Richland, Washington.

Site characterization work at Hanford has been ongoing since 1976. The principal borehole at Hanford was approved in May 1982, and the Exploratory Shaft was begun in November 1982. An environmental assessment for Basalt Waste Isolation Project Exploratory Shaft construction was prepared by the DOE and issued in September of 1982 to meet the requirements of the National Environmental Policy Act of 1969. A finding of no significant impact (FONSI) was published in the **Federal Register** on September 16, 1982. The Nuclear Waste Policy Act of 1982 establishes a new requirement that an environmental assessment evaluating specific issues contained in the Act be prepared. Under the terms of the Act, site characterization work may continue at this site while certain requirements of the Act are being implemented.

Presentations

Parties interested in providing oral presentations at the Hearing may request time not to exceed ten minutes for the purpose of delivering that presentation. A type-written copy of the presentation is requested and should be delivered to the presiding officer before being presented at the Hearing.

Requests for scheduled presentation must be written and mailed or delivered so as to be received at the address noted above no later than March 20, 1983. A person scheduled to appear at the hearing will be notified by DOE of his or her participation. Requests to speak should include a telephone number where the person can be reached up to the day of the hearing.

Individuals who do not make advance requests to speak at the Hearing may register to speak with the presiding officer prior to the start of the Hearing. An opportunity to speak will be provided to these individuals if time permits. However, time for these unscheduled presentations will be limited, depending on the number of requests received and time available.

Written Comments

Parties may also submit written comments on the proposed nomination; the issues to be addressed in the Environmental Assessment; and the issues to be addressed in any Site Characterization Plan. These comments will be added to the Hearing transcript and constitute the official Departmental record of the Hearing. Written comments should be mailed to reach the address noted above by March 31, 1983.

Conduct of Hearing

DOE reserves the right to arrange the schedule of presentations to be heard and to establish additional procedures governing the conduct of the Hearing. Questions may be asked only by those conducting the Hearing. Cross examination of persons presenting statements will not be permitted. Any further procedural rules needed for the proper conduct of the Hearing will be announced by the presiding officer.

Transcripts of the Hearing will be made, and the entire record of the Hearing, including the transcripts, will be retained by DOE and made available for inspection at the public document room, Richland Operations Office, Federal Building, Richland, Washington. Any person may purchase a copy of the transcript of the Hearing from the reporter so identified by the presiding officer.

Additional copies of the complete transcripts will also be available at the public document centers noted below.

Albuquerque Operations Office, National Atomic Museum, Kirkland Air Force Base East, Albuquerque, New Mexico;
Chicago Operations Office, Room 1136, 175 West Jackson Boulevard, Chicago, Illinois;
Idaho Operations Office, 2753 South Highland Drive, Las Vegas, Nevada;
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee;
San Francisco Operations Office, Wells Fargo Building, 1333 Broadway, Oakland, California;
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina; or
Department of Energy, Freedom of Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C.

Document Availability

Prior to enactment of the Nuclear Waste Policy Act of 1982, DOE prepared in November 1982, a Site Characterization Report for the BWIP site and submitted that report to the Nuclear Regulatory Commission, as required by 10 CFR Part 60. That report would form the basis for the Site Characterization Plan required by Section 113 of the Act. DOE has also prepared a draft of the Environmental Assessment for the BWIP site required by section 112(b)(1)(E) of the Act to accompany the nomination of the site for site characterization. That section of the Act also specifies what must be included in that Environmental Assessment. Also pursuant to Section 112 of the Act, DOE issued Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories in the **Federal Register** on February 7, 1983, (48 FR 5670).

DOE is making both the November 1982 Site Characterization Report and a draft of the Environmental Assessment available to facilitate participation by the public in providing comments and recommendations on issues to be addressed in the hearing.

Issued in Washington, D.C. on February 28, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83-5652 Filed 3-3-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Proposal for "Underground Gas Storage Report," Form EIA–191

AGENCY: Energy Information Administration, DOE.

ACTION: Request for Comments on Proposed Form EIA–191, "Underground Gas Storage Report."

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is proposing an extension of Form EIA–191, "Underground Gas Storage Report." The form and instructions are reproduced following this Notice. Interested persons are asked to review the form and instructions and provide comments in the format prescribed below.

DATE: Written comments must be submitted within 30 days of publication of this Notice.

ADDRESS: Comments should be sent to Mr. Gordon Koelling at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: Gordon W. Koelling, Reserves and Natural Gas Division, Office of Oil and Gas, Energy Information Administration, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6305.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Request for Comments.

I. Background

Form EIA–191 requests data on the location, ownership, capacity, and operations of all active underground natural gas storage facilities operated by companies not subject to Federal Energy Regulatory Commission (FERC) jurisdiction. The same data on underground natural gas storage facilities operated by companies subject to FERC jurisdiction are collected on the essentially identical Form FPC–8, "Underground Gas Storage Report." Data received on both forms are merged by EIA in a unified data processing system which provides coverage for all underground natural gas storage operators in the United States.

II. Request for Comments

Form EIA–191 is reproduced following this Notice. Prospective respondents and other interested parties should comment on the form within 30 days following the publication of this Notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider.)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your company require to compete and submit the form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collections? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

(As a potential user.)

A. Can your company analysts use data at the levels of detail indicated on the form?

B. For what purposes would you use these data? Be specific.

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. on February 25, 1983.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

Instructions for Filing Underground Gas Storage Report

General Information

I. *Purpose.*

Form EIA–191 provides date collection on the location, ownership, capacity, and operations of all active underground storage facilities operated by intrastate companies.

II. *Who Must Submit.*

All companies not subject to Federal Energy Regulatory Commission (FERC) jurisdiction that operate underground natural gas storage fields in the United States must provide the information requested.

III. *When to Submit.*

Information requested must be provided within five days after the following dates: the first and fifteenth day of each of the months December through March; and the first day of the months of April through November.

IV. *Where to Submit.*

(1) The report should be sent to the following address: Energy Information Administration: EI–441, Mail Station: BE–079, U.S. Department of Energy, Washington, D.C. 20585, Attention: Form EIA–191.

(2) Requests for futher information and/or additional forms may be directed to the address above, or you may phone (202) 252–6305.

V. *Sanctions.*

This mandatory report is authorized by the Federal Energy Administration Act (Pub. L. 93–275). Failure to report may result in criminal fines, civil penalties, or other sanctions as provided by law.

VI. *Provisions Regarding Confidentiality.*

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (5 U.S.C. 552(b)(4)) (FOIA) or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therfore, you should state briefly and specifically (on an element by element basis, if possible), in a letter accompanying your submission of the form, why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public. DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the EIA–191 is submitted if:

a. Views concerning information items identified as privileged or confidential have not changed; and

b. A written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, to the General Accounting Office, and other Congressional agencies authorized by law to receive such information.

Definitions

Note.—These definitions were taken in part from the American Gas Association Committee on Underground Storage Annual Report.

1. *Base (Cushion) Gas*—The volume of gas needed as a permanent inventory to maintain adequate reservoir pressures and deliverability rates throughout the withdrawal season. All native gas is to be included in the base gas volume.

2. *Injections*—The volume of gas injected during the applicable reporting period.

3. *Native Gas*—Gas in place at the time that the reservoir was converted to storage as contrasted to injected gas.

4. *Reservoir Capacity*—The present developed capacity of the storage reservoir excluding contemplated future development.

5. *Total Gas in Storage*—The sum of base gas and the working gas.

6. *Withdrawals*—Total volume of gas withdrawn during the applicable reporting period.

7. *Working (Top Storage) Gas*—The volume of gas in the reservoir above the designed level of the base. It may or may not be completely withdrawn during any particular withdrawal season. Conditions permitting, the total working capacity could be used more than once during any season.

Specific Instructions

Note.—Items which are self-explanatory are not discussed below.

Part I Identification Data.

Item No.	Instruction
Column (b).....	Enter the reporting company's DOE Code. If you do not presently have a DOE Code, EIA will assign you one. However, prior to your Code Assignment, please submit this form leaving the DOE Code blank.

Part II Gas Storage Report.

Gas Storage Data—Enter the volume of gas (thousands cubic feet at 14.73 psia and 60 degrees Fahrenheit) as required on the form. All information requested in this part of the form must be reported each time the form is submitted. (See definitions at the beginning of the Instructions.)

Data Reported—Due to the limited time allowed for reporting, it is recognized that some companies may have to estimate part of all of the data filed for the reporting period. Enter a check mark in the appropriate box to indicate whether the data reported are actual or estimated.

Joint Ownership. When the operator is also a co-owner of any storage reservoir, he/she shall report the gas in storage owned by non-operating co-owners in Part II B. Respondents to this report who are co-owners in storage reservoirs which they do not operate shall report that portion of their gas in storage in Part II D.

Item No.	Instruction
Columns (a), (b), (c), (d).	Balances Nov. 1 are the balances on hand for Base Gas, Working Gas, Total Gas in Storage and Native Gas included in Column (a) at the beginning of the storage withdrawal year commencing November 1.
Columns (e), (f).	Nov. 1 to date are the accumulated injections and withdrawals for the current storage period from November 1 to the end of the report period.
Columns (a), (b), (c), (d), (e), (f).	Report period are the balances on hand at the end of the report period for Base Gas, Working Gas, Total Gas in Storage and Native Gas included in Column (a) and Injections and Withdrawals made during the report period.
A	Report all gas owned by respondent in storage reservoirs which he/she operates.
B	Report all gas belonging to, stored for, and delivered for the account of a customer or others under storage service or similar contacts including gas belonging to companies that are subject to FERC jurisdiction.
D	Report respondent's gas in reservoirs operated by others. (Respondent's total stored gas should equal A plus D and Part II.)
E	Operators of gas storage reservoirs that are in the development stage shall report in Part II E the gas balances and volumes injected and withdrawn for these storage reservoirs included in Part II A and B. Reservoirs are considered to be in the development stage until such time as withdrawals for regular (authorized) service have commenced.

Part III Certification.

This part must be completed each time the form is submitted. Enter the name and title of the individual designated by the company to sign the certification. This individual must sign in the spaces provided on the form and enter the date of signing.

Part IV Respondent Identification data.

Item No.	Instruction
Column (b)	See Instruction for Part I.

Part V Name, Location and Capacity of Underground Storage Reservoirs

Item No.	Instruction
A	Complete information for Part V is required only on your initial report. Any changes or additions to information initially reported should be reported on subsequent submissions. *Important:* If Part V does not contain enough lines to provide the data requested, reproduce the page before data are entered and provide the requested data on the additional sheet(s). (1) Enter as indicated, the Field and Reservoir Name, the respondent's percentage ownership, the State and county location of the reservoir and the reservoir capacity in thousands of cubic feet at 14.73 psia, 60 degrees Fahrenheit, for all reservoirs operated by the respondent and represented by the reported gas storage data.
	(2) If the respondent's percentage ownership entered in Column C is less than 100 percent, enter as indicated in Part VII the name(s) of the other co-owner(s) of the reservoir and the percentage owned by each.

Part VI Respondent Identification Data.

Item No.	Instruction
Column (b)	See Instructions for Part I.

Part VII Co-Owners of Storage Reservoirs.

Item No.	Instruction
Columns (a), (b), (c), (d).	Enter, as indicated, the Field and Reservoir Names from Part V. List each co-owner of the storage reservoir and his percentage. Do not repeat information on operator's ownership included in Part V.

BILLING CODE 6450-01-M

EIA-191

U.S. Department of Energy
Energy Information Administration, EI-442
Washington, D.C. 20585

Form Approved
OMB No.

UNDERGROUND GAS STORAGE REPORT

THIS REPORT IS MANDATORY UNDER PUBLIC LAW 93-275

FAILURE TO REPORT MAY RESULT IN CRIMINAL FINES, CIVIL PENALTIES, OR OTHER SANCTIONS AS PROVIDED BY LAW.

I. RESPONDENT IDENTIFICATION DATA

(1)

a. IRS EIN Number	b. Base Code	c. Report Period Ending Date (Month / Day / Year)	d. Check if this is a revision to a report previously submitted for the report period indicated.	e. Check box if respondent identification has changed. If name has changed, enter previous NAME:
			☐	☐

(2)

a. Respondent's Name	b. Street Address	c. City/State/Zip Code

(3)

a. Person to contact if Questions arise concerning this report	b. Title	c. City/State	d. Area Code / Telephone No.

II. GAS STORAGE DATA

BALANCES (All volumes in Mcf - 14.73 psia - 60°F) ☐ Estimated ☐ Actual

A. Respondent's Gas in Reservoirs Operated by Respondent

	TIME PERIOD	Base Gas (a)	Working Gas (b)	Total Gas in Storage (c)	Native Gas Included in Column (a) (d)	TIME PERIOD	Injections (e)	Withdrawals (f)
(4)	Balance Nov. 1					Nov. 1 to Date		
(5)	Report Period					Report Period		

B. Gas Belonging to Others in Reservoirs Operated by Respondent

(6)	Balance Nov. 1					Nov. 1 to Date		
(7)	Report Period					Report Period		

C. Total Gas (Sum of A & B)

(8)	Balance Nov. 1					Nov. 1 to Date		
(9)	Report Period					Report Period		

D. Respondent's Gas in Reservoirs Operated by Others

(10)	Balance Nov. 1					Nov. 1 to Date		
(11)	Report Period					Report Period		

E. Reservoirs in Development Stage Included in A and B Above

(12)	Balance Nov. 1					Nov. 1 To Date		
(13)	Report Period					Report Period		

III. CERTIFICATION - I certify that the information submitted on this form is the most accurate available at this time to the best of my knowledge.

NAME (Type or Print)	TITLE	SIGNATURE	DATE

TITLE 18 USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

EIA-191

U.S. Department of Energy
Energy Information Administration, EI-442
Washington, D.C. 20585

Form Approved
OMB No.

UNDERGROUND GAS STORAGE REPORT

IV. RESPONDENT IDENTIFICATION DATA

(1)

a. IRS EIN Number	b. DOE Code	c. Report Period Ending Date (Month / Day / Year)	d. Respondent's Name

V. NAME, LOCATION AND CAPACITY OF UNDERGROUND STORAGE RESERVOIRS

A. Please identify below all reservoirs operated by respondent and used in compiling this report. (See instructions for reporting joint ownership.)

Complete information for Part V is required only on your initial report. Any changes or additions to information initially reported should be reported on subsequent submissions.

IMPORTANT: If this sheet does not contain enough lines to provide the data requested, reproduce this page before data are entered, and provide the requested data on additional sheet(s).

- -(DO NOT WRITE IN SHADED AREA)- -

Line No.	a. FIELD NAME	b. RESERVOIR NAME	c. PERCENT OWNED BY OPERATOR	LOCATION		f. RESERVOIR CAPACITY /000's of Cubic Ft. (Mcf)/ (14.73 psia - 60°F)
				d. STATE	e. COUNTY	
1						
2						
3						
4						
5						
6						
7						
8						

In the box provided, indicate the number of additional sheets attached. ☐

EIA-191

U.S. Department of Energy
Energy Information Administration, EI-442
Washington, D.C. 20585

Form Approved
OMB No.

UNDERGROUND GAS STORAGE REPORT

VI. RESPONDENT IDENTIFICATION DATA

(1)

a. IRS EIN Number	b. Doe Code	c. Report Period Ending Date			d. Respondent's Name
		Month	Day	Year	

VII. CO-OWNERS OF STORAGE RESERVOIRS

Indicate below the name(s) of co-owners of reservoirs operated by the respondent to this report and the percentage owned by each. Do not repeat information on the operator's ownership included in Part V. Information is required on this report form only when Part V is filed.

	a. FIELD NAME	B. RESERVOIR NAME	C. NAME(S) OF CO-OWNERS	d. % OWNED BY CO-OWNERS
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

EIA-191

[FR Doc. 83-5479 Filed 3-3-83; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Consent Order; Texas Pacific Oil Company, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Texas Pacific Oil Company, Inc. (Texas Pacific) and provides an opportunity for public comment on the terms and conditions of the proposed Consenat Order.

DATE: Comments by April 4, 1983.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 200E, Dallas, Texas 75347.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 200E, Dallas, Texas 75247, 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 15, 1983, the ERA executed a proposed Consent Order with Texas Oil Company, Inc. of Dallas, Texas. Under 10 CFR 205.199J (b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Texas Pacific Oil Company, Inc., with its home office located in Dallas, Texas, is a firm engaged in the business of producing and selling crude oil, was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Texas Pacific's transactions involving crude oil during the period September 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"), the ERA and Texas Pacific entered into this Consent Order. The ERA had alleged that during the period covered by this Consent Order, Texas Pacific produced and sold domestic crude oil at prices in excess of the applicable ceiling prices. Texas Pacific denied these allegations, but determined that this Consent Order was an equitable resolution of these allegations which avoided the disruption of its orderly business functions and the expense and inconvenience of protracted and complex litigation.

II. Refunds

A. Disposition of Refunds

Under this Consent Order, Texas Pacific will pay the sum of $500,000 in settlement of the matters covered by this Consent Order. These sums shall be deposited as miscellaneous receipts in the United States Treasury.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Texas Pacific Oil Company, Inc., Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, April 4, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9 (f).

Issued in Dallas, Texas on the 25th day of February, 1983.

Ben, L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-5475 Filed 3-3-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-033; OFP Case No. 65007-9075-05-12]

Powerplant and Industrial Fuel Use, Exemption; Mobay Chemical Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting Mobay Chemical Corporation an exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On November 24, 1982, Mobay Chemical Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting one new major fuel burning installation (MFBI) from the provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or "the Act"), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's. The petitioner requested an exemption under section 212(a)(1)(A)(ii) and 10 CFR 503.32, due to the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Eligibility and evidentiary requirements governing the permanent cost exemption are contained in 10 CFR 503.32.

The proposed MFBI for which the petition was filed is a natural gas-fired packaged boiler (designated as Unit #5) to be installed at the petitioner's Baytown Plant located in Chambers County, Texas. Unit #5 will have a maximum fuel heat input rate of 236 MM Btu per hour.

ERA has determined that the evidence available to it in the record of this proceeding is sufficient to support the issuance of the requested exemption. Therefore pursuant to section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32, ERA hereby issues this order granting a permanent exemption to proposed Unit #5 due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum to the petitioner for the proposed MFBI. The basis for ERA's order and other information relating to the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on the 60th day following publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone (202) 252-2993; or

Marya Rowan, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-222, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone (202) 252-2967.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at: DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

SUPPLEMENTARY INFORMATION: The petitioner proposed to install a natural gas-fired packaged boiler, to be known as Unit #5, at its Baytown plant. The proposed unit will have a 200,000 lbs/hr. capacity and a maximum fuel heat input rate of 236 MM Btu per hour; it is required, according to the petitioner, to provide secure peak steam generating capacity to meet expanded steam demand at the plant in the immediate future. It will thereafter be phased into operation as a baseload unit, gradually replacing a less efficient existing boiler which will be used for stand-by and emergency purposes.

Title II of FUA prohibits the use of natural gas or petroleum as a primary energy source in certain new MFBI's, including proposed Unit #5, unless an exemption from the prohibitions stated therein has been granted by ERA. Section 212(a)(1)(A)(ii) of FUA provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To obtain this type of exemption for proposed Unit #5, the petitioner provided ERA with the following documentary evidence, required by 10 CFR 503.32:

Duly-executed certifications and supporting evidence, as required, which indicate that—

(a) The petitioner had made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source for proposed Unit #5, of the quality and quantity necessary to conform with that unit's design and operational requirements;

(b) The cost of using such a supply, if available, would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit; and

(c) The use of mixtures is not feasible in the proposed unit. Documentary evidence relating to the environmental impact analysis, as well as the fuels search prescribed in 10 CFR 503.14, was also submitted by the petitioner and appears in the administrative record of this proceeding.

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published the notice of its acceptance of the petitioner's petition in the **Federal Register** on December 29, 1982 (47 FR 57990), commencing a 45-day public comment period, during which interested persons were afforded an opportunity to request a public hearing. As required by sections 701(f) and 701 (g) of the Act, ERA also provided copies of the petition to the Environmental Protection Agency and the Federal Trade Commission for comment. The period for submitting comments and for requesting a public hearing closed on February 14, 1983. No hearing was requested and no comments were received.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption, as set forth in 10 CFR 503.32.

Accordingly, pursuant to section 212(a)(1)(ii) of FUA, ERA hereby grants a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum for the proposed MFBI (identified as Unit #5) to be installed at the petitioner's Baytown Plant located in Chambers County, Texas.

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review at any time before sixty days after publication of this order in the **Federal Register.**

Issued in Washington, D.C. on February 25, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–5651 Filed 3–3–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER82–229–000]

Alabama Power Co.; Refund Report

February 28, 1983.

Take notice that on February 14, 1983, Alabama Power Company submitted for filing a refund compliance report pursuant to the Commission's order dated December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 9, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–5488 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–301–000]

Connecticut Light & Power Co.; Refund Report

February 28, 1983.

Take notice that on February 14, 1983, Connecticut Light and Power Company submitted for filing a refund report pursuant to the Commission's order dated December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 9, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–5489 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–319–000]

Oklahoma Gas & Electric Co.; Filing

February 28, 1983.

Take notice that on February 14, 1983, Oklahoma Gas and Electric Company (OG&E) tendered for filing a new Agreement intended to supersede OG&E's Rate Schedule FERC No. 115. This Agreement is the contract between OG&E and the Southwestern Power Administration (SWPA). The new rate is identical to the old rate, and provides for the sale of Replacement Energy and Emergency Service by OG&E to SWPA.

OG&E requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5490 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-317-000]

Pacific Gas & Electric Co.; Filing

February 28, 1983.

Take notice that Pacific Gas and Electric Company (PGandE) on February 9, 1983, tendered for filing proposed changes in its FPC Electric Service Tariffs, Original Volumes Nos. 1 and 2, Rate Schedule R-1, R-2, FPC No. 8 and FPC No. 53. The proposed changes would decrease revenues from jurisdictional sales.

PGandE states that the proposed rates will result in a $31,000 decrease from the rates made effective by the Commission, subject to refund, in Docket No. ER83-154 as of January 1, 1983. PGandE has requested that the rates tendered in this docket be made effective as of January 1, 1983 with no suspension.

PGandE requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the public utility's jurisdictional customers, the California Public Utilities Commission, and the Public Service Commission of the State of Nevada.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5491 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-331-000]

Pacific Power & Light Co.; Filing

February 28, 1983.

Take notice that Pacific Power & Light Company (Pacific) on February 18, 1983, tendered for filing Pacific's Revised Appendix 1 for the State of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Bonneville, the Public Service Commission of the State of Montana and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5492 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-332-000]

Pacific Power & Light Co.; Filing

February 28, 1982

Take notice that Pacific Power & Light Company (Pacific) on February 18, 1983, tendered for filing Pacific's Revised Appendix 1 for the state of Washington. The Revised Appendix 1 calculates an average system cost for the state of Washington applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific request and effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements

Copies of the filing have been served upon Bonneville, the Washington Utilities and Transportation Commission and Bonneville's Direct Service Industrical Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commision, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5493 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket. No. ER82-294-000]

Philadelphia Electric Co.; Refund Report

February 28, 1982.

Take notice that on February 7, 1983, Philadelphia Electric Company submitted for filing a refund report pursuant to the Commission's order of December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, on or before March 9, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5494 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-325-000]

Southern California Edison Co.; Filing

February 28, 1983

Take notice that, on February 16, 1983, Southern California Edison Company

("Edison") tendered for filing agreements entitled, "Edison-Anaheim San Onofre Transmission Service Agreement", which has been executed by Edison and the City of Anaheim, California ("Anaheim"); and "Edison-Riverside San Onofre Transmission Service Agreement", which has been executed by Edison and the City of Riverside, California.

Under the terms and conditions of the Agreements, Edison will make available to Anaheim and Riverside transmission service for their entitlements in the capacity and energy from San Onofre Units 2 and 3 to the respective Points of Delivery at Anaheim and Riverside, California.

The Agreements are proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were submitted upon the Public Utilities Commission of the State of California and the Cities of Anaheim and Riverside, California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 211 and section 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5495 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-330-000]

Southern California Edison Co.; Filing

Take notice that on February 17, 1983, Southern California Edison Company (Edison) tendered for filing an Amendment to the Edison-Anaheim Interruptible Transmission Service Agreement (Amendment), which has been executed by Edison and City of Anaheim (Anaheim), California, on January 30, 1981, as well as an Amendment to the Edison Riverside Interruptible Transmission Service Agreement (Amendment), which has been executed by Edison and the City of Riverside (Riverside), California, on January 27, 1981.

Edison states that the Amendment provide for the establishment of an additional point of receipt for interruptible transmission service under Edison's Rate Schedule FERC Nos. 129 and 130.

Edison requests an effective date of January 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protestors should be filed on or before March 16, 1983. Protestors will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5496 Filed 3-3-83; 8:45 am]

BILLING CODE 617-01-M

[Docket No. EF79-4011-000 and EF82-4011-000]

Southwestern Power Administration; Order Granting Motion and Conditionally Confirming and Approving Rates on a Final Basis for Additional Period

Issued: February 25, 1983.

On January 25, 1982, the Commission, upon reconsideration, confirmed and approved certain rates and charges for the sale of power filed by the Southwestern Power Administration (SWPA).[1] SWPA had originally requested that the rates be placed in effect on a final basis through September 30, 1983. In its order, however, the Commission confirmed and approved the rates only through September 30, 1982. The Commission's decision to limit the effective period of the rates was based upon a district court ruling which had held that a rate schedule proposed by SWPA for one of its customers, Tex-La, could not be placed in effect on an interim basis, prior to final confirmation and approval of the rates by the FERC.[2] As a result of this ruling, it appeared that SWPA would collect less during the interim period than it would have otherwise collected from Tex-La, barring the district court's decision. In light of the revenue shortfall produced by the reduction in interim collection, the Commission limited the effective period of the rates in order to allow SWPA to submit rates prior to September 30, 1982 which would, among other things, recover the revenue deficiencies produced by having SWPA's previous rates applicable to Tex-La in effect during the interim period rather than the Commission's finally approved rates. 18 FERC ¶ 61,052, 61,088.

Since September 30, 1982, the Commission has granted a series of limited extensions of SWPA's system power rates in order to consider a request by the Administrator, submitted by and through the Assistant Secretary for Conservation and Renewable Energy (AS/CE) of the U.S. Department of Energy to extend final confirmation and approval of the present system power rates through September 30, 1983, the date originally requested as the end of the effective period. In support of its request, SWPA states that it is unable to timely file new rates because of the amount of time required for compliance with the Department of Energy's regulations relating to public participation in the rate-making process. SWPA further states that it:

> Has determined that, at this time, its best interest will be served by avoiding further obstacles created by the interim rate controversy. Therefore, the proposed System Rates would not be placed into effect until confirmed and approved by the FERC.

Discussion

We need not address SWPA's statements regarding the time required for filing substitute rates since another basis appears for extending our rate approval in this case. On November 26, 1982, the United States Court of Appeals for the Fifth Circuit, *inter alia*, overruled the district court decision in the case of *United States of America* v. *Tex-La Electric Cooperative, Inc.*,[3] holding that the Assistant Secretary did have the interim ratemaking authority to place rates into effect on an interim basis prior to final confirmation and approval of the rates by the FERC.[4] As a result of the reversal of the district court's decision, it appears that SWPA may collect more over the period during which the rates were in effect on an

[1] "Order on Reconsideration," Docket No. EF79-4011, 18 FERC ¶ 61,052.

[2] *United States of America* v. *Tex-La Electric Cooperative, Inc.*, 524 F. Supp. 409 (E. D. La. 1981).

[3] 693 F. 2d 392 (5th Cir., 1982), *reversing United States* v. *Tex-La Electric Coop., Inc., supra*, 524 F. Supp. 409.

[4] *Tex-La, supra*, 693 F. 2d at 411-412.

interim basis than it would have under the lower court's ruling. This additional revenue recovery, or course, would be contingent upon SWPA actually collecting the difference between the interim rates and the final rates during the effective period.

In light of the U.S. Circuit Court's ruling and the potential effect of this decision upon SWPA's revenue collection during the interim period, the Commission finds that it is appropriate to confirm and approve SWPA's rates on a final basis for the additional period October 1, 1982, through September 30, 1983.[5]

The Commission orders:

(A) The Assistant Secretary's request for an extension of final confirmation and approval of SWPA's present rates is hereby granted.

(B) The rates and charges for the sale of power presently being collected by the Southwestern Power Administration are hereby confirmed and approved on a final basis for the additional period October 1, 1982 through September 30, 1983 *provided,* however, that SWPA shall attempt to collect from Tex-La the difference between the final Commission approved SWPA rates and the previous rates applicable to Tex-La that were in effect on an interim basis during the period April 1, 1979 through September 30, 1982, consistent with the U.S. Court of Appeals decision in *United States* v. *Tex-La, Inc.,* 693 F.2d 392 (1982).

(C) The Secretary shall promptly publish this order in the **Federal Register.**

[5] We note that the U.S. Court of Claims in a separate decision held that SWPA was not entitled to collect rates on an interim basis from four of its customers, the Cities of Fulton, Lamar, and Thayer, Missouri and Piggott, Arkansas (Cities). *City of Fulton, et al.* v. *United States,* 680 F.2d 115 (Ct. Cl. 1982). The Court of Claims' decision relies in part upon the lower court ruling in the *Tex-La* case, citing it as "persuasive precedent." 680 F.2d at 121. That case, however, has subsequently been overturned by the U.S. Court of Appeals for the Fifth Circuit.

We would further note that no money judgment has yet been rendered in the *Fulton* case against SWPA. Thus, it appears that any eventual recovery by Cities will be prospective in effect. Additionally, the potential recovery by Cities in the U.S. Court of Claims case appears to be quite small as a percentage of SWPA's revenues on an annual basis. In light of all of the above, we find that the Court of Claims case does not affect the outcome of our decision.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5500 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-678-003]

St. Joseph Light & Power Co.; Refund Report

February 28, 1983.

Take notice that on January 14, 1983, St. Joseph Light and Power Company submitted for filing a refund report pursuant to the Commission's order of December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 9, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5497 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-323-000]

Vermont Electric Power Co., Inc.; Filing

February 28, 1983.

Take notice that on February 16, 1983, Vermont Electric Power Company, Inc. (VELCO) tendered for filing data to support a change in rates, effective January 1, 1983.

VELCO states that the percentage rate used to determine monthly charges has been changed from 16.92% used for 1982 to the new rate of 17.74% effective January 1, 1983.

VELCO further states that this new rate was computed by dividing VELCO's actual costs for 1982 of $10,666,294 by VELCO's average plant in service for 1982 of $60,139,945.

VELCO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5496 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-324-000]

Vermont Electric Power Co., Inc., Cancellation

February 28, 1983.

Take notice that on February 16, 1983, Vermont Electric Power Company, Inc. (Vermont) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 222 and Supplement No. 1 thereto.

Vermont requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon Citizens Utilities Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5499 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 25, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADJ CO			RECEIVED:	02/04/83		JA: TX			
8320750	F-02-063078	4202500000	108			JOHN B SHAW #B-4	SAN DOMINGO S (FRIO L	12.0	HOUSTON PIPE LINE
-AEC OIL & GAS			RECEIVED:	02/04/83		JA: TX			
8320568	F-78-061691	4242932992	102-4			O TOMLIN 70 #1 RRC ID NOT ASSIGNED	CHALKER (CONGLOMERATE	62.0	WARREN PETROLEUM
8320573	F-78-061802	4242932991	102-4			TOMLIN 73 #1 RRC ID # NOT ASSIGNED	LOVING	59.0	WARREN PETROLEUM
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	02/04/83		JA: TX			
8320649	F-06-057854	4242330575	103	107-TF		ALLRED #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPELI
8320699	F-06-062930	4242330594	103	107-TF		FRANK BURKE #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPELI
8320698	F-02-062929	4217500000	108			JABLONSKI UNIT #2	BRANDT (2750')	17.0	TEXAS EASTERN GAS
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	02/04/83		JA: TX			
8320551	F-8A-061560	4244531025	102-4	103		SEATON #2	SEC 92 BLK T D&W RR C	0.0	CITIES SERVICE GA
-AMOCO PRODUCTION CO			RECEIVED:	02/04/83		JA: TX			
8320598	F-8A-062355	4221933615	103			LEVELLAND UNIT #767	LEVELLAND	0.7	AMOCO PRODUCTION
-ANDRESS PETROLEUM INC			RECEIVED:	02/04/83		JA: TX			
8320650	F-02-058084	4239131567	102-4			J F WELDER HEIRS	DEVIL'S RUN (6600)	0.0	TENNESSEE GAS PIP
8320621	F-02-054041	4239131552	102-4			J F WELDER HEIRS #7	DEVILS RUN (6600)	0.0	TENNESSEE GAS PIP
-APACHE CORPORATION			RECEIVED:	02/04/83		JA: TX			
8320740	F-10-063037	4248331024	107-DP			STILES RANCH #8-68	STILES RANCH (MORROW)	914.0	ARKANSAS-LOUISIAN
-ARCADIA REFINING CO			RECEIVED:	02/04/83		JA: TX			
8320618	F-06-053214	4240103149	102-4			GREEN-PINNELL #1	HENDERSON NE (TRAVIS	0.0	
-ARCO OIL AND GAS COMPANY			RECEIVED:	02/04/83		JA: TX			
8320658	F-03-058700	4235130372	102-4			ARCO HANKAMER SECTION 27 WELL #1	SABINE TRAM SW (WILCO	365.0	ARCO OIL & GAS CO
8320665	F-10-059372	4229500000	108			FRED LOESCH #1	KIOWA CREEK	12.0	TRANSWESTERN PIPE
-BEAL OPERATING			RECEIVED:	02/04/83		JA: TX			
8320644	F-7C-057134	4208333080	102-4			T GRIFFIS #4	WILDCAT	235.0	ODESSA NATURAL CO
-BEN HOGAN			RECEIVED:	02/04/83		JA: TX			
8320591	F-7B-062201	4209331041	103			DAVIS UNIT #1 TRC ID # NOT ASSIGNED	MITTIE (MARBLE FALLS)	35.0	SOUTHWESTERN GAS
-BILL FORNEY INC			RECEIVED:	02/04/83		JA: TX			
8320540	F-02-061418	4229733226	102-4			ERWIN HOLLE ET AL UNIT I WELL #3	HOUDMAN (HOCKLEY)	8.0	TRANSCONTINENTAL
-BISON PETROLEUM CORP			RECEIVED:	02/04/83		JA: TX			
8320690	F-10-062807	4235730777	102-4			CUDD #1 072564	MCGEE (UPPER MORROW)	30.0	INTER NORTH INC
-BUFFTON OIL & GAS INC			RECEIVED:	02/04/83		JA: TX			
8320547	F-09-061488	4223733796	102-4	103		BUFFTON POLK-PATTON #1	BUFFTON (5350 CONGL)	54.8	LONE STAR GAS CO
-BURNETT OIL CO INC			RECEIVED:	02/04/83		JA: TX			
8320689	F-01-062793	4231131748	102-4	103		R P HORTON #5	A W P (OLMOS)	44.0	HPI TRANSMISSION
-C & K PETROLEUM INC			RECEIVED:	02/04/83		JA: TX			
8320548	F-04-061551	4224700000	102-3			MESTENA H-5	MESTENA GRANDE (QUEEN	0.0	AMERICAN PIPELINE
-C B EDGAR OIL CO			RECEIVED:	02/04/83		JA: TX			
8320763	F-7C-063138	4239932490	103			RUFUS ALLEN #6 (06294)	DICK RICHARDSON (GARD	66.0	VALERO TRANSMISSI
-C F LAWRENCE & ASSOC INC			RECEIVED:	02/04/83		JA: TX			
8320675	F-7C-062505	4210500000	108			TODD U #1	TODD W (SAN ANDRES)	0.0	APACHE GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CALTO OIL CO				RECEIVED:	02/04/83	JA: TX			
8320697	F-09-062928	4249732448		103		L D RATLIFF #2	BOONSVILLE BEND CONGL	120.0	NATURAL GAS PIPEL
-CARTER ENERGY CORP				RECEIVED:	02/04/83	JA: TX			
8320751	F-09-063080	4249732451		103		L N LANHAM #1	BOONSVILLE (BEND CONG	110.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/04/83	JA: TX			
8320584	F-06-062024	4236530596		102-3		CARTHAGE GAS UNIT 11 #4	CARTHAGE (COTTON VALL	770.0	TENNESSEE GAS PIP
8320581	F-06-062012	4236530773		102-3		CARTHAGE GAS UNIT 13 #3	CARTHAGE (COTTON VALL	670.0	TENNESSEE GAS PIP
8320587	F-06-062028	4236530765		102-3		CARTHAGE GAS UNIT 14 #2	CARTHAGE (COTTON VALL	700.0	TENNESSEE GAS PIP
8320586	F-06-062027	4236530820		102-3		CARTHAGE GAS UNIT 15 #4	CARTHAGE (COTTON VALL	550.0	TENNESSEE GAS PIP
8320608	F-06-045701	4236500000		103	107-TF	CARTHAGE GAS UNIT 16 #4	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8320580	F-06-062010	4236530850		102-3		CARTHAGE GAS UNIT 18 #3	CARTHAGE (COTTON VALL	1040.2	TENNESSEE GAS PIP
8320582	F-06-062015	4236530814		102-3		CARTHAGE GAS UNIT 21 #2	CARTHAGE (COTTON VALL	540.0	TENNESSEE GAS PIP
8320585	F-06-062025	4236530799		102-3		CARTHAGE GAS UNIT 6 #4	CARTHAGE (COTTON VALL	930.7	TENNESSEE GAS PIP
8320583	F-06-062023	4236530912		102-3		CARTHAGE GAS UNIT 9 #2	CARTHAGE (COTTON VALL	380.0	TENNESSEE GAS PIP
-CITIES SERVICE COMPANY				RECEIVED:	02/04/83	JA: TX			
8320609	F-05-045821	4234931772		102-2	107-TF	GRANTHAM B #1	CHENEYBORO (COTTON VA	91.3	CAMPEON PIPELINE
8320722	F-08-062990	4238931291		103		MATTHEWS CAMP A #4	COLLIE (DELAWARE)	73.0	INTRATEX GAS CO
8320721	F-08-062989	4238931292		103		PRIEST E #2	COLLIE (DELAWARE)	12.0	INTRATEX GAS CO
8320724	F-08-062992	4213533940		103		WEST GOLDSMITH UNIT #3907	GOLDSMITH W (CLEARFOR	27.0	PHILLIPS PETROLEU
8320723	F-8A-062991	4216532406		103		WEST SEMINOLE SAN ANDRES UNIT #715	SEMINOLE WEST	21.0	CITIES SERVICE CO
-CONVEST ENERGY CORP				RECEIVED:	02/04/83	JA: TX			
8320641	F-7C-056951	4243532461		103	107-TF	NANCY BLOODWORTH #2	(PENDING)	0.0	EL PASO NATURAL G
-COSTA RESOURCES INC				RECEIVED:	02/04/83	JA: TX			
8320768	F-08-063146	4210332515		102-4		DAVIS NO 1	COSTA (CLEARFORK LOWE	0.0	PGP GAS PRODUCTS
-CROMERA OIL & GAS CO				RECEIVED:	02/04/83	JA: TX			
8320601	F-7B-062471	4241734821		102-4		JOHN SEDWICK #8	CROMERA (MORAN)	1.3	WARREN PETROLEUM
-DELWINTEX OIL & GAS PROPERTIES INC				RECEIVED:	02/04/83	JA: TX			
8320683	F-8A-062700	4210130338		102-4		R A THOMAS #2 (102500)	THOMAS (ATOKA CONGL)	328.0	LONE STAR GAS CO
-E C WHITE OIL CO				RECEIVED:	02/04/83	JA: TX			
8320536	F-8A-061324	4207900000		103		J D LANEY #12	LEVELLAND	1.0	CITIES SERVICE GA
8320535	F-8A-061323	4207900000		103		J D LANEY #16	LEVELLAND	1.0	CITIES SERVICE GA
-EADS OPERATING CO				RECEIVED:	02/04/83	JA: TX			
8320566	F-02-061638	4205730940		102-4		STATE TRACT 131 WELL #1	SAN ANTONIO BAY W (83	200.8	VALERO TRANSMISSI
-EDWIN L COX				RECEIVED:	02/04/83	JA: TX			
8320652	F-04-058276	4247933378		103	107-TF	EL GATITA #1	MUJERES CREEK	365.0	TRANSCONTINENTAL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/04/83	JA: TX			
8320607	F-10-041022	4217923699		108-PB		COUSINS #1	PANHANDLE - WEST	14.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	02/04/83	JA: TX			
8320627	F-05-055480	4216100000		107-TF		E G COLEMAN #1	RISCHERS STORE/PETTIT	300.0	LONE STAR GAS CO
8320662	F-7C-058980	4213700000		103	107-TF	G D WALLACE UNIT 2 #2	SAWYER (CANYON)	120.0	LONE STAR GAS CO
8320653	F-05-058298	4228900000		103	107-TF	G W LEE "A" #9	NORTH BUFFALO	480.0	LONE STAR GAS CO
8320534	F-09-061311	4219730503		103		HENDRIX #19-2	WILDCAT	219.0	LONE STAR GAS CO
8320622	F-7C-054368	4213700000		103	107-TF	MIERS "C" #17	SAWYER (CANYON)	120.0	LONE STAR GAS CO
8320668	F-05-059386	4221330354		103		S S MCGEE #3	OPELIKA (RODESSA)	124.0	LONE STAR GAS CO
8320660	F-05-058914	4221330354		103		S S MCGEE #3	OPELIKA (TRAVIS PEAK)	124.0	LONE STAR GAS CO
-EXXON CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320589	F-8A-062073	4216500000		103		EXXON-ATLANTIC H & J #8	HUAT (SPRABERRY)	4.7	PHILLIPS PETROLEU
8320692	F-05-062903	4216130630		102-4	107-TF	F E HILL COMPANY #1	NAN-SU-GAIL (COTTON V	1714.0	ARMCO STEEL CORP
8320693	F-05-062904	4216130715		102-4	107-TF	F R HILL #1	NAN-SU-GAIL (COTTON V	837.0	ARMCO STEEL CORP
8320541	F-08-061421	4210332902		103		J B TUBB B #30U	SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G
8320682	F-04-062647	4227331674		102-4		K R BORREGOS 574 (06544)	BORREGOS (ZONE N-11 N	93.0	ARMCO STEEL CORP
8320542	F-03-061438	4201530523		103		RACCOON BEND COCKFIELD GU 1 #5	RACCOON BEND (COCKFIE	54.7	TEXAS SOUTHEASTER
-FAGADAU ENERGY CORP				RECEIVED:	02/04/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320762	F-09-063131	4223734827		103		R L GRAVES #3 RRC#18960	JACK COUNTY REGULAR	200.0	LONE STAR GAS CO
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	02/04/83	JA: TX			
8320626	F-7C-055412	4241331241		103	107-TF	FLORENCE 24-#3	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8320630	F-7C-055924	4241331219		103	107-TF	FLORENCE 29-#3	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8320529	F-7C-060979	4243532811		103	107-TF	FLORENCE 31-#4	PHYLLIS SONORA	610.0	INTRATEX GAS CO
-FRED M NEWMAN INC				RECEIVED:	02/04/83	JA: TX			
8320679	F-08-062548	4237100000		103		UNIVERSITY 10 B #2 #27612	CARDINAL (QUEEN W)	36.0	INTER NORTH INC
-FREMONT ENERGY CORP				RECEIVED:	02/04/83	JA: TX			
8320776	F-04-063164	4247933006		107-TF		ROSA DE BENAVIDES #27 RRC ID#098327	LA CRUZ (OLMOS)	60.0	LONE STAR GAS CO
8320774	F-04-063162	4247933064		107-TF		ROSA DE BENAVIDES #30 RRC ID#098328	LA CRUZ (OLMOS)	60.0	LONE STAR GAS CO
8320775	F-04-063163	4247933070		107-TF		ROSA DE BENAVIDES #31 RRC ID#098329	LA CRUZ (OLMOS)	60.0	LONE STAR GAS CO
-GETTY OIL COMPANY				RECEIVED:	02/04/83	JA: TX			
8320742	F-8A-063042	4216500000		108		GMK (SAN ANDRES) UNIT #503	SAN ANDRES	1.0	PHILLIPS PETROLEU
-GHR ENERGY CORP				RECEIVED:	02/04/83	JA: TX			
8320667	F-04-059377	4247932819		102-4	107-TF	BRUNI RANCH #5	BRUNI RANCH (8200) PR	200.0	VALERO TRANSMISSI
8320663	F-04-059133	4247933124		102-4	107-TF	CARR #7	CARR (LOBO)	150.0	VALERO TRANSMISSI
8320565	F-04-061635	4247933400		102-4	107-TF	LECHENGER #6	SAMUELS (LOBO)	200.0	NATURAL GAS PIPEL
8320512	F-04-060090	4250531531		102-4		PORRAS GAS UNIT #1	CHARCO (9400)	1000.0	VALERO TRANSMISSI
8320545	F-04-061445	4247933348		102-4	107-TF	STATE MINERAL FEE #1	CARR (LOBO 8700)	750.0	TRANSCONTINENTAL
8320546	F-04-061450	4250531547		102-4	107-TF	TREVINO #3	FRANCISCO (LOBO 8200)	250.0	NATURAL GAS PIPEL
-GREAT WEST ENERGY INC				RECEIVED:	02/04/83	JA: TX			
8320645	F-09-057259	4207732669		103		DALTON #1	BUFFALO SPRINGS	54.0	TEXAS UTILITIES F
-GROTHE BROTHERS				RECEIVED:	02/04/83	JA: TX			
8320574	F-7B-061803	4241734816		102-4		W C ALLEN #2	BIRTHDAY (MORAN)	40.0	
8320676	F-7B-062581	4241734828		102-4		W C ALLEN #3 (19063)	BIRTHDAY (MORAN)	44.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320655	F-08-058325	4213501270		108		C A GOLDSMITH #900	LAWSON SAN ANDRES	1.6	PHILLIPS PETROLEU
8320654	F-08-058323	4213501332		108		C A GOLDSMITH #963	LAWSON SAN ANDRES	3.2	PHILLIPS PETROLEU
8320700	F-10-062947	4223300000		108		CHRISTIAN G P C FEE /C/ #3	PANHANDLE HUTCHINSON	1.0	PHILLIPS PETROLEU
8320746	F-08-063059	4246110102		108		J T MCELROY CONSOLIDATED #620	MCELROY	12.7	PHILLIPS PETROLEU
8320604	F-10-07534	4239300000		108-ER		JOHN HAGGARD #10	QUINDUNO	1.0	NATURAL GAS PIPEL
8320701	F-10-062948	4239330182		108		OSBORNE #1-37	SHREIKY (MORROW)	0.5	TRANSWESTERN PIPE
8320705	F-01-062963	4229531212		103		PEARL WHEAT #3-765	PEERY (CLEVELAND) CLE	0.0	PHILLIPS PETROLEU
8320747	F-7C-063061	4210503534		108		STATE IT #3	FARMER (SAN ANDRES)	37.0	J L DAVIS
8320749	F-7C-063064	4210501042		108		STATE IT #4	FARMER (SAN ANDRES)	34.0	J L DAVIS
8320748	F-7C-063062	4210501040		108		STATE IT WELL #2	FARMER (SAN ANDRES)	16.7	J L DAVIS
8320769	F-03-063154	4215730946		103		T R BOOTH #25	THOMPSON	78.9	UNITED TEXAS TRAN
8320590	F-10-062153	4219500000		108		W B BARNES #1	HANSFORD MORROW UPPER	5.0	INTER NORTH INC
-H L R INC				RECEIVED:	02/04/83	JA: TX			
8320688	F-7B-062789	4204900000		103		J W PHILLIPS #5	J S LEWIS (MARBLE FAL	12.0	SIOUX PIPELINE CO
8320686	F-7B-062750	4204900000		103		J W PHILLIPS #6	J S LEWIS (MARBLE FAL	12.0	SIOUX PIPELINE CO
-HAL FRANKLIN OPERATING				RECEIVED:	02/04/83	JA: TX			
8320557	F-09-061593	4250336270		102-4		EDDLEMAN #4	JOHNSON (800)	54.0	PYRON EXPLORATION
-HANOVER MANAGEMENT CO				RECEIVED:	02/04/83	JA: TX			
8320606	F-09-037616	4249732100		102-4		CRYSTELLE WAGGONER #2	PROPOSED-DECATUR (STR	275.0	NATURAL GAS PIPEL
-HARRY E NELSON				RECEIVED:	02/04/83	JA: TX			
8320570	F-03-061698	4233930398		108		J W WOODS UNIT #3	WILLIS WEST	18.0	MORGAS CO
-HILL JOHN H				RECEIVED:	02/04/83	JA: TX			
8320673	F-7C-059968	4243532749		103	107-TF	HILL - E S MAYER JR F-1	SAWYER (CANYON)	419.8	LONE STAR GAS CO
8320672	F-7C-059967	4243532720		103	107-TF	HILL-EDWIN S MAYER JR #1 D-1	SAWYER (CANYON)	730.0	LONE STAR GAS CO
8320674	F-7C-059969	4243532719		103	107-TF	HILL-EDWIN S MAYER JR #1 G-1	SAWYER (CANYON)	328.5	LONE STAR GAS CO
8320526	F-7C-060879	4243532784		103	107-TF	HILL-EDWIN S MAYER JR #1 WELL #I-1	SAWYER (CANYON)	759.2	LONE STAR GAS CO
8320524	F-7C-060876	4243532817		103	107-TF	HILL-EDWIN S MAYER JR "Q" WELL #Q-1	SAWYER (CANYON)	949.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320527	F-7C-060880	4243532783		103	107-TF	HILL-EDWIN S MAYER JR "V-1"	SAWYER (CANYON)	496.4	LONE STAR GAS CO
8320523	F-7C-060874	4243532785		103	107-TF	HILL-EDWIN S MAYER JR U-1	SAWYER (CANYON)	525.6	LONE STAR GAS CO
8320522	F-7C-060873	4243532782		103	107-TF	HILL-EDWIN S MAYER 1 WELL #E-1	SAWYER (CANYON)	511.0	LONE STAR GAS CO
8320671	F-7C-059966	4243532745		103	107-TF	HILL-ES MAYER JR #1C-1	SAWYER (CANYON)	357.7	LONE STAR GAS CO
8320525	F-7C-060877	4243532724		103	107-TF	HILL-MAY M RAY "D" #1	ALDWELL RANCH (CANYON	226.3	LONE STAR GAS CO
8320521	F-7C-060872	4243532746		103	107-TF	HILL-MAY M RAY C-1	ALDWELL RANCH (CANYON	204.4	LONE STAR GAS CO
8320520	F-7C-060871	4243532723		103	107-TF	HILL-MAY MCRAY B-1	HILL-MAY M RAY "B" #1	153.3	LONE STAR GAS COM
-HNG OIL COMPANY				RECEIVED:	02/04/83	JA: TX			
8320571	F-7C-061725	4243500000		103	107-TF	FIELDS "19" #5	SAWYER (CANYON)	100.0	INTRATEX GAS CO
8320550	F-7C-061559	4243500000		103	107-TF	FIELDS "20" #5	SAWYER (CANYON)	180.0	INTRATEX GAS CO
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320617	F-03-052832	4207131027		102-4		STATE TRACT 299 WELL #3	SOUTH SHIPCHANNEL F-3	0.0	UNITED TEXAS TRAN
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	02/04/83	JA: TX			
8320514	F-7C-060304	4210534014		102-4		L B COX JR #4	DUDLEY EAST (DEVONIAN	76.0	INTRASTATE GATHER
-INTERNORTH INC				RECEIVED:	02/04/83	JA: TX			
8320659	F-10-058745	4221100000		103		LOCKHART "B" 38 #1	FELDMAN (TONKAWA)	15.3	INTERNORTH INC
-J B HERRMANN				RECEIVED:	02/04/83	JA: TX			
8320702	F-10-062959	4223331465		103		CHAIN "C" #1	PANHANDLE FIELD	21.0	
-JAH INC				RECEIVED:	02/04/83	JA: TX			
8320666	F-04-059374	4240931566		102-4		J H DRUMMOND HEIRS WELL #1	WEBB (9350') FIELD	90.0	UNITED GAS PIPELI
-JAMES EDWARD HAYNES JR				RECEIVED:	02/04/83	JA: TX			
8320639	F-78-056837	4204932621		102-4		HAYNES #3	HAYNES (CROSS CUT)	11.9	ODESSA NATURAL CO
-JAMES K ANDERSON INC				RECEIVED:	02/04/83	JA: TX			
8320599	F-78-062388	4244132206		102-4		PERINI #2	LAKE ABILENE (4000)	18.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED:	02/04/83	JA: TX			
8320647	F-08-057377	4231700000		103		SPRINGER B #2 (RRC#21994)	SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
-JONES CO				RECEIVED:	02/04/83	JA: TX			
8320600	F-78-062401	4241700000		102-4		SANDERS "1564" #1 (18965)	CROMERA (MORAN)	1.0	WARREN PETROLEUM
8320706	F-78-062965	4241734850		102-4		SANDERS "1564" #5 (18966)	CROMERA (MORAN)	1.0	WARREN PETROLEUM
8320711	F-78-062970	4241734844		102-4		SANDERS "1564" #6 (18966)	CROMERA (MORAN)	1.0	WARREN PETROLEUM
8320707	F-78-062966	4241734624		102-4		SNYDER "28A" #1 (18868)	TACKETT (ELLEN)	9.0	DELHI GAS PIPELIN
8320708	F-78-062967	4241734305		102-4		SNYDER "32A" #1 (18235)	JONES SNYDER (MISSISS	33.0	DELHI GAS PIPELIN
8320710	F-78-062969	4241734346		102-4		SNYDER "32A" #2 (18235)	JONES SNYDER (MISSISS	57.0	DELHI GAS PIPELIN
8320709	F-78-062968	4241734556		102-4		SNYDER "32B" #1 (18558)	JONES SNYDER (MISSISS	58.0	DELHI GAS PIPELIN
-K L H OIL & GAS INC				RECEIVED:	02/04/83	JA: TX			
8320513	F-78-060281	4204933280		102-4		TABER RANCH #104	KAY (CADDO)	148.0	EL PASO HYDROCARB
-KEITH D GRAHAM				RECEIVED:	02/04/83	JA: TX			
8320572	F-03-061794	4204130826		102-2		LOCKE UNIT "A" #1	KURTEN (WOODBINE)	111.3	FERGUSON CROSSING
-KENNEDY & MITCHELL INC				RECEIVED:	02/04/83	JA: TX			
8320611	F-10-047871	4229530752		102-4		EMPORIA #29-483	CUSURN (LOWER MORROW)	180.0	INTER NORTH INC
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	02/04/83	JA: TX			
8320603	F-03-062490	4205132339		103		BALSINGER #1	HOOKER CREEK (NAVARRO	0.3	
8320578	F-03-062003	4205132326		103		HOTT UNIT #1	WILLARD (NAVARRO)	0.3	
8320602	F-03-062489	4205132337		103		HOTT UNIT #2	WILLARD (NAVARRO)	0.3	
-LAYTON ENTERPRISES INC				RECEIVED:	02/04/83	JA: TX			
8320761	F-8A-063126	4207931603		103		REED WRIGHT #8-7	LEVELLAND	8.9	CITIES SERVICE CO
-LEWIS B BURLESON				RECEIVED:	02/04/83	JA: TX			
8320612	F-08-049119	4237132985		108		SIBLEY #1	FOUR C UPPER CLEARFOR	6.0	EL PASO NATURAL G
-LEWIS PRODUCTION CO INC				RECEIVED:	02/04/83	JA: TX			
8320730	F-78-063014	4208330712		103		J C PAXTON #2 RRC #070615	COLEMAN COUNTY REGULA	65.0	EL PASO HYDROCARB
-LYONS PETROLEUM INC				RECEIVED:	02/04/83	JA: TX			
8320558	F-09-061597	4204130777		102-2	103	LYONS FEE UNIT II WELL #1	BRYAN (WOODBINE)	98.0	FERGUSON CROSSING
-MALOUF ABRAHAM CO INC.				RECEIVED:	02/04/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320544	F-7C-061444	4229531200		102-4		BUSSARD-CAMERON #1	BUSSARD (UPPER MORROW	0.0	TRANSWESTERN P/L
-MARSHALL EXPLORATION INC				RECEIVED:	02/04/83	JA: TX			
8320613	F-06-049940	4241930364		103	107-TF	LOCKE #2	CARLILE & HOWELL (11,	200.0	UNITED GAS PIPELI
8320636	F-06-056496	4236531455		102-4		MAIZIE LYNCH #4	WILDCAT (PALUXY)	110.0	TENNESSEE GAS PIP
-MAY PETROLEUM INC				RECEIVED:	02/04/83	JA: TX			
8320543	F-7C-061440	4238332231		103		ROCKER "B" 41-2	SPRABERRY (TREND AREA	36.5	INTER NORTH INC
-MGF OIL CORP				RECEIVED:	02/04/83	JA: TX			
8320575	F-08-061869	4232931081		103		J T SANDERS #1	SWEETIE PECK (WOLFCAM	16.2	
-MHW INC				RECEIVED:	02/04/83	JA: TX			
8320661	F-7B-058956	4213333912		102-4		COATE #8	WILDCAT	73.0	LONE STAR GAS CO
-MID-AMERICA PETROLEUM INC				RECEIVED:	02/04/83	JA: TX			
8320744	F-7C-063046	4238332167		103		DIXON #5	SPRABERRY (TREND AREA	16.0	INTER NORTH INC
8320743	F-7C-063045	4238332166		103		DIXON #6	SPRABERRY (TREND AREA	17.0	INTER NORTH INC
8320757	F-7C-063106	4238332083		103		DIXON "A" #4	SPRABERRY (TREND AREA	16.0	INTER NORTH INC
8320728	F-7C-063005	4238332266		103		JIM DIXON #5	SPRABERRY (TREND AREA	8.0	INTERNORTH INC
8320759	F-7C-063108	4238332162		103		TALLEY "B" #4	SPRABERRY (TREND AREA	13.0	INTER NORTH INC
8320758	F-7C-063107	4238332161		103		TALLEY "B" #5	SPRABERRY (TREND AREA	14.0	INTER NORTH INC
-MILES PRODUCTION CO				RECEIVED:	02/04/83	JA: TX			
8320714	F-09-062977	4223734551		102-4		M P HOEFLE #7 22059	ANTELOPE S E (MARBLE	14.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320549	F-09-061553	4249700000		108		B E ADAMS #1 #15087	BRIDGEPORT NORTH (ATO	8.7	NATURAL GAS PIPEL
8320616	F-09-052421	4249732374		103		CONTINENTAL B FLOWERS #2	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8320515	F-09-060387	4249700000		103		DEAVER (CADDO CONGL UNIT) #6-6	DEAVER (CADDO CONGLOM	788.0	NATURAL GAS PIPEL
8320719	F-09-062984	4223700000		108		J R HALSELL #2 #021186	ARCO (CONGLOMERATE)	0.0	SOUTHWESTERN GAS
8320637	F-09-056799	4223733873		103		JACK GRACE RANCH #7	TIPTON (ATOKA CONGLOM	109.0	NATURAL GAS PIPEL
8320588	F-09-062061	4223734662		103		LINDSEY RANCH #11	KRAMBERGER (ATOKA CON	20.7	SOUTHWESTERN GAS
8320670	F-09-059641	4249700000		108		S F PEEKS #3 #053654	BOONSVILLE (BEND CONG	13.8	NATURAL GAS PIPEL
8320664	F-05-059255	4239530275		103	107-TF	T W WHALEY UNIT #1	BALD PRAIRIE (COTTON	274.0	UNITED TEXAS TRAN
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	02/04/83	JA: TX			
8320766	F-8A-063144	4216532396		103		RUSSELL (7000 CLEARFORK) UNIT #230	RUSSELL (7000 CLEAR F	7.3	PIONEER NATURAL G
8320767	F-08-063145	4200333235		103		SHAFTER LAKE SAN ANDRES UNIT #300	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
-MOLE OPERATING COMPANY INC				RECEIVED:	02/04/83	JA: TX			
8320733	F-7B-063019	4222100000		108		HALBERT 1E	LIPAN (STRAWN)	10.8	TEXAS UTILITIES F
8320732	F-7B-063018	4222100000		108		HALBERT 2E	LIPAN (STRAWN)	13.2	TEXAS UTILITIES F
8320731	F-7B-063017	4222100000		108		HOOPER #3E	LIPAN (STRAWN)	8.4	TEXAS UTILITIES F
8320734	F-7B-063022	4222100000		108		MORRISON 1-L	MCINTOSH (STRAWN)	6.6	WARREN PETROLEUM
8320736	F-01-063025	4250700000		108		PRYOR-BOX #3	NETA (BRACERO)	10.5	VALERO TRANSMISSI
8320735	F-08-063024	4237100000		108		SKUA #1	HORSEHEAD CROSSING (C	0.0	INTER NORTH INC
-MONSANTO OIL CO				RECEIVED:	02/04/83	JA: TX			
8320687	F-08-062775	4231732391		103		UNIVERSITY MAK 6-44 #1	M A K (SPRAYBERRY)	18.0	PHILLIPS PETROLEU
-MORGAS				RECEIVED:	02/04/83	JA: TX			
8320681	F-10-062627	4248300000		103		MORGAN #1 099269	PANHANDLE EAST	48.0	TRANSWESTERN PIPE
-NATIONAL OIL COMPANY				RECEIVED:	02/04/83	JA: TX			
8320632	F-04-056355	4213135827		102-2		DUVAL COUNTY RANCH CO #1	LOPEZ NW (WILCOX)	275.0	
-NEWTON OIL & GAS CORP				RECEIVED:	02/04/83	JA: TX			
8320620	F-04-053837	4247900000		103	107-TF	P LAFOX EXPLORATION CO A #1	LAS TIENDAS (OLMOS)	0.0	LONE STAR GAS CO
-NORTH AMERICAN EXPLORATION CO.				RECEIVED:	02/04/83	JA: TX			
8320754	F-7B-063090	4244100000		103		BLACKWOOD #1	TAYLOR COUNTY REGULAR	73.0	FORT CHADBOURNE C
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320718	F-10-062982	4223300000		108		HENDERSON HERRING #1 (023815)	WEST PANHANDLE	13.0	PANHANDLE PRODUCI
8320610	F-10-047739	4223300000		103		SKELLY-MERCHANT #5 (00989)	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-NUGGET OIL CORP				RECEIVED:	02/04/83	JA: TX			
8320695	F-02-062922	4217531638		102-4		GARY HALEPESKA #2	ANDER (1400')	73.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-OJB INC				RECEIVED:	02/04/83	JA: TX			
8320628	F-7C-055719	4210534029		103		107-TF DOROTHY PIERCE 801	OZONA (CANYON SAND)	73.0	VALERO TRANSMISSI
-PARKER & PARSLEY INC				RECEIVED:	02/04/83	JA: TX			
8320539	F-08-061340	4232931029		103		HOUPT #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PENNZOIL PRODUCING COMPANY				RECEIVED:	02/04/83	JA: TX			
8320569	F-06-061694	4236531460		103		107-TF DUNLAP UNIT #2	CARTHAGE/COTTON VALLE	400.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	02/04/83	JA: TX			
8320694	F-06-062912	4245900000		103		CLEMENS #2	GILMER	339.5	WESTERN GAS CORP
-PETROLEUM EQUITIES CORP				RECEIVED:	02/04/83	JA: TX			
8320554	F-7C-061585	4243532831		103		107-TF VANDERSTUCKEN #10	SAWYER (CANYON)	135.0	LONE STAR GAS CO
8320553	F-7C-061584	4243532830		103		107-TF VANDERSTUCKEN #11	SAWYER (CANYON)	124.0	LONE STAR GAS CO
8320556	F-7C-061587	4243532832		103		107-TF VANDERSTUCKEN #5-A	SAWYER (CANYON)	115.0	LONE STAR GAS CO
8320555	F-7C-061586	4243532839		103		107-TF VANDERSTUCKEN #6-A	SAWYER (CANYON)	71.0	LONE STAR GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/04/83	JA: TX			
8320725	F-08-062999	4200304499		108		(02123) BUM-A #8	GOLDSMITH (CLEARFORK)	19.0	EL PASO NATURAL G
8320771	F-08-063159	4213503764		108		(18713) GOLDSMITH ADOBE UNIT #17-03	GOLDSMITH (5600')	1.0	EL PASO NATURAL G
8320648	F-01-057508	4246530402		103		CAUTHORN A#2	VINEGARONE/STRAWN	1114.0	INTER NORTH INC
8320760	F-10-063124	4217900000		108		DOSS #4	PANHANDLE GRAY	0.0	
8320595	F-08-062304	4249531495		103		ERNEST #6	KEYSTONE (CLEARFORK)	3.0	SID RICHARDSON GA
8320764	F-08-063139	4213505817		108		GOLDSMITH ADOBE UNIT #24-01 (18713)	GOLDSMITH (5600')	1.0	EL PASO NATURAL G
8320704	F-08-062961	4213500151		108		GOLDSMITH ANDECTOR UNIT #A-11 (211*	GOLDSMITH (CLEARFORK)	14.0	EL PASO NATURAL G
8320703	F-08-062960	4213520216		108		GS ANDECTOR UNIT #E-11	GOLDSMITH (CLEARFORK)	14.0	EL PASO NATURAL G
8320752	F-10-063082	4219500000		108		LANA #1	TEXAS HUGOTON - DOLOM	0.0	PANHANDLE EASTERN
8320772	F-08-063160	4213506533		108		NORTH PENWELL UNIT #79 (21556)	PENWELL	4.0	EL PASO NATURAL G
8320726	F-08-063000	4237103785		108		ODOM-O #2 (20644)	PUCKETT (ELLENBURGER)	15.0	INTERNORTH INC
8320753	F-10-063083	4217900000		108		PHIL-PAMPA #8-06	PANHANDLE GRAY COUNTY	0.0	GETTY OIL CO
8320777	F-10-063165	4217900000		108		PHIL-PAMPA 17-2	PANHANDLE GRAY	0.0	GETTY OIL CO
8320779	F-10-063167	4217900000		108		PHIL-PAMPA 7-13	PANHANDLE GRAY	0.0	GETTY OIL CO
8320778	F-10-063166	4217900000		108		PHIL-PAMPA 8-8	PANHANDLE GRAY	0.0	GETTY OIL CO
8320773	F-8A-063161	4200300646		108		WEST JO-MILL UNIT #2-01 (61062)	JO-MILL (SPRABERRY)	1.0	GETTY OIL CO
-POGO PRODUCING COMPANY				RECEIVED:	02/04/83	JA: TX			
8320669	F-10-059603	4221100000		107-DP		MCFATTER #1-78	JUBILEE	1825.0	TRANSWESTERN PIPE
8320629	F-10-055764	4221131252		107-DP		MCFATTER #4-59	JUBILEE (MERAMAC)	730.0	TRANSWESTERN PIPE
-PRODUCTION LEASE SERVICE INC				RECEIVED:	02/04/83	JA: TX			
8320579	F-7C-062004	4243532849		103		107-TF WEST - ANDERSON #2	INTERSTATE (CANYON)	48.0	PRODUCERS GAS CO
-PYRON EXPLORATION & DRILLING CORP				RECEIVED:	02/04/83	JA: TX			
8320631	F-09-056291	4250333896		102-4		DEATS #1	DAKIN (CONGLOMERATE)	10.0	SOUTHWESTERN GAS
-R & L PRODUCING CO INC				RECEIVED:	02/04/83	JA: TX			
8320677	F-7B-062571	4204932770		108		HICKMAN #2	BROWN COUNTY REGULAR	2.7	EL PASO HYDROCARB
-R E KIBBE				RECEIVED:	02/04/83	JA: TX			
8320596	F-04-062322	4224900000		108		ISHAM #3	PREMONT (SINGER 3100)	7.3	TRUNKLINE GAS CO
-RETAMA OIL CORP				RECEIVED:	02/04/83	JA: TX			
8320642	F-01-056968	4250731531		102-4		HAMMOND ADA	HAMMOND (OLMOS 5)	60.0	VALERO TRANSMISSI
-RICHARD B BERRY				RECEIVED:	02/04/83	JA: TX			
8320646	F-7B-057348	4242900000		103		PRITCHARD NO 2(API#4242933253	STEPHENS COUNTY REGUL	1.8	LONE STAR GAS CO
-ROBERT P LAMMERTS				RECEIVED:	02/04/83	JA: TX			
8320532	F-03-061056	4204100000		102-2		DOOLEY #2	KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
-ROMAC OIL CO INC				RECEIVED:	02/04/83	JA: TX			
8320577	F-7B-061997	4244700000		102-4		MCKNIGHT "19" #1	ROC (TANNEHILL)	35.0	GREAT WESTERN GAS
-ROY R GARDNER				RECEIVED:	02/04/83	JA: TX			
8320624	F-03-055207	4208900000		102-4		GEISE UNIT #1	FRANK (WILCOX O) (PRO	0.0	TEXAS EASTERN TRA
8320625	F-03-055208	4208900000		102-4		ROSS UNIT #1	FRANK (WILCOX O) (PRO	0.0	TEXAS EASTERN TRA
-SAGE ENERGY CO				RECEIVED:	02/04/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320638	F-09-056832	4205100000		102-2		ASH UNIT #N-1 RRC#	BIG "A" TAYLOR	0.0	PHILLIPS PETROLEU
8320576	F-03-061936	4214931419		102-2		DANFORTH #1 RRC #16137	GIDDINGS (AUSTIN CHAL	36.0	PHILLIPS PETROLEU
8320516	F-03-060597	4214900000		102-2		MARTINEZ #A-1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-SCANDRILL INC				RECEIVED:		02/04/83 JA: TX			
8320634	F-09-056472	4223734456		102-4	103	DUERSON #7	CHAWN (STRAWN)	36.5	LONE STAR GAS CO
8320651	F-09-058201	4223734538		102-4	103	H J RICHARDS "A" #1	SHAR-PAT (CONGL)	511.0	LONE STAR GAS CO
8320635	F-09-056474	4250335620		103		PEARL T KURK #32	YOUNG COUNTY REGULAR	7.3	SUN GAS TRANSMISS
8320633	F-7B-056469	4244733139		102-4	103	PUTNAM #27	THROCKMORTON COUNTY R	18.2	THROCKMORTON GAS
8320605	F-7B-036867	4244732636		102-2	103	PUTNAM "A" #8	RICHARDS RANCH (MISSI	0.0	THROCKMORTON GAS
8320678	F-09-062569	4250335371		102-4		SCAN-KING "E" #1	WOODWARD RANCH (STRAW	14.6	J H TAYLOR GAS CO
-SEELY OIL CO				RECEIVED:		02/04/83 JA: TX			
8320528	F-09-060953	4249732310		103		HAMPTON #2 099446	BOONSVILLE (BEND CONG	3.5	LONE STAR GAS CO
8320619	F-09-053747	4249732293		103		WHORTON #2	BOONESVILLE (BEND CON	266.5	NATURAL GAS PIPEL
-SHELL OIL CO				RECEIVED:		02/04/83 JA: TX			
8320720	F-8A-062985	4250132037		103		DENVER UNIT #3747	WASSON	0.4	SHELL OIL CO
-SMITH PETROLEUM CO				RECEIVED:		02/04/83 JA: TX			
8320623	F-03-054780	4218530313		102-4		SELECTED LANDS 18 #2	IOLA (SUBCLARKSVILLE)	1000.0	WELLHEAD VENTURES
-SOHIO PETROLEUM CO				RECEIVED:		02/04/83 JA: TX			
8320765	F-7C-063143	4217331334		103		M V BRYANS "B" #6	CALVIN (DEAN)	22.6	EL PASO NATURAL G
-SOJOURNER DRILLING CORP				RECEIVED:		02/04/83 JA: TX			
8320741	F-7B-063039	4241734743		102-4		WALKER-BUCKLER #2-A (102463)	ROCKWELL (GARDNER)	57.0	DELHI GAS PIPELIN
-SPOOL OIL CO				RECEIVED:		02/04/83 JA: TX			
8320564	F-10-061631	4223300000		108		TARBOX #2	PANHANDLE HUTCHINSON	0.4	PHILLIPS PETROLEU
8320563	F-10-061629	4223300000		108		TARBOX #4	PANHANDLE HUTCHINSON	0.3	PHILLIPS PETROLEU
8320562	F-10-061626	4223300000		108		WHITTENBURG "C" #1	PANHANDLE HUTCHINSON	0.4	PHILLIPS PETROLEU
8320561	F-10-061625	4223300000		108		WHITTENBURG "C" #4	PANHANDLE HUTCHINSON	0.3	PHILLIPS PETROLEU
8320560	F-10-061624	4223300000		108		WHITTENBURG "C" #5	PANHANDLE HUTCHINSON	0.2	PHILLIPS PETROLEU
8320559	F-10-061623	4223300000		108		WHITTENBURG "C" #8	PANHANDLE HUTCHINSON	0.3	PHILLIPS PETROLEU
-SUGARBERRY OIL & GAS CORP				RECEIVED:		02/04/83 JA: TX			
8320537	F-7C-061329	4241331220		103	107-TF	LUX #2	VELREX (HENDERSON UPP	21.2	CRA INC
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		02/04/83 JA: TX			
8320552	F-10-061571	4212731180		103		BIG WELLS (SAN MIGUEL) UNIT #9-5	BIG WELLS (SAN MIGUEL	16.0	HOUSTON PIPE LINE
8320739	F-08-063034	4213533976		103		O B HOLT A/C-2 #22	COWDEN NORTH	7.0	AMOCO PRODUCTION
8320680	F-8A-062508	4221933504		103		SOUTHEAST LEVELLAND UNIT #279	LEVELLAND	6.0	AMOCO PRODUCTION
8320737	F-8A-063032	4221933497		103		SOUTHEAST LEVELLAND UNIT #294	LEVELLAND	8.0	AMOCO PRODUCTION
8320597	F-08-062331	4233532017		103		STUBBLEFIELD-MCCABE UNIT "A" #1	JAMESON NORTH	12.0	AMERADA HESS CORP
8320738	F-8A-063033	4207931587		103		WRIGHT UNIT #2-5	LEVELLAND	17.0	CITIES SERVICE CO
-SUPERIOR OIL CO				RECEIVED:		02/04/83 JA: TX			
8320656	F-02-058480	4253164600		102-2	103	GRANBERRY W M #1	SWEET HOME (EDWARDS)	0.0	
8320657	F-03-058481	4205132314		102-2	103	ZWERNEMANN UNIT #1 WELL #1	GIDDINGS (AUSTIN CHAL	0.0	
-TARTAN OIL & GAS				RECEIVED:		02/04/83 JA: TX			
8320530	F-03-061010	4215700000		102-4		FOSTER FARMS #4	ROSENBERG NORTH (4340	180.0	
-TAYLOR BROTHERS OIL CO				RECEIVED:		02/04/83 JA: TX			
8320713	F-10-062976	4234130794		103		DOTTIE #5	PANHANDLE MOORE COUNT	6.0	PHILLIPS PETROLEU
8320712	F-10-062975	4234130851		103		MITCH & MITZIE "A" #14	PANHANDLE MOORE COUNT	6.0	PHILLIPS PETROLEU
-TAYLOR GORDON				RECEIVED:		02/04/83 JA: TX			
8320745	F-10-063057	4234130758		103		BRANDON #1	PANHANDLE MOORE COUNT	32.0	DIAMOND SHAMROCK
-TENNECO OIL COMPANY				RECEIVED:		02/04/83 JA: TX			
8320716	F-8A-062979	4216531844		103		BRANCH C #2	ROBERTSON N (CLEARFOR	0.0	
8320640	F-7C-056948	4210533943		103		MITCHELL 102-1X	J M	0.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:		02/04/83 JA: TX			
8320592	F-10-062249	4206500000		108		E COOPER UNIT #3017	PANHANDLE CARSON COUN	0.7	GETTY OIL CO
8320727	F-10-063001	4217900000		108		H THUT #6	PANHANDLE GRAY COUNTY	1.6	COLTEXO CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320518	F-8A-060859	4216532394		103		J B ROBERTSON #49	ROBERTSON N (CLEARFOR	14.2	PHILLIPS PETROLEU
8320538	F-8A-061336	4216532395		103		J B ROBERTSON #50	ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
8320517	F-08-060858	4243131173		103		STERLING "I" FEE #7	CONGER (PENN)	155.1	VALERO TRANSMISSI
8320519	F-8A-060861	4221933480		103		W T COBLE "A" NCT-1 #39	LEVELLAND	0.0	AMOCO PRODUCTION
-TEXAL PETROLEUM INC				RECEIVED:	02/04/83	JA: TX			
8320531	F-09-061050	4249732447		102-4		M C LITTLE A-1	MONTEATH (CADDO)	170.0	SOUTHWESTERN GAS
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	02/04/83	JA: TX			
8320615	F-06-052337	4220300000		103	107-TF	B S HARRISON #1	BETHANY (COTTON VALLE	0.0	UNITED GAS PIPE L
-THE MAURICE L BROWN COMPANY				RECEIVED:	02/04/83	JA: TX			
8320756	F-06-063105	4236500000		108		MCJIMSEY #1	BETHANY	16.0	TENNECO INC
-THREE B OIL CO & MORAN EXPL INC				RECEIVED:	02/04/83	JA: TX			
8320691	F-7C-062877	4232730467		103		NEEL #1	WILHELM LANE (CANYON)	73.2	SUN GAS CO
-TOWNSEND CO				RECEIVED:	02/04/83	JA: TX			
8320770	F-7C-063155	4239932615		102-4		DICKINSON #9 (08629)	BALLINGER WEST (CAPPS	11.0	LONE STAR GAS CO
-TRINITY EXPLORATION CO				RECEIVED:	02/04/83	JA: TX			
8320593	F-7B-062268	4213334398		102-4		JAMES A COX #2		145.0	EL PASO HYDROCARB
-TXO PRODUCTION CORP				RECEIVED:	02/04/83	JA: TX			
8320594	F-10-062270	4235731313		102-4		HENTON #2	BOOKER N (MORROW UPPE	200.0	DELHI GAS PIPELIN
8320643	F-02-056980	4228500000		102-4		LAUGHTER G U D #1	S W SPEAKS WILDCAT	0.0	DELHI GAS PIPELIN
8320533	F-7B-061139	4241734695		103		WALKER-BUCKLER 72 #2	ROCKWELL (CONGL)	250.0	DELHI GAS PIPELIN
8320567	F-7B-061684	4241734653		102-4		WALKER-BUCKLER 72-1	ROCKWELL (CONGL)	30.0	DELHI GAS PIPELIN
-UNITED CO				RECEIVED:	02/04/83	JA: TX			
8320696	F-8A-062927	4207930785		108		MARTY WRIGHT #43 073944	LEVELLAND (SAN ANDRES	11.9	EL PASO NATURAL G
-VANDALE-BUCKLER				RECEIVED:	02/04/83	JA: TX			
8320755	F-10-063091	4217900000		108		MAGNOLIA FEE (023070) #1	WEST PANHANDLE	14.0	CABOT PIPELINE CO
-VAUGHN PETROLEUM INC				RECEIVED:	02/04/83	JA: TX			
8320684	F-7B-062716	4235331266		102-4		BOYD EDNA 17973	J&J (CADDO)	0.0	PALO DURO PIPELIN
-W L BRUCE OPERATOR				RECEIVED:	02/04/83	JA: TX			
8320729	F-10-063008	4217931249		103		DOREEN #1 (ID#05246)	PANHANDLE GRAY	50.0	GETTY OIL CO
-WAGNER & BROWN				RECEIVED:	02/04/83	JA: TX			
8320715	F-08-062978	4217331328		103		ALLEIN #3-22	CONGER (PENN)	120.7	TEXAS UTILITIES F
-WAY OIL CO				RECEIVED:	02/04/83	JA: TX			
8320614	F-7B-050753	4236332732		102-2		BOSLEY #1	MCCLISH-STONE (CONGL	116.8	INTRASTATE GATHER
-WILMAR OIL INC				RECEIVED:	02/04/83	JA: TX			
8320717	F-02-062980	4228500000		108		ZIMMERMAN #1	MOULTON	15.4	SHINER GAS PIPELI
-WILSON RESOURCES INC				RECEIVED:	02/04/83	JA: TX			
8320685	F-06-062721	4240131468		102-4	107-TF	A S WOLFE GAS UNIT WELL #1	HENDERSON (COTTON VAL	400.0	UNITED GAS PIPE L

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5508 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-C

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
		OKLAHOMA CORPORATION COMMISSION							
-AMCANA OIL CORP				RECEIVED:	02/01/83	JA: OK			
8320885	19617	3511721405		103		HAGER #1-6	NORTH GREENUP	36.5	COLORADO GAS COMP
8320884	19615	3511721055		103		PERRIN #1-6	NORTH GREENUP	20.0	COLORADO GAS COMP
8320811	19616	3510920562		103		THOMAS #1-14	PEAVINE	64.0	CHAMPLIN PETROLEU
-ANDOVER OIL COMPANY				RECEIVED:	02/01/83	JA: OK			
8320819	19228	3501700000		103		SCHRODER #17-1		0.0	PHILLIPS PETROLEU
-B & H EXPLORATION CO				RECEIVED:	02/01/83	JA: OK			
8320790	15905	3513120911		108		CONSTIEN #3	UNNAMED	1.2	DIAMOND S GAS SYS
8320791	15899	3510521356		108		MANUEL #1	UNNAMED	20.0	A G SYSTEMS INC
8320792	15898	3510521381		108		MANUEL #5	UNNAMED	14.0	A G SYSTEMS INC
8320789	16021	3513121541		108		STATE-VAN PELT #12	WEST TALALA	1.0	DIAMOND S GAS SYS
8320870	16023	3513120755		108		STATE-VAN PELT #3	WEST TALALA	9.5	DIAMOND S GAS SYS
8320788	16022	3513120774		108		STATE-VAN PELT #4	WEST TALALA	1.8	DIAMOND S GAS SYS
-B J KELLENBERGER				RECEIVED:	02/01/83	JA: OK			
8320839	16987	3500722036		103		RALPH BOBBITT ESTATE #1		100.0	KANSAS-NEBRASKA N
-BILLY L MARTIN				RECEIVED:	02/01/83	JA: OK			
8320810	19638	3511100000		103		EDMONDS #1		7.5	PHILLIPS PETROLEU
-BLALACK JONNY OTHEL				RECEIVED:	02/01/83	JA: OK			
8320877	18834	3503700000		108		HINTON #1	HINTON LEASE	10.6	
-BROOKS HALL OIL CORP				RECEIVED:	02/01/83	JA: OK			
8320824	19670	3504900000		103		CARLTON #1	SOUTH MAYSVILLE	4.0	BUCKEYE NATURAL G
8320825	19671	3504900000		103		RIDGEWAY #1	VIOLA	0.0	BUCKEYE NATURAL G
-C J CASSELMAN				RECEIVED:	02/01/83	JA: OK			
8320826	19661	3511123687		103		BOGIE 2-A	MORRIS	18.3	PHILLIPS PETROLEU
8320828	19659	3511123689		103		BOGIE 4-A	MORRIS	18.3	PHILLIPS PETROLEU
8320827	19660	3511123725		103		BOGIE 5-A	MORRIS	18.3	PHILLIPS PETROLEU
-CAYMAN EXPLORATION CORP				RECEIVED:	02/01/83	JA: OK			
8320814	19572	3507323589		103		SHIMANEK #10-1	SOONER TREND	25.0	CONOCO INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/01/83	JA: OK			
8320876	18560	3509300000		103		V J BURNHAM #2	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
-CHIEF WELL SERVICE INC				RECEIVED:	02/01/83	JA: OK			
8320846	19053	3503700000		108		GLIMP #1	CUSHING	2.9	ARCO OIL & GAS CO
8320855	19062	3503700000		108		GLIMP #10	CUSHING	2.9	ARCO OIL & GAS CO
8320856	19063	3503700000		108		GLIMP #11	CUSHING	2.9	ARCO OIL & GAS CO
8320850	19057	3503700000		108		GLIMP #2	CUSHING	2.9	ARCO OIL & GAS CO
8320849	19056	3503700000		108		GLIMP #3	CUSHING	2.9	ARCO OIL & GAS CO
8320848	19055	3503700000		108		GLIMP #4	CUSHING	2.9	ARCO OIL & GAS CO
8320847	19054	3503700000		108		GLIMP #5	CUSHING	2.9	ARCO OIL & GAS CO
8320854	19061	3503700000		108		GLIMP #6	CUSHING	2.9	ARCO OIL & GAS CO
8320853	19060	3503700000		108		GLIMP #7	CUSHING	2.9	ARCO OIL & GAS CO
8320851	19059	3503700000		108		GLIMP #8	CUSHING	0.0	ARCO OIL & GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320852	19058	3503700000		108		GLIMP #9	CUSHING	2.9	ARCO OIL & GAS CO
-CIMARRON PETROLEUM CORPORATION				RECEIVED:		02/01/83 JA: OK			
8320780	19218	3507323570		103		CPC #106-5 COLEMAN		185.4	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED:		02/01/83 JA: OK			
8320820	19150	3504921809		103		BLOOMFIELD "A" #1	W LINDSAY	184.8	WARREN PETROLEUM
-COTTON PETROLEUM CORPORATION				RECEIVED:		02/01/83 JA: OK			
8320813	19608	3502520537		103		TREECE #3	GRIGGS	0.0	
-CROUCH PETROLEUM COMPANY				RECEIVED:		02/01/83 JA: OK			
8320782	19215	3509120520		103		C P FUTRELL 2-30	S E CHECOTAH	20.0	COLUMBIA GAS TRAN
8320781	19216	3509120462		103		FUTRELL #3-29	S E CHECOTAH	30.0	COLUMBIA GAS TRAN
-DAMSON OIL CORPORATION				RECEIVED:		02/01/83 JA: OK			
8320843	18940	3505520348		108		KING #2	MANGUM N W	7.3	EL PASO NATURAL G
8320845	18943	3505520111		108		REEVES #1	MANGUM N W	1.0	EL PASO NATURAL G
8320844	18942	3505520357		108		TAYLOR #1	MANGUM N W	9.0	EL PASO NATURAL G
-DOME PETROLEUM CORP				RECEIVED:		02/01/83 JA: OK			
8320864	19655	3504321334		103		JEFFREY #1-8	UNNAMED	474.3	TRANSWESTERN PIPE
-ECC OIL CO				RECEIVED:		02/01/83 JA: OK			
8320818	19473	3514721284		108		NEUSTADT #2 SE/4 NW/4 32-25N-14E	OGLESBY GAS FIELD	19.9	OKAN GAS CO
-ELDER & VAUGHN				RECEIVED:		02/01/83 JA: OK			
8320865	19674	3502720657		103		ANTRIM #1	EAST MOORE	73.0	SUN EXPLORATION &
-F C D OIL CORP				RECEIVED:		02/01/83 JA: OK			
8320862	19619	3504722849		103		F W 3-15	N W KREMLIN	36.5	C R A INC
8320886	19620	3504722826		103		HELEN 1-15	N W KREMLIN	36.5	C R A INC
8320866	19684	3508300000		103		MARRIOTT 1-21	N E CASHION	36.5	CONOCO INC
8320888	19621	3509222556		103		MASON 1-26	N W AMES	91.3	PHILLIPS PETROLEU
8320861	19618	3504722813		103		TRIPP 1-9	N W KREMLIN	36.5	C R A INC
8320887	19622	3504723055		103		UNION EQUITY 1-32	NORTH ENID	29.2	CHAMPLIN PETROLEU
-FIRST NATIONAL OIL INC				RECEIVED:		02/01/83 JA: OK			
8320830	15164	3502520456		103		LILLIAN #1	MIDWELL	0.0	PHILLIPS PETROLEU
8320831	15165	3502520454		103		ROYCE #1	MIDWELL	3.5	PHILLIPS PETROLEU
8320832	15167	3500721638		103		SLEEPER-BEAVER #1	ELMWOOD	0.0	INTER NORTH INC
-GEL OIL & GAS INC				RECEIVED:		02/01/83 JA: OK			
8320893	19632	3506300000		103		FAITH #1	N E HORN TOWN	52.0	PUBLIC SERVICE CO
8320894	19633	3506300000		103		HOPE #1	N E HORNTOWN	52.0	PUBLIC SERVICE CO
-GEORGE RODMAN INC				RECEIVED:		02/01/83 JA: OK			
8320806	19274	3508720685		103		PLASTER 1-33	PAYNE	0.0	SUN EXPLORATION &
-GIN INC				RECEIVED:		02/01/83 JA: OK			
8320841	18701	3507300000		103		NINER #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:		02/01/83 JA: OK		117.3	PANHANDLE EASTERN
8320797	19578	3504521004		103		SUTTER #1			
-HADSON PETROLEUM CORP				RECEIVED:		02/01/83 JA: OK	N DIBBLE	70.0	SUN GAS CO
8320900	19648	3508720736		103		LADD #1-8			
-HANOVER MANAGEMENT CO				RECEIVED:		02/01/83 JA: OK	HANBURY FIELD	18.0	ARKANSAS LOUISIAN
8320816	19519	3503120951		103		PAYETTE #3	HANBURY	36.5	ARKANSAS LOUISIAN
8320815	19520	3503120947		103		SMITH A-1			
-HAWKINS OIL & GAS INC				RECEIVED:		02/01/83 JA: OK	W ARNETT	720.0	
8320867	19685	3501521021		103		PRATT #1-16			
-HOLDEN ENERGY CORP				RECEIVED:		02/01/83 JA: OK	WEST ENVILLE	115.0	CIMARRON TRANSMIS
8320793	15653	3508500000		102-4		LOCKE #1			
-HUBBELL OIL & GAS WELL PROGRAM 81				RECEIVED:		02/01/83 JA: OK		36.5	PHILLIPS PETROLEU
8320837	16221	3511123101		103		HUBBELL #2			
-J L THOMAS ENGINEERING INC				RECEIVED:		02/01/83 JA: OK	SOONER TREND	180.0	EXXON CO U S A
8320898	19635	3504722992		103		GUNGOLL #1			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320903	19634	3504722858		103		PRIBIL 1-X	SOONER TREND	75.0	EXXON CO U S A
-JAMES C MEADE				RECEIVED:	02/01/83	JA: OK			
8320842	18740	3501120973		108		EBERLY & MEADE NEELY #1-10	SQUAW CREEK	6.0	MICHIGAN-WISCONSI
-JAMES W HARRIS				RECEIVED:	02/01/83	JA: OK			
8320899	19649	3511721462		103		JOBE 1-8		21.9	H J D CATTLE CO
-JAYTEX OIL & GAS CO				RECEIVED:	02/01/83	JA: OK			
8320896	19654	3510321555		103		HUGHES #1	SOUTHEAST PERRY	24.0	AMINOL U S A INC
-JET OIL COMPANY				RECEIVED:	02/01/83	JA: OK			
8320805	19366	3508322083		103		MARIE "B" #1	ELKHORN	0.0	EASON OIL CO
-JOHN A TAYLOR				RECEIVED:	02/01/83	JA: OK			
8320879	19043	3504921800		103		CUNNINGHAM #1	NOT AVAILABLE	0.0	WARREN PETROLEUM
-KEITH F WALKER				RECEIVED:	02/01/83	JA: OK			
8320783	18902	3501972541		103		MCCHAREN #1	OIL CITY	18.3	MOBIL OIL CORP
-KEY DRILLING CO				RECEIVED:	02/01/83	JA: OK			
8320840	18610	3511122277		108		LEWIS #3	HECTORVILLE	2.0	PHILLIPS PETROLEU
-MACK OIL CO				RECEIVED:	02/01/83	JA: OK			
8320889	19623	3501722201		103		MERVELDT #2	N EL RENO	125.0	PHILLIPS PETROLEU
8320890	19624	3501722236		103		MERVELDT #3	N EL RENO	100.0	PHILLIPS PETROLEU
8320891	19625	3501722295		103		MERVELDT #4	N E EL RENO	90.0	PHILLIPS PETROLEU
-MAJOR OIL CORP				RECEIVED:	02/01/83	JA: OK			
8320838	16434	3509322343		103		MENO #1-13 LTD	MENO	75.0	PIONEER GAS PRODU
-MGF OIL CORP				RECEIVED:	02/01/83	JA: OK			
8320802	19525	3515121255		103		DIETZ 7-30	OAKDALE	360.0	AMINOIL USA INC
8320892	19631	3501521302		103		WEIDENMAIER #1-15	UNDESIGNATED	396.0	TRANSOK PIPE LINE
-MIDCO DRILLING INC				RECEIVED:	02/01/83	JA: OK			
8320823	19672	3500722349		103		ABRAHAM #1	MOCANE-LAVERNE	100.0	EL PASO NATURAL G
-MORAN EXPLORATION INC				RECEIVED:	02/01/83	JA: OK			
8320796	19545	3501722288		103		LAWSON #3	EL RENO	0.0	PHILLIPS PETROLEU
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	02/01/83	JA: OK			
8320807	19221	3513722130		103		GENTRY #2		0.0	GETTY OIL CO
-P-T III LTD				RECEIVED:	02/01/83	JA: OK			
8320874	18431	3504721990		108		HERRIN 12-1	SOONER TREND	11.5	WELLHEAD ENTERPRI
8320784	18428	3504722040		108		VALTR 13-1	SOONER TREND	24.5	WELLHEAD ENTERPRI
-P-T LTD II				RECEIVED:	02/01/83	JA: OK			
8320786	18425	3504721792		108		REISEN 18-1	SOONER TREND	38.0	WELLHEAD ENTERPRI
8320787	18424	3504721791		108		REISEN 18-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
-P-T LTD 80				RECEIVED:	02/01/83	JA: OK			
8320875	18432	3504722394		108		BECKNER 13-1	SOONER TREND	10.0	WELLHEAD ENTERPRI
-P-T LTD 81				RECEIVED:	02/01/83	JA: OK			
8320785	18427	3504722184		108		FUKSA 33-1	SOONER TREND	12.0	WELLHEAD ENTERPRI
-PETRO-LEWIS CORPORATION				RECEIVED:	02/01/83	JA: OK			
8320871	16566	3507323474		103		ALMA #19-2	SOONER TREND	149.0	CITIES SERVICE GA
8320869	19694	3507300000		108		PERIGO 8 #1	SOONER TREND	0.0	PARTNERSHIP PROPE
-PETROLEUM TECHNICAL SERVICES CO				RECEIVED:	02/01/83	JA: OK			
8320858	19558	3513921571		103		LANGSTON #1	COUNCIL GROVE FORMATI	923.1	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/01/83	JA: OK			
8320835	15440	3513900000		108		COOKSEY #1		0.0	PANHANDLE EASTERN
-REYNOLDS EXPLORATION CO				RECEIVED:	02/01/83	JA: OK			
8320829	19658	3507371058		103		COPELAND	SOONER TREND	0.0	CITIES SERVICE CO
8320895	19650	3507322970		103		HAYMAKER #1	SOONER TREND	0.0	CONOCO INC
8320808	19652	3507322974		103		HLADIK #1	SOONER TREND	0.0	CONOCO INC
8320822	19653	3507322971		103		MACY	SOONER TREND	0.0	CONOCO INC
8320809	19651	3507322973		103		MESIS #1	SOONER TREND	0.0	CONOCO INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RICKS EXPLORATION CO				RECEIVED:	02/01/83	JA: OK			
8320801	19527	3501521422		103		ACKER #1	SOUTH BINGER	107.0	PIONEER GAS PRODU
8320860	19596	3515121307		103		FAY 35A	S W OAKDALE	310.0	TRANSOK PIPELINE
-ROCKWELL PETROLEUM CORP				RECEIVED:	02/01/83	JA: OK			
8320883	19583	3508120790		103		STATE SCHOOL LAND #4	SKELLEYVILLE	22.0	UNITED GATHERING
8320882	19580	3508121482		103		TRAYWICK #2-25	SKELLEYVILLE	54.8	UNITED GATHERING
-SAGE DRILLING CO INC				RECEIVED:	02/01/83	JA: OK			
8320803	19524	3500722305		103		JONES #1	CAMMRICK	274.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	02/01/83	JA: OK			
8320804	19495	3513900377		108		ELMORE #1	EAST HOOKER	21.5	INTER NORTH INC
8320857	19245	3515120018		108		WILSON SCHOCK #1-13	N E LOVEDALE	8.3	EL GRANDE PIPELIN
-SUN OIL CO				RECEIVED:	02/01/83	JA: OK			
8320799	19539	3505921064		103		A BONHAM UNIT #3L	MOCANE-LAVERNE GAS AR	219.0	COLORADO INTERSTA
8320798	19540	3505921064		103		A BONHAM UNIT #3U	MOCANE-LAVERNE GAS AR	905.0	COLORADO INTERSTA
8320836	15667	3512120841		103		CHADWELL-NELSON #2	FEATHERSTON	644.0	SOUTHEASTERN TRAN
8320795	08542	3512300000		108		JESSE FIELD UNIT PHASE I #2-2U	FITTS	8.0	KOCH EXPLORATION
8320794	08543	3512300000		108		JESSE FIELD UNIT PHASE I #4-5U	FITTS	2.0	KOCH EXPLORATION
8320872	17016	3510300000		108		R A STAPLES #3	WEST SAMS	3.0	ARCO OIL & GAS CO
8320873	17669	3505300000		108		S W WAKITA UNIT #4-2	S W WAKITA	3.0	CITIES SERVICE GA
8320881	19099	3512920700		103		WRIGHT #2	REYDON	0.0	KANSAS NEBRASKA N
-TEX-OK PETROLEUM INC				RECEIVED:	02/01/83	JA: OK			
8320817	19506	3500722296		103		POSL #5-1	MOCANE-LAVERNE	101.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	02/01/83	JA: OK			
8320863	19640	3504321478		103		DEVEREAUX #2	OAKWOOD NORTH	85.0	OKLAHOMA GAS & EL
8320834	14906	3507100000		108-ER		E B CORNEIL #1	BLACKWELL WEST	8.6	ARKANSAS LOUISIAN
8320880	19096	3508520468		103		LENA B GREEN #4	S W ENVILLE POOL	156.0	CIMARRON TRANSMIS
8320833	14905	3507100000		108-ER		R I SHEPPARD #2	BLACKWELL WEST	1.8	ARKANSAS LOUISIAN
-THE GHK COMPANY				RECEIVED:	02/01/83	JA: OK			
8320902	22847	3514920204		107-DP		GARST #1-10	E CORDELL	563.9	
8320897	22848	3501521402		107-DP		IAMS #1-6	W CYRIL	0.0	TEXAS GAS TRANSMI
8320901	22846	3501521121		107-DP		SNAVELY #1-2	W CYRIL	6.6	EL PASO NATURAL G
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	02/01/83	JA: OK			
8320812	19613	3500722177		103		DORMAN #1-31	UNNAMED	20.0	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC				RECEIVED:	02/01/83	JA: OK			
8320859	19569	3508720793		103		LUCY #1		60.0	
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/01/83	JA: OK			
8320868	19686	3501521183		103		DRAKE #1-28	SW BINGER	50.0	
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	02/01/83	JA: OK			
8320800	19529	3507323204		103		HICKEY 1-5		0.0	CITIES SERVICE CO
-VULCAN ENERGY CORP				RECEIVED:	02/01/83	JA: OK			
8320878	18934	3507300000		103		CUNNINGHAM #1	SOONER TREND	73.0	PHILLIPS PETROLEU
-WHITE OPERATING CO				RECEIVED:	02/01/83	JA: OK			
8320821	19120	3508322082		103		YENZER #3	S W CRESCENT	126.0	CONOCO INC
**********									
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
**********									
-ATLAS RESOURCES INC				RECEIVED:	02/03/83	JA: PA			
8320938	18780	3706327135		103		CAMP WILLIAM PENN INC #1	CHERRYHILL	150.0	COLUMBIA GAS TRAN
8321002	18967	3706327225		102-4		CLYMER CITIZENS WATER CO #2	CHERRYHILL	150.0	COLUMBIA GAS TRAN
8320937	18779	3706327223		103		SPICHER #1	MONTGOMERY	38.0	COLUMBIA GAS TRAN
8321001	18966	3706327017		103		ST JOHNS U O CHURCH #2	GREEN	0.0	COLUMBIA GAS TRAN
8320913	18555	3706326575		102-4		SWANK REFRACTORIES CO #1	CHERRYHILL	456.0	COLUMBIA GAS TRAN
-C & C TROYER BROTHERS				RECEIVED:	02/03/83	JA: PA			

JD NO	JA DKT	API NO	U	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320908	17935	3704922206		107-TF		DENNIS BLILEY #2	WATERFORD	15.0	NATIONAL FUEL GAS
8320907	17934	3704922206		102-2		DENNIS BLILEY #2	WATERFORD	15.0	NATIONAL FUEL GAS
8320911	17993	3704922205		102-2		FRANK JAGTA #1	WATERFORD	14.0	NATIONAL FUEL GAS
8320912	17994	3704922205		107-TF		JAGTA #1	WATERFORD	14.0	NATIONAL FUEL GAS
8320910	17969	3704922169		102-2		PETRUSKA #2	WASHINGTON	11.0	NATIONAL FUEL GAS
8320909	17968	3704922169		107-TF		PETRUSKA #2	WASHINGTON	11.0	NATIONAL FUEL GAS
-CARDINAL OIL CO				RECEIVED:	02/03/83	JA: PA			
8320945	18789	3703921859		107-TF		WALTER BAYUS #3 82-27 PER #CRA-2185	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	02/03/83	JA: PA			
8320974	18821	3706327109		103		GEORGE A RICKARD #1 WN-1935	GREEN	58.0	GENERAL SYSTEM PU
8320977	18824	3703321443		102-2		J L BROTHERS #8 WN-1956	BURNSIDE	113.0	GENERAL SYSTEM PU
8320975	18822	3703321444		102-2		J L BROTHERS #9 WN-1961	BURNSIDE	34.0	GENERAL SYSTEM PU
8320978	18825	3703321448		102-2		LEVI A LEAMER #1 WN-1962	BURNSIDE	8.0	GENERAL SYSTEM PU
8320976	18823	3703321449		102-2		LEVI A LEAMER #2 WN-1960	BURNSIDE	0.4	GENERAL SYSTEM PU
-DELTA DRILLING CO				RECEIVED:	02/03/83	JA: PA			
8320914	18655	3706300000		103		HESS-ST CLAIR-GIMA #1 IND 27170	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-EASTERN STATES EXPLORATION CO				RECEIVED:	02/03/83	JA: PA			
8320991	18948	3706522494		103		JAMES E PIERCE #2	RATHMEL	35.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	02/03/83	JA: PA			
8320990	18864	3706326973		103		MARVIN HUFF #1 274	CHERRYHILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
-INGRAM ENTERPRISES INC				RECEIVED:	11/22/82	JA: PA			
8320981	18845	3703921825		103		MUCKINHOUPT #1	WOODCOCK	38.0	COLUMBIA GAS TRAN
-INGRAM ENTERPRISES INC				RECEIVED:	02/03/83	JA: PA			
8320983	18847	3703921824		107-TF		C BLACK #1	WOODCOCK	40.0	COLUMBIA GAS TRAN
8320982	18846	3703921824		103		C BLACK #1	WOODCOCK	40.0	COLUMBIA GAS TRAN
8320980	18444	3703921825		107-TF		MUCKINHOUPT #1	WOODCOCK	38.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	02/03/83	JA: PA			
8320917	18691	3703321451		103		IVAN E JOHNSTON #2	BURNSIDE	0.0	CONSOLIDATED GAS
8320904	14333	3703321239	D	103		J L BROTHERS #4	BURNSIDE	0.0	CONSOLIDATED GAS
-JEAN O MYERS				RECEIVED:	02/03/83	JA: PA			
8320939	18781	3700520441		108		H M HUFFMAN #1	PARKS	0.0	PEOPLES NATURAL G
8320940	18782	3700520849		108		H M HUFFMAN #2	PARKS	0.0	PEOPLES NATURAL G
8320941	18783	3700520516		108		H M HUFFMAN #3	PARKS	0.0	PEOPLES NATURAL G
-KEPCO INC				RECEIVED:	02/03/83	JA: PA			
8320942	18784	3705921770		102-4		CHARLES W HEADLEE #2 (PK-74)	RUFF CREEK	3.6	NEW JERSEY NATURA
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	02/03/83	JA: PA			
8320920	18725	3706327082		103		BARNES #4	THOMAS BARNES	114.0	COLUMBIA GAS TRAN
8320935	18777	3706327236		103		LUKCIK #5	FRANK J LUKCIK	66.4	COLUMBIA GAS TRAN
8320919	18724	3706327070		103		THOMAS BARNES #3	BLACKLICK	31.9	COLUMBIA GAS TRAN
-KRIEBEL WELLS 82				RECEIVED:	02/03/83	JA: PA			
8320943	18786	3703321488		103		PENTZ #1	HUDSON-MCGEE'S MILLS	20.0	
8320918	18708	3706327206		103		RAGER #1	JOHNSONBURG	20.0	
8320936	18778	3703321489		103		REIRDON #1	BIG RUN	20.0	
-MERIDIAN EXPLORATION CORP				RECEIVED:	02/03/83	JA: PA			
8320968	18812	3704922226		107-TF		EKELUND #656-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320951	18795	3704922161		102-2		ELTON LEWIS #631-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320952	18796	3704922161		107-TF		ELTON LEWIS #631-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320962	18806	3703921817		107-TF		F FLOREK #652-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320961	18805	3703921817		102-2		F FLOREK #652-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320963	18807	3703921823		102-2		F FLOREK #653-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320964	18808	3703921823		107-TF		F FLOREK #653-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320956	18800	3704922049		107-TF		GIEWONT #636-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320955	18799	3704922049		102-2		GIEWONT #636-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320966	18810	3704922168		107-TF		HARNED #655-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320969	18813	3704922148		107-TF		HECKER #657-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320970	18814	3704922148		102-2		JOE HECKER #657-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320965	18809	3704922168		102-2		LARRY HARNED #655-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320958	18802	3704922048		107-TF		LEO MEABON #637-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320957	18801	3704922048		102-2		LEO MEABON #637-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320959	18803	3704922149		102-2		PAUL KLIE (639-1)	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320960	18804	3704922149		107-TF		PAUL KLIE #639-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320948	18792	3704922040		107-TF		SKELTON #626-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320947	18791	3704922040		102-2		SKELTON #626-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320967	18811	3704922226		102-2		THELMA EKELUND #656-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320950	18794	3704922041		107-TF		V MAHAN #627-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320954	18798	3704922086		107-TF		VANCO #634-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320953	18797	3704922086		102-2		VANCO #634-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8320949	18793	3704922041		102-2		VERNON MAHAN #627-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
-MITCHELL ENERGY CORPORATION				RECEIVED:		02/03/83 JA: PA			
8320906	16064	3703921557		107-TF		RICHMOND UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
8320905	16063	3703921557		103		RICHMOND UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:		02/03/83 JA: PA			
8320946	18790	3704721162		103		E PICHLER #6245	ST MARYS	4.0	GENERAL SYSTEM PU
-NEA CROSS CO				RECEIVED:		02/03/83 JA: PA			
8320916	18690	3704922319		107-TF		IRENE & THADDEUS KONDZIELSKI #2	WATERFORD	10.0	NATIONAL FUEL GAS
8320915	18689	3704922319		102-2		IRENE & THADDEUS KONDZIELSKI #2	WATERFORD	10.0	NATIONAL FUEL GAS
-NORTHWEST NATURAL GAS CO				RECEIVED:		02/03/83 JA: PA			
8320989	18861	3704921662		107-TF		DARWIN & LEAH COOK #1	ALBION	0.0	NATIONAL FUEL GAS
8320984	18852	3704921662		103		DARWIN & LEAH COOK #1	ALBION	0.0	NATIONAL FUEL GAS
8320988	18860	3704921882		103		DORIAN & BARBARA MONROE #1	BEAVER CENTER	0.0	NATIONAL FUEL GAS
8320987	18859	3704921882		107-TF		DORIAN & BARBARA MONROE #1	BEAVER CENTER	0.0	NATIONAL FUEL GAS
8320985	18853	3704921661		107-TF		JOHN GAGE SR #2	ALBION	0.0	NATIONAL FUEL GAS
8320986	18858	3704921661		103		JOHN GAGE SR #2	ALBION	0.0	NATIONAL FUEL GAS
-PETE YERACE				RECEIVED:		02/03/83 JA: PA			
8320973	18820	3712500000		108		YERACE #1	CHACTIERS	1.4	COLUMBIA OF PENNA
8320972	18819	3712500000		108		YERACE #2	CHACTIERS	1.4	COLUMBIA OF PENNA
8320971	18818	3712500000		108		YERACE #3	CHACTIERS	1.4	COLUMBIA OF PENNA
-PNB PETROLEUM CORP				RECEIVED:		02/03/83 JA: PA			
8320993	18950	3708520393		103		A FERGUSON #1-S	FRENCH CREEK	30.0	TENNESSEE GAS PIP
8320996	18953	3708520328		103		C MORRISON UNIT #1	FRENCH CREEK	30.0	TENNESSEE GAS PIP
8320992	18949	3708520401		103		L JACOBS #1	FRENCH CREEK	30.0	TENNESSEE GAS PIP
8320995	18952	3708520403		103		R MUSCHICK #1	FRENCH CREEK	30.0	TENNESSEE GAS PIP
8320994	18951	3708520394		103		R STALLSMITH #1	FRENCH CREEK	30.0	TENNESSEE GAS PIP
-R E BARRETT				RECEIVED:		02/03/83 JA: PA			
8320921	18726	3706327209		103		LYLE & VERLE BARRETT #4	WEST MAHONING	40.0	PEOPLES NATURAL G
-REX-HIDE REALTY INC				RECEIVED:		02/03/83 JA: PA			
8320934	18772	3712922117		103		WILLIAM BORBONUS #4	DERRY	45.0	
-S T JOINT VENTURE 82-C				RECEIVED:		02/03/83 JA: PA			
8320979	18842	3703321361		103		MCDONALD #1	PENN	25.0	
-T W PHILLIPS GAS & OIL CO				RECEIVED:		02/03/83 JA: PA			
8320925	18763	3700500000		108		A B CLOAK #1	EAST FRANKLIN	2.6	T W PHILLIPS GAS
8321013	18983	3700500000		108		ANNIE IRWIN #1	PLUMCREEK	2.3	T W PHILLIPS GAS
8321009	18979	3700520358		108		CLAIR J FRYE #1	PLUMCREEK	1.5	T W PHILLIPS GAS
8321008	18978	3700500000		108		ELDERTON STATE BANK #1	PLUMCREEK	1.2	T W PHILLIPS GAS
8320931	18769	3700500000		108		FORD W SHANKLE #1	EAST FRANKLIN	2.5	T W PHILLIPS GAS
8320928	18766	3700500000		108		FRANK H LYTLE #1	EAST FRANKLIN	3.2	T W PHILLIPS GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8320926	18764	3700500000		108		G C HELLAM #3	EAST FRANKLIN	2.8	T W PHILLIPS GAS
8321005	18975	3700520975		108		GEORGE M BOWSER #1	PLUMCREEK	4.7	T W PHILLIPS GAS
8321010	18980	3700500000		108		GLENN W HANKEY #1	PLUMCREEK	1.5	T W PHILLIPS GAS
8321011	18981	3700500000		108		GLENN W HANKEY #2	PLUMCREEK	2.1	T W PHILLIPS GAS
8321012	18982	3700500000		108		GLENN W HANKEY #3	PLUMCREEK	1.6	T W PHILLIPS GAS
8320927	18765	3700500000		108		HOCH BROTHERS #1	EAST FRANKLIN	1.1	T W PHILLIPS GAS
8321003	18973	3700500000		108		J N BLOSE #1	PLUMCREEK	0.0	T W PHILLIPS GAS
8321004	18974	3700520160		108		J N BLOSE #2	PLUMCREEK	1.0	T W PHILLIPS GAS
8321007	18977	3706321304		108		J S DOTY #1	GRANT	13.6	T W PHILLIPS GAS
8320933	18771	3700521620		108		JOHN FILIPPINI #1	KISKIMINETAS	1.2	T W PHILLIPS GAS
8321015	18985	3700520476		108		MAGGIE MCINTIRE #1	PLUMCREEK	2.1	T W PHILLIPS GAS
8321016	18986	3700520915		108		MILDRED J MCCAUSLAND #1	PLUMCREEK	2.4	T W PHILLIPS GAS
8320930	18768	3700500000		108		MRS A O PARKER #1	EAST FRANKLIN	2.3	T W PHILLIPS GAS
8321014	18984	3700520495		108		MRS MARIE KIMMEL #1	PLUMCREEK	2.5	T W PHILLIPS GAS
8320923	18761	3700500000		108		R M BURNS #1	KISKIMINETAS	2.7	T W PHILLIPS GAS
8320924	18762	3700500000		108		R M BURNS #2	KISKIMINETAS	3.2	T W PHILLIPS GAS
8320929	18767	3700500000		108		R S RALSTON #1	EAST FRANKLIN	1.8	T W PHILLIPS GAS
8320932	18770	3700500000		108		W B STRUMBAUGH #1	EAST FRANKLIN	1.8	T W PHILLIPS GAS
8321006	18976	3700500000		108		W E CESSNA #2	PLUMCREEK	1.4	T W PHILLIPS GAS
-VICTORY DEVELOPMENT CO				RECEIVED:	02/03/83	JA: PA			
8321000	18960	3703321383		102-2		MOYER #1 CLE-21383	WESTOVER BORO	36.0	COLUMBIA GAS TRAN
8320999	18959	3703321384		102-2		MOYER #2 CLE-21384	WESTOVER BORO	36.0	COLUMBIA GAS TRAN
8320998	18958	3706327011		103		MUMAU #1 IND-27011	GRANT	36.0	ATLAS RESOURCES I
8320997	18957	3703327044		103		MUMAU #3 IND 27044	GRANT	36.0	ATLAS RESOURCES I
-W G SHANER				RECEIVED:	02/03/83	JA: PA			
8320944	18787	3703321303		103		KELLICHNER	BIG RUN	18.0	CONSOLIDATED GAS
-WILLIAM S BURKLAND				RECEIVED:	02/03/83	JA: PA			
8320922	18746	3705100000		108		KELLEY #1	WALTERSBURG	3.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 274.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–5500 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–173–000]

B and B Production Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 1, 1983.

On January 24, 1983, B and B Production Co. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Stephens County, Oklahoma. The primary energy source to the facility will be methane gas rated at 691 Btu obtained from a gas well. Applicant identifies the gas as "waste." The electric power production capacity of the facility is 100 kilowatts. There are no other methane-fueled facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–5617 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–185–000]

Biomass Power Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 1, 1983.

On February 11, 1983, Biomass Power Corp. (Applicant), John L. Matthews, Sr., President, 145 Camp Drive, Dunnellon, Flordia 32630, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Jefferson County, Florida. The primary energy source to be used in the facility will be biomass, in the form of wood chips and peanut shells. The electric power production capacity of the facility will be 7,500 kilowatts. There are no other biomass-fueled small power production facilities owned by Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–5618 Filed 3–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–320–000]

Cambridge Electric Light Co.; Filing

March 1, 1983.

The filing Company submits the following:

Take notice that on February 16, 1983, Cambridge Electric Light Company (Cambridge) tendered for filing proposed changes in its currently-effective Rate RS–3 under its FERC Electric Tariff, Original Volume No. 1. Rate RS–3 governs the sale of electric energy at wholesale by Cambridge to the Municipal Light Department of the Town of Belmont, Massachusetts (Belmont) its wholesale customers.

The tendered filing consists of a proposed rate schedule (designated by Cambridge as Rate RS–4) and an unexecuted Service Agreement. By a separate filing pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, Cambridge has simultaneously filed a Stipulation and Agreement, executed by Cambridge and Belmont, as an offer of settlement of the above docket.

Proposed Rate RS–4 which conforms to the applicable terms of the aforementioned Stipulation and Agreement would increase billings to Belmont by approximately $255,000 annually, based upon the twelve month test period ending December 31, 1981. The proposed effective date of Rate RS–4 is June 1, 1983.

Proposed Rate RS–4, effects the following changes in Cambridge's currently-effective Rate RS–3:

1. An increase in demand charge from $5.231 to $5.835 per KVA.

2. An energy charge of $0.0404 per KWH replacing the existing energy charge of $0.0206.

3. An updating of the base cost of fuel component of the currently effective Fuel Cost Adjustment clause.

Cambridge states that the proposed increase in rate level is necessary because of increased operating expenses and capital costs. Because of these increases, Cambridge's earnings from its service to Belmont have been reduced to the point that rate relief is necessary.

Copies of the filing have been served upon Belmont and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5619 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-192-000]

Columbia Gas Transmission Corp.; Application

March 1, 1983.

Take notice that on February 9, 1983, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, 1273, Charleston, West Virginia 25325, filed in Docket No. CP83-192-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 5,000 horsepower compressor addition at the Crawford Compressor Station located in Fairfield County, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed horsepower addition is necessary in order to permit the required design winter day storage withdrawals from Applicant's Crawford, Benton and Laurel Storage Fields during the 1984-85 winter period. It is stated that the estimated cost of the proposed facilities is approximately $7,400,000 which would be financed with funds generated from internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed wth the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filled within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or it the Commission on its own motion believs that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5620 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-197-000]

Columbia Gulf Transmission Co.; Application

March 1, 1983.

Take notice that on February 14, 1983, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-197-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a contract demand basis 12,000 Mcf of natural gas per day and such further volumes as Applicant agrees to accept pursuant to a gas transportation agreement dated January 10, 1983. It is stated that Tennessee would transport its gas through its existing 8-inch line from the production platform in South Marsh Island Block 106, offshore Louisiana, to the point of receipt at an existing subsea tap on Applicant's 16-inch line in South Marsh Island Block 99. It is further stated that Applicant would in turn transport the volumes for delivery at the interconnection of Applicant's line and the Blue Water System in South Marsh Island Block 74.

For such transportation service, Applicant proposes to charge Tennessee a contract demand monthly charge of $22,800 and a commodity rate of 6.25 cents per Mcf of gas received for transportation at South Marsh Island Block 99.

Applicant asserts that the subject transportation service would enable Tennessee to receive into its system gas supplies which it has purchased in South Marsh Island Block 106, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5621 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-301-000]

Connecticut Light and Power Co.; Refund Report

March 1, 1983.

The filing Company submits the following:

Take notice that on February 14, 1983, Connecticut Light and Power Company submitted for filing a refund report pursuant to the Commission's order dated December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 17, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5622 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-327-000]

Empire District Electric Co.; Filing

March 1, 1983.

The filing Company submits the following:

Take notice that the Empire District Electric Company, (Empire) on February 16, 1983, tendered for filing a proposed Amendment to Schedule I, Peaking Power Service, a part of that agreement for interchange of power and interconnected operation between Empire and Kansas City Power and Light Company (KCPL) designated rate schedule, FERC 88.

Empire states that the amendment will change the capacity charge from $0.27 per Kw per month to $0.46 per Kw per month.

Empire requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commisson, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5623 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-181-000]

Lone Star Gas Company, a Division of ENSERCH CORP; Application

March 1, 1983.

Take notice that on February 2, 1983, Lone Star Gas Company, a division of ENSERCH CORPORATION (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. Cp83-181-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the contruction and operation of taps and measuring and regulating facilities necessary for the delivery of natural gas to six main line customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Lone Star proposes to construct and operate tape and measuring and regulating facilities for the delivery of natural gas to

Customer	Location	use
M. T. James	Cooke, Tex	Heating.
Greg Burns	McCurtain, Okla	Do.
B. L. Scarbrough	Grayson, Tex	Peanut Dryer and heating.
G. C. Scarbrough	Grayson, Tex	Irrigation and heating.
Dr. Roger Lacy	Willbarger, Tex	Heating.
Vernon Biter	Clay, Tex	Do.

Lone Star estimates that the total cost of the taps and measuring and regulating facilities would be $3,028, which cost would be financed by Lone Star's working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22 , 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Lone Star to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5624 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-183-000]

Michigan Wisconsin Pipe Line Co.; Application

March 1, 1983.

Take notice that on February 4, 1983, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-183-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 75,625 Mcf of natural gas per day on behalf of Transcontinental Gas Pipe Line Corporation (Transco) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Great Plains Gasification Associates has undertaken the construction of a coal gasification plant near Beulah, North Dakota, which would produce approximately 137,500 Mcf of synthetic natural gas per day. Applicant states that its daily purchase of this production would be 34,375 Mcf, that Transco's daily purchase volume would be 34,375 Mcf, and that Tennessee's daily purchase volume would be 41,250 Mcf.

Applicant further states that Northern Natural Gas Company, Division of InterNorth, Inc., would deliver the daily purchase volumes to Applicant at Janesville, Wisconsin, for the account of Applicant, Transco, and Tennessee. Applicant proposes to take delivery at Janesville of up to 34,375 Mcf of natural gas per day for the account of Transco and to transport and deliver these volumes to Transco in Acadia Parish, Louisiana. Applicant also proposes to take delivery at Janesville of up to 41,250 Mcf of natural gas per day for the account of Tennessee and to transport and deliver these volumes to Midwestern Gas Transmission Company (Midwestern) in Joliet, Illinois, for the account of Tennessee.

Applicant proposes to charge Transco a monthly demand charge of $3.89 per Mcf of contract demand and Tennessee a charge of $4.37 per Mcf of contract demand for the transportation services.

Further, Applicant proposes to construct and operate a 37.5-mile loopline between Janesville, Wisconsin, and Woodstock, Illinois, with an estimated construction cost of $21,061,600, in order to transport the additional volumes Applicant would receive at Janesville. Finally, Applicant proposes to install new meters and appurtenant facilities in Joliet, Illinois, with an estimated construction cost of $797,600, in order to measure the additional volumes to be delivered to Midwestern.

It is asserted that the proposed construction costs would be financed initially with treasury funds and other funds generated internally together with borrowings from banks under short-term lines of credit with permanent financing as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5625 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-173-000]

Mississippi River Transmission Corp.; Application

March 1, 1983.

Take notice that on January 31, 1983, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP83-173-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain additional natural gas storage facilities operation at Applicant's East Unionville Storage Field located in Lincoln Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the drilling and operation of an additional injection/withdrawal well in its East Unionville Storage Field and the construction and operation of minor appurtenant facilities to connect such proposed well to the field gathering system. Applicant states that said well is expected to increase the overall deliverability of the field but would not alter the total storage capacity of the field. Applicant estimates the total cost of the proposed well and related facilities to be $905,700 which would be financed from available funds and/or short-term borrowing.

Applicant does not propose any new sales or changes in existing service agreements. Further, it is asserted that the proposed facilities would not result in any increase in either the capacity of Applicant's system or the total storage capacity of Applicant's East Unionville Storage Field.

Any persons desiring to be heard or to make any protest with reference to said application should on or before March 22 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal

Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5628 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-7-000]

Mueller Engineering Corp.; Application for Adjustment

March 1, 1983.

On February 7, 1983, Mueller Engineering Corporation (Mueller), 1010 Wilson Building, Corpus Christi, Texas 78476, filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982) and Rule 1104 of the Commission's Rules of Practice and Procedure (18 CFR 385.1104). Mueller seeks relief from § 271.805 of the Commission's regulations (18 CFR 271.805).

Mueller is the operator of the J.S. Bordovsky—State of Texas #A-2 Well, located in Duval County, Texas. Mueller states the subject well qualified as a stripper well under NGPA section 108, and that section 108 prices were paid by Mueller to the purchaser, Natural Gas Pipeline Company of America, commencing in September, 1981. Mueller further states that the well disqualified itself as a stripper well during the 90-day period of February, March, and April 1982 by producing more than 60 Mcf per day. Mueller states that the reason for the well's overproduction during that 90-day period was the instalation of a compressor in January 1982 designed to stimulate production.

According to § 271.805(a) of the Commission's regulations, if a stripper well's production averages more than 60 Mcf per production day during any 90-day production period, then both the purchaser of gas from the well and the operator are required to file a written notice of disqualification with the Commission, the jurisdictional agency, and each other. Section 271.805(c) provides that the right to collect a maximum lawful price under section 108 terminates on the last day of the 90-day disqualifying period unless, within 150 days of the last day of such period, the operator files a petition for determination that the increase in production was the result of the application of an enhanced recovery technique. Section 271.805(d) provides that if this petition is filed later than the 150 day period, then sales from the well are not eligible for the ceiling price under section 108 from the last day of the disqualifying period until the day on which the petition is filed. Mueller failed to timely file the notice of disqualification, and did not file the petition until January 14, 1983.

In its petition for relief, Mueller states that the failure to comply with the above-mentioned notice requirements was a result of an oversight caused by the "extremely complex requirements of the NGPA and the supporting regulations adopted by FERC."

Mueller has determined that if relief is not granted by the Commission, it will be required to make refunds estimated to be $41,292.71. Due to the cost of installing and operating the compressor for the period between May 1, 1982 and January 14, 1983, this refund requirement would cause Mueller to suffer an out-of-pocket cash loss of $17,053.02 for the period between May 1, 1982 and January 14, 1983. Mueller further states that the volumes of natural gas produced from the subject well are so small in comparison to the total volume of gas handled by the purchaser, that the ordering of refunds will have little or no effect upon the purchaser's weighted average cost of gas. This lack of economic advantage to the purchaser, compared with the substantial loss to Mueller, is said to result in a special hardship and inequity to Mueller, as well as in an unfair distribution of burdens.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-.1117.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5627 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-194-000]

New England Alternate Fuels—New Hampshire, Inc.—Four Hills; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 1, 1983.

On February 10, 1983, New England Alternate Fuels—New Hampshire, Inc., (Applicant), c/o New England Alternate Fuels, Inc., Box 921, Brattleboro, Vermont 05301, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located at the Four Hills Sanitary Landfill in Nashua, New Hampshire. The primary energy source to the facility will be biomass, in the form of landfill gas, or biomethane. The facility will not use any natural gas, oil or coal. The electric power production capacity of the facility will be 750 kilowatts. There is no other biomass-fueled small power production facility owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5628 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-184-000]

Northwest Central Pipeline Corp.; Application

March 1, 1983.

Take notice that on February 7, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-184-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 5 miles of 20-inch pipeline loop and appurtenant facilities on its Springfield pipeline in Newton County, Missouri, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The estimated cost of the proposed facilities is $1,188,000 which would be paid from cash on hand.

It is stated that the proposed pipeline looping would increase the capacity on peak days for deliveries in and around Springfield, which would permit the delivery of sufficient volumes through the Springfield system to serve the peak day requirements of its customers east of its Saginaw Station and would allow more flexibility to provide deliveries for peak hours on this section of its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5629 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-326-000]

Southern California Edison Co.; Filing

March 1, 1983.

The filing Company submits the following:

Take notice that on February 16, 1983, Southern California Edison Company (Edison) tendered for filing the Edison-Burbank Interruptible Transmission Service Agreement (Matrix) (Agreement), which has been executed by Edison and City of Burbank (Burbank), California.

Edison states that the Agreement supersedes Edison's Rate Schedule FERC No. 14 and provides for the establishment of three additional Points of Receipt/Delivery for interruptible transmission service.

Edison requests an effective date of January 1, 1983.

Copies of this filing were served upon the City of Burbank and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5630 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-186-000]

Southern Natural Gas Co.; Application

March 1, 1983.

Take notice that on February 7, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP83-186-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of compression facilities in Refugio County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Southern has the right to purchase natural gas in Block 703 and the northern half of the northwest quarter of Block 710, Matagorda Island area, offshore Texas, which would be transported through the Matagorda Offshore Pipeline System (MOPS) in addition to the gas supplies already flowing through the facilities. It is asserted that in order to attach these supplies Southern filed an application in Docket No. CP82-467-000 requesting authorization to construct and operate 9.5 miles of 16-inch pipeline and related measurement facilities to connect Block 703 to an existing subsea point of interconnection with the MOPS facilities in Matagorda Island Block 686.

Southern proposes herein to construct and operate a 3300 horsepower compression facility at the onshore terminus of the MOPS near Tivoli, Refugio County, Texas, in order to provide Southern with approximately 112,600 Mcf per day of additional capacity in MOPS. Southern estimates that the maximum daily deliverability would be approximately 180,000 Mcf per day.

Southern states that the estimated cost of the proposed compresssion facilities is $6,118,960 which cost would be financed initially by short-term financing and/or cash from current operations and ultimately from permanent financing.

It is asserted that the proposed compression facilities would be owned solely by Southern with the right to utilize the entire incremental increase in the capacity of MOPS.

Any person desiring to be heard or to make any protest with reference to said

application should on or before March 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5631 Filed 3-3-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2316-5]

Availability of Environmental Impact Statements Filed Feb. 22 Through Feb. 25, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Corps of Engineers:
- EIS No. 830108, Final, COE, NY, Hudson River Navigation, Maintenance Dredging, Due: Apr. 4, 1983.
- EIS No. 830114, Final, COE, VA, Hampton Roads/Norfolk and Newport News Harbors, Debris Removal, Due: Apr. 4, 1983.
- EIS No. 830113, Report, COE, HI, Kahoma Stream Flood Control Project, Island of Maui.

Department of Commerce:
- EIS No. 830118, Draft, NOA, PR, La Parguera National Marine Sanctuary Designation and Management, Due: May 2, 1983.
- EIS No. 830119, Draft, NOA, SEV, REG ATL Swordfish Fishery Management Plan and Regulations, Due: Apr. 18, 1983.

Department of Energy:
- EIS No. 830120, Final, DOE, WA, PUREX/ Uranium Oxide Facilities, Operation, Hanford Site, Benton Co., Due: Apr. 4, 1983.

Department of the Interior:
- EIS No. 830116, Draft, BLM, CO, Clear Creek Shale Oil Development, Right-of-Way, Garfield County, Due: May 3, 1983.
- EIS No. 830107, Final, BLM, SEV, UT WY Frontier Pipeline Crude Oil/Condensate Pipeline, Right-of-Way, Due: Apr. 4, 1983.
- EIS No. 830109, Suppl, IBR, OK, McGee Creek Water Resources Development Project, Atoka County, Due: May 6, 1983.
- EIS No. 830104, Final, FWS, AK, REG Arctic National Wildlife Refuge, Oil and Gas Exploration, Due: Apr. 4, 1983.

Department of Transportation:
- EIS No. 830111, Draft, FHW, ID, Idaho FH-24/Banks-Lowman Highway Improvement, Boise County, Due: Apr. 23, 1983.
- EIS No. 830035, Final, FHW, CA, I-580 and CA-238 Improvement, W. Pacific RR to I-680, Alameda County, Due: Apr. 4, 1983.
- EIS No. 830103, Final, FHW, IN, I-164 Improvement, IN-66 to US 41, Vanderburg and Warrick Counties, Due: Apr. 4, 1983.
- EIS No. 830105, Final, FHW, IN, Pennsylvania Street Corridor Improvement and Extension, Grant County, Due: Apr. 4, 1983.

Environmental Protection Agency:
- EIS No. 830106, Draft, EPA, TX, Malakoff Generating Station/Trinity Mine, NPDES Permit, Due: Apr. 18, 1983.

Federal Energy Regulatory Commission:
- EIS No. 830112, Draft, FRC, AK, Black Bear Lake Hydroelectric Project, C/D License, Due: Apr. 18, 1983.

Department of Agriculture:
- EIS No. 830117, Draft, AFS, MT, Flathead National Forest Land and Resource Management Plan, Due: June 5, 1983.
- EIS No. 830110, Final, AFS, AK, Tongass National Forest, 1984-89 Timber Sale Plan, Due: Apr. 4, 1983.
- EIS No. 830115, Draft, SCS, CA, Spring Creek Subwatershed Flood Control Plan, Sonoma County, Due: Apr. 25, 1983.

Amended Notice:
- EIS No. 820783, Draft, AFS, SEV,NM, AZ, Coronado National Forest, Land and Resource Management Plan Published FR 12/17/82—Review extended, Due: Apr. 1, 1983.
- EIS No. 820827, Draft, BLM, SEV, AZ, UT, Arizona Strip Wilderness Study Areas, Wilderness Designation Published FR 01/07/83—Review extended, Due: Apr. 6, 1983.
- EIS No. 830095, Final, FAA, WA, Snohomish County Airport Improvement and Runway Construction Published FR 02/25/83—Official Notice should have been held until 03/04/83, Due: Apr. 4, 1983.

Paul C. Cahill,

Director, Office of Federal Activities of Internal Revenue.

March 1, 1983.

[FR Doc. 83-5591 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2305-6]

Availability of Environmental Impact Statements Filed January 31 Through February 4, 1983 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-3742 appearing on page 6395 in the issue of Friday, February 11, 1983, make the following correction:

In the first column, second line from the bottom, "Herico" should read "Henrico".

BILLING CODE 1505-01-M

[ER-FRL-2309-1]

Availability of Environmental Impact Statements Filed February 7 Through February 11, 1983 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-4304 appearing on page 7298 in the issue of Friday, February 18, 1983, make the following correction:

In the third column, under "Corps of Engineers", the first line should read: "EIS No. 830076, DSuppl, COE, CA,".

BILLING CODE 1505-01-M

[OPTS-51456; BH-FRL 2315-6]

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 interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This

notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–495, May 18, 1983

PMN 83–496, 83–497, 83–498, 83–499, 83–500, 83–501, 83–502, 83–503, 83–504, 83–505, May 22, 1983

PMN 83–506 and 83–507, May 23, 1983.

Written comments by:

PMN 83–495, April 18, 1983

PMN 83–496, 83–497, 83–498, 83–499, 83–500, 83–501, 83–502, 83–503, 83–504, and 83–505, April 22, 1983

PMN 83–506 and 83–507, April 23, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS–51456]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, D.C. 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.

PMN 83–495

Importer. Sandoz Colors & Chemicals.

Chemical. (G) Metal complexed substituted aromatic salt.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritating, Eye—Non-irritation.

Exposure. Processing: dermal, a total of 1 worker per site, up to 1 hr/da.

Environmental Release/Disposal. 10–000 kg/yr released to water. Disposal by biological treatment system.

PMN 83–496

Manufacturer. Confidential.

Chemical. (G) Polyester from a carbomonocyclic anhydride and an alkanediol.

Use/Production. (G) Contained use. Prod. range: 10,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 47 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100–1,000 kg/yr to land. Disposal by incineration.

PMN 83–497

Manufacture. Martin Marietta Corporation.

Chemical. (G) Reaction product of 1,3-benzenediamine, hydroxybenzene, and an oxo alkane with sodium sulfide.

Use/Production. (S) Industrial textile dye. Prod. range: 20,000–250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 28 workers, up to 12 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 10–1,000 kg/yr to water and 10–10,000 kg/yr to land. Disposal by approved landfill and wastewater treatment.

PMN 83–498

Manufacturer. Confidential.

Chemical. (G) Polymer of alkyl diamine and substituted oxiranes.

Use/Production. (G) Additive for paper manufacture. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Slight, Eye—Irritant.

Exposure. Manufacture, use and disposal: dermal, a total of 6 workers, up to 10 hrs/da, up to 24 da/yr.

Environmental Release/Disposal. 100–10,000 kg/yr released to water. Disposal by publicly owned treatment works (POTW).

PMN 83–499

Manufacturer. Venture Chemical Company.

Chemical. (G) Reaction product of polyalkylene polyamines, phenols and polymeric epoxide derivatives.

Use/Production. (S) Epoxy resin curing agent. Prod. range: 1,000–8,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 2 workers, minimal.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by approved landfill.

PMN 83–500

Manufacturer. Venture Chemical Company.

Chemical. (G) Reaction product of polyalkylene polyamines, phenols and polymeric epoxide derivatives.

Use/Production. (S) Epoxy resin curing agent. Prod. range: 1,000–8,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 2 workers, minimal.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by approved landfill.

PMN 83–501

Manufacturer. Confidential.

Chemical. (G) Modified rosin condensation product.

Use/Production. (S) Hot melt adhesives. Prod. range: Confidential

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 83 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by biological treatment system.

PMN 83–502

Manufacturer. Confidential.

Chemical. (G) Aminoheterocyclyl branched alkane.

Use/Production. (S) Site limited and industrial captive intermediate. Prod. range: Confidential

Toxicity Data. Acute oral: 144 mg/kg; Irritation: Skin—Slight transient irritation, Eye—Severe; Inhalation: 1.0 mg/L; Ames Test: Not mutagenic.

Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. Release is negligible. Disposal by biological waste treatment system or thermal oxidation.

PMN 83–503

Manufacturer. Confidential.

Chemical. (G) Substituted alkoxy silane.

Use/Production. (G) Industrial additive. Prod. range: Confidential

Toxicity Data. Acute oral: 1,400 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—⅜, Eye—$^{3}/_{10}$; Inhalation: LC_{50} (1 hr)—2.2 mg/L; Ames Test: Negative; BOD: 478 mg/kg; COD: 2,567 mg/g; DNA Repair Bioassay: Negative; EC_{50} to daphnia magna 1.1 mg/L.

Exposure. Manufacture and use: dermal and inhalation, a total of 148 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to air with less than 10 kg/yr to water and land. Disposal by incineration, recovery, navigable waterway and biological oxidation system.

PMN 83–504

Manufacturer. FMC Corporation.

Chemical. (G) Δ-cyano carbocycliccarboxylate.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 295.1 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Moderate, Eye—Minimal; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizing; Avian Oral (mallard duck): > 4,640 mg/kg; Liver microsome induction potential: Negative; LC_{50}, 96 hr. (sunfish): 1.80 g/L.

Exposure. No exposure.

Environmental Release/Disposal. Minimal. Disposal by biological treatment system, incineration and approved landfill.

PMN 83-505

Manufacturer. C. J. Osborne Chemicals, Inc.

Chemical. (G) Polyester resin-saturated.

Use/Production. (S) Site-limited and industrial exterior container coating. Prod. range: 87,000–175,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 6 hrs/da, up to 19 da/yr.

Environmental Release/Disposal. No release.

PMN 83-506

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Minimal.

Exposure. Manufacture and processing: dermal and eye, a total of 27 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 5,000–50,000 kg/yr released to land. Disposal by approved landfill.

PMN 83-507

Manufacturer. Confidential.

Chemical. (G) Monocyclic sulfur derivative.

Use/Production. (G) Dispersive use. Prod. range: 150–1,500 kg/yr.

Toxicity Data. Acute oral: > 5.0 ml/kg; Irritation: Skin—None, Eye—None.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 8 workers, to 8 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. 10–1,000 kg/yr released to water, 1 hr/da, 10–100 da/yr. Disposal by POTW.

Dated: February 28, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-5552 Field 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

[A-6; FRL 2315-6]

Region 6; Final Agency Action on a PSD Permit for Southwestern Electric Power Company (SWEPCO)

Notice is hereby given that on June 29, 1982, Region 6 of the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-340, to the Southwestern Electric Power Company (SWEPCO) for approval to construct two lignite-fired units of a power plant facility located two miles southwest of State 247 and nine miles northwest of Huntsville, Walker County, Texas, pursuant to 40 CFR 52.21. On July 14, 1982, Mr. James P. Weber, et al., and later Mr. Wynn Earl Westover, from the Huntsville area each filed a petition for review of the PSD permit above.

Because petitions for review were filed with the Administrator, the issuance of the permit was no longer a final agency action and the PSD permit for SWEPCO was not effective. See 40 CFR 124.15(b)(2). The consolidated petitions for review were denied by the Administrator on December 28, 1982. Pursuant to 40 CFR124.19(f)(1), a final permit decision on PSD-TX-340 was issued by Region 6 on February 1, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-340 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of all of the material concerning PSD-TX-340 are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, Interfirst Two Building, 1201 Elm Street, Dallas, Texas, 75270.

FOR FURTHER INFORMATION CONTACT: Bill Taylor, (214) 767-1594 or FTS 729-1594.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 83-5556 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL-2315-4]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "Dresser Economizer"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the Dresser Economizer device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. EPA finds it has not reason to support the applicant's claim for fuel economy, performance, and driveability benefits.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation

On June 15, 1981, the EPA received a request from Dresser Industries for an evaluation of a fuel saving device known as the "Dresser Economizer". This device is a gasket containing shaped port passages which is installed between the intake manifold and the cylinder head. The size of each passage is approximately half that of the original unit. Such a construction increases the velocity and turbulence of the incoming

charge. This is claimed to cause a more homogenous mixture and result in improved fuel economy and driveability, especially when the engine is cold.

III. Availability of Evaluation Report

An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the Dresser Economizer Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act." This entire report is contained in two volumes. The discussions, conclusions and list of all attachments are listed in EPA–AA–TEB–511–82–6A, which consists of 10 pages. The attachments are contained in EPA–AA–TEB–511–82–6B, which consists of 97 pages. The attachments include correspondence between the applicant and EPA and all documents submitted in support of the application.

As a part of its evaluation, EPA has actually tested the Dresser Economizer device. The EPA testing is described completely in the report "Emissions and Fuel Economy of Dresser Economizer, a Retrofit Device", EPA–AA–TEB–82–3, consisting of 12 pages. This report is contained in the above document and can be obtained separately or as part of the attachment package.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to:

National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487–4650 or FTS 737–4650

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the application. The evaluation of the Dresser Economizer device was based on that information and the results of the EPA test program.

Testing of three recent model year passenger cars was conducted at EPA's Motor Vehicle Emission Laboratory during September and October of 1981. A fourth vehicle was tested during March and April of 1982. In each case, the basic test sequence included the Federal Test Procedure (FTP) and the Highway Fuel Economy Test (HFET). These tests were performed both before and after installation of the Dresser Economizer and again after restoration of the vehicle. Test results varied significantly between test vehicles with no definite trends noticed. Fuel economy varied from a penalty of 3% to a gain of 4% on the FTP and from a penalty of 3% to a gain of 2% on the HFET. None of the improvements in emissions or fuel economy were found to be statistically significant. Vehicle performance was not noticeably affected.

Based on EPA's evaluation of the Dresser Economizer, EPA finds it has no reason to support the applicant's claim for fuel economy, performance, and driveability benefits.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668–4299.

Dated: February 18, 1983.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR. Doc. 83–5554 Filed 3–3–83; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–2315–3]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for Turbo-Carb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces that conclusions of the EPA evaluation of the "Turbo-Carb" device under provisions of section 511 of the Motor Vehicle Information and Cost Savings Act. The overall conclusion is that there is no reason to expect that the Turbo-Carb will significantly improve fuel economy or performance of a vehicle.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit device on March 23, 1979 [44 FR 17946].

II. Orgin of Request for Evaluation

In November 1981, the EPA received a request from the U.S. Postal Service to evaluate the claims for the Turbo-Carb. EPA agreed to conduct an evaluation of this device under the Section 511 evaluation process.

The Turbo-Carb is a one-inch thick carburetor adapter plate which inserts a mesh screen and swirl devices between the carburetor and intake manifold. The device is claimed to improve the preparation of the fuel/air mixture and thereby improve fuel economy and performance.

III. Availability of Evaluation Report

An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the Turbo-Carb Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA–AA–TEB–511–82–12 consisting of 29 pages including the attachment.

As part of the evaluation, EPA also tested the Turbo-Carb device. The EPA testing is described completely in the report "Emissions and Fuel Economy of the Turbo-Carb, a Retrofit Device", EPA–AA–TEB–82–8, consisting of 19 pages. This report is contained in the preceding 511 Evaluation as an attachment.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487–4650 or FTS 737–4650.

IV. Summary of Evaluation

The evaluation of the Turbo-Carb device was based on the information obtained by EPA and the results of the EPA test program. The overall conclusion is that there is no reason to expect that the Turbo-Carb will significantly improve fuel economy or performance of a vehicle. Changes in fuel economy or emissions were small with mixed results of slight increases and decreases. Driveability remained essentially unchanged. Installation of the device was found to be considerably more difficult than claimed due to the requirement to design and fabricate

several parts as well as perform critical readjustments.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668–4299.

Dated: February 18, 1983.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83–5555 Filed 3–3–83; 8:45 am]

BILLING CODE 6560–50–M

[SWH FRL 2314–1]

RCRA Permit Advisory Committee; Task Force B; Open Meeting

Notice is hereby given of a meeting of Task Force B of the RCRA Permit Advisory Committee. The Committee was established in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. (Appendix I), *et seq.* Establishment of the Committee was announced in the **Federal Register** on September 23, 1982. [SWH–FRL–2215–2]. The Task Force was established in the first open meeting of the Committee held on February 15, 1983 as announced in the **Federal Register** on January 27, 1983. [SWH–FRL–2291–7].

The meeting will be held on Wednesday, March 16, 1983 at 10:00 a.m. at the offices of "Resources for the Future," 1755 Massachusetts Avenue, NW., Washington, D.C. 20036, eighth floor conference room. Estimated time of adjournment is 4:00 p.m.

The purpose of the meeting is to formulate potential recommendations regarding Lifetime Permits, Permit Variances, Class Permits, Permits for Mobile Treatment Units and the timeliness of current permit procedures. Any recommendations will be submitted to the RCRA Permit Advisory Committee for consideration at its next meeting.

This meeting is open to the public. Any member of the public wishing to submit a written statement to the Committee should deliver copies to the Executive Secretary at the meeting. Advance comments on specific subjects may be submitted to study group Chairpersons as follows:

Lifetime Permits: Mr. John Schofield, Vice President for Corporate Development and Technical Services, IT Corporation, 40 Darby Road, Paoli, Pennsylvania 19301.

Variances: Dr. Charles Johnson, Technical Director, National Solid Wastes Management Association, 1120 Connecticut Avenue, NW., #930, Washington, D.C. 20036.

Class Permits and Mobile Treatment Units: Dr. Joseph Chu, Environmental and Energy Affairs, Olin Corporation, 120 Long Ridge Road, Stamford, Connecticut 06904.

Timeliness of Current Procedures: Mr. Jerry Martin, Environmental Control Manager, Dow Chemical U.S.A., Building 3502–E, P.O. Box 150, Plaquemine, Louisiana 70764.

Anyone wishing to make a brief oral statement must indicate this to the Executive Secretary at the opening of the meeting. Oral statements will be heard as time permits.

For further information contact: Gerald Healy, Jr., Task Force Chairperson, Hazardous Waste Management Division, Louisiana Department of Natural Resources, Office of Environmental Affairs, P.O. Box 44066, Baton Rouge, Louisiana 70804; (504) 342–1227 or Susan Mann, Executive Secretary, U.S. EPA, 401 M Street, SW., Washington, D.C. 20460, WH–563, (202) 382–4498.

Dated: February 23, 1983.

Lewis Crampton,

Acting Assistant Administrator.

[FR Doc. 83–5142 Filed 3–3–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–677–DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–677–DR), dated February 9, 1983, and related determinations.

DATED: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501:

Notice

In a letter of February 22, 1983, the President amended this major disaster as follows:

On February 9, 1983, I determined that the damage in certain areas of the State of California resulting from severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I hereby amend my February 9, 1983, declaration of a major disaster for the State of California by adding the following:

This declaration also includes damage in certain areas of the State of California resulting from severe storms, high tides, wave action, levee breaks and flooding beginning on November 27, 1982.

As the result of declarations for the California Delta dated February 1, 1980, October 2, 1980, and September 24, 1982, approximately $38 million has been obligated from the President's Disaster Relief Fund. These declaration documents have required cooperative mitigation activities by Federal, State and local governments, and private agencies. The Governor of California has been asked to provide State leadership and resources to promote these cooperative efforts. Although some progress toward improving certain levees has been made recently, the threat of future levee breaks remains. There will be increasing difficulty in justifying any similar declarations in the future unless continuing and accelerated progress toward reducing the threat of future levee breaks is achieved. I expect that the State hazard mitigation plan and its implementation will provide for effective measures, and for commitment of State and local resources to achieve this objective. Under FEMA coordination, the Federal agencies should cooperate fully with the approved planned activities.

I expect a progress report from you by September 1, 1983, on hazard mitigation activities planned and being implemented as the result of this amended declaration, and other recent declarations.

The Notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophic declared a major disaster by the President in his declaration of February 9, 1983:

In accordance with the amended declaration, the following areas are designated eligible for Public Assistance with an incident period beginning on November 27, 1982:

That portion of the Sacramento-San Joaquin Delta located within the Counties of Contra Costa, Sacramento and San Joaquin.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Asociate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–5543 Filed 3–3–83; 8:45 am]

BILLING CODE 6718–02–M

[FEMA-677-DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA-677-DR), dated February 9, 1983, and related determinations.

DATED: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: The Notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983:

Alameda, Santa Clara and Yolo Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-5541 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-02-M

[Docket No. FEMA-REP-3-VA-1]

Commonwealth of Virginia Radiological Emergency Response Plan Site-Specific for the North Anna Nuclear Power Station

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350 (propsed) on April 30, 1981, the Commonwealth of Virginia submitted its plans relating to the North Anna Nuclear Power Station to the Director of FEMA Region III for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed rule. Included in this evaluation were a review of the State and local plans around the North Anna facility; a critique of the exercises conducted on August 16, 1980, and September 18, 1982, in accordance with § 350.9; and a report of the public meeting held on July 16, 1981, to discuss the site-specific aspects of the Commonwealth and local plans in accordance with § 350.10 of the proposed rule. At the North Anna joint exercises conducted on August 16, 1980, and September 18, 1982, successful and adequate tests of Commonwealth and local government preparedness around North Anna were demonstrated.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition started below, the Commonwealth and local plans and preparedness for the North Anna Nuclear Power Station are adquate to protect the health and safety of the public living in the vicintiy of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA Criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the Commonwealth and localities associated with the North Anna Nuclear Power Station in accordance with § 350.13 of the proposed rule.

For further details with respect to this action, refer to Docket File FEMA-REP-3-VA-1 maintained by the Regional Director, FEMA Region III, Curtis Building, 7th Floor, 6th and Walnut Streets, Philadelphia, PA., 19106.

Dated: February 23, 1983.

For the Federal Emergency Management Agency.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5539 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-02-M

[Docket No. FEMA-REP-3-VA-2]

Commonwealth of Virginia Radiological Emergency Response Plan Site-Specific for the Surry Nuclear Power Station

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Mangement Agency (FEMA) rule 44 CFR Part 350 (proposed) the Commonwealth of Virginia submitted its plans relating to the Surry Nuclear Power Station to the Director of FEMA Region III for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed rule. Included in this evaluation were a review of the State and local plans around the Surry facility; a critique of the exercises conducted on October 30-31, 1981 and November 10, 1982, in accordance with § 350.9; and a report of the public meeting held on December 9, 1981 in the Surry County Courthouse and on December 10, 1981, in the James City County Complex, to discuss the site-specific aspects of the Commonwealth and local plans in accordance with § 350.10 of the proposed rule. At the Surry joint exercises conducted on October 30-31, 1981 and November 10, 1982, successful and adequate tests of Commonwealth and local government preparedness around Surry were demonstrated.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the Commonwealth and local plans and preparedness for the Surry Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA Criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the Commonwealth and localities associated with the Surry Nuclear Power Station in accordance with § 350.13 of the proposed rule.

For further details with respect to this action, refer to Docket File FEMA-REP-3-VA-2 maintained by the Regional Director, FEMA Region III, Curtis Building, 7th Floor, 6th and Walnut Streets, Philadelphia, PA., 19106.

Dated: February 22, 1983.

For the Federal Emergency Management Agency.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5540 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-674-DR]

Illinois; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Illinois (FEMA-674-DR), dated December 13, 1982, and related determinations.

DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: The Notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

Cass County for Public Assistance. City, Water, Light and Power Utility and the Springfield Recreation Department in Sangamon County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 83-5542 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-02

FEDERAL MARITIME COMMISSION

Certificates of Financial Responsibility; Holland American Cruises N.V. et al.

Certificates of financial responsibility for indemnification of passengers for nonpreformance of transportation No. P-182 and No. P-225 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1, 180: Holland America Cruises N.V., Holland America Cruises, Inc., (Holland America Cruises) and Holland Amerika Lijn, N.V., Two Pennsylvania Plaza, New York, New York 10121.

Order of Revocation

Holland America Cruises N.V., Holland America Cruises, Inc. (Holland America Cruises) and Holland Amerika Lijn, N.V. have ceased to own or operate the passenger vessel STATENDAM.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised) Section 10.06 dated November 12, 1981:

It is ordered, that Certificates (Performance) No. P-182 and No. P-225 and Certificate (Casualty) No. C-1, 180 issued to Holland America Crusies N.V., Holland America Cruises, Inc. (Holland America Cruises) and Holland Amerika Lijn, N.V. covering the STATENDAM, be and are hereby revoked.

It is further ordered, that a copy of this order be published in the **Federal Register** and served on the certificants.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-5654 Filed 3-3-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-11]

Prudential Lines, Inc. v. Waterman Steamship Corporation; Filing of Complaint and Assignment

Notice is given that a complaint filed by Prudential Lines, Inc. against Waterman Steamship Corporation was served February 24, 1983. Complainant alleges that respondent has violated section 18 of the Shipping Act, 1916, by transporting cargo from U.S. North Atlantic Ports to Egypt under their tariff FMC No. 165, ICC WSSL-304.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-5547 Filed 3-3-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 20-21, 1982.

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on December 20-21, 1982.[1]

[1] The Record of Policy actions of the Committee for the meeting of December 20-21, 1982, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests that real GNP declined in the fourth quarter, although final sales apparently were maintained, and that the rise in prices remained much less rapid than in 1981. Retail sales and housing activity have strengthened in recent months, but business fixed investment apparently has weakened further and efforts to reduce inventories have continued. In November industrial production and nonfarm payroll employment declined further, and the unemployment rate rose 0.4 percentage point to 10.8 percent. Initial claims for unemployment insurance, although down from the early autumn peaks, have remained relatively high. In recent months the advance in the index of average hourly earnings has slowed appreciably further.

The weighted average value of the dollar against major foreign currencies has declined from peaks reached in early November. The U.S. merchandise trade deficit rose sharply further in October.

Growth in M1 has remained rapid in recent months, while growth of M2 and M3 has continued at about or somewhat below the rates of earlier in the year. ON balance short-term market interest rates have declined since mid-November, while bond yields have risen somewhat in response to unusually heavy borrowing by businesses and governments; mortgage rates have edged down further. The Federal Reserve announced reductions in the discount rate from 9½ percent to 9 percent on November 19 and to 8½ percent on December 13.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. In July, the Committee agreed that these objectives would be furthered by reaffirming the monetary growth ranges for the period from the fourth quarter of 1981 to the fourth quarter of 1982 that it had set at the February meeting. These ranges were 2½ to 5½ percent for M1, 6 to 9 percent for M2, and 6½ to 9½ percent for M3. The associated range for bank credit was 6 to 9 percent. The Committee agreed that growth in the monetary and credit aggregates around the top of the indicated ranges would be acceptable in the light of the relatively low base period for the M1 target and other factors, and that it would tolerate

for some period of time growth somewhat above the target should unusual precautionary demands for money and liquidity be evident in the light of current economic uncertainties. The Committee had also earlier indicated that it was tentatively planning to continue the current ranges for 1983, but it will review that decision carefully at its February 1983 meeting in light of economic developments and institutional changes associated with the new deposit accounts authorized by the Depository Institutions Deregulation Committee.

Specification of the behavior of M1 over the months ahead remains subject to substantial uncertainty because of special circumstances in connection with the public's response to the new deposit accounts available at depository institutions. The difficulties in interpretation of M1 continue to suggest that much less than usual weight be placed on movements in that aggregate during the coming quarter. The institutional changes also add a degree of uncertainty to the behavior of the broader monetary aggregates.

In all the circumstances, the Committee seeks to maintain expansion in bank reserves consistent with growth of M2 of around 9½ percent at an annual rate, and of M3 at about an 8 percent rate, from December to March, allowing in the case of M2 for modest shifting into the new money market accounts from large-denomination CD's or market instruments. The Committee indicated that greater growth would be acceptable if analysis of incoming data and other evidence from bank and market reports indicate that the new money market accounts are generating more substantial shifts of funds into broader aggregates from market instruments. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, February 28, 1983.

Normand R. V. Bernard,

Assistant Secretary.

[FR Doc. 83-5561 Filed 3-3-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Savings and Loan Activities; Citicorp

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Reglation Y (12 CFR 225.4(b)(2)), for permission to convert 15 California offices of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Thrift, Inc. into branches of Citicorp Savings, Oakland, California, a federal savings and loan association; to transfer the assets of these offices to Citicorp Savings; and to expand the activities of Citicorp Savings to include all of the lending and deposit-taking powers of federal savings and loan associations authorized by the Garn-St Germain Depository Institutions Act of 1982. These activities would be performed from 84 offices of Citicorp Savings throughout the State of California serving the State of California. The Board has previously determined that the operation of a savings and loan association is closely related to banking (Citicorp (*Fidelity Federal Savings & Loan*) 68 Federal Reserve Bulletin 656 (1982), and cases cited therein), subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b) of Regulation Y.

Interested persons may express their views on the question of 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 or resources, decreased or unfair competition, conflicts of interest, 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 New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than March 28, 1983.

Board of Governors of the Federal Reserve system, March 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5562 Filed 3-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; CCB Financial Corp., et al.

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 Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CCB Financial Corporation,* Durham North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Central Carolina Bank and Trust Company, National Association, Durham, North Carolina. Comments on this application must be received not later than March 28, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Citizens Bancshares Corporation,* Pineville, Louisiana; to become a bank holding company by acquiring 97.4 percent of the voting shares of First Bank, Pineville, Louisiana. Comments on this application must be received not later than March 28, 1983.

2. South Mississippi Capital Company, Prentiss, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of South Mississippi Bank, Prentiss, Mississippi. Comments on this application must be received not later than March 28, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Service Bancshares, Inc.,* Greenville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Greenville, Kentucky.

Comments on this application must be received not later than March 28, 1983.

2. *Tritten Bancshares, Inc.*, St. Robert, Missouri; to become a bank holding company by acquiring 86 percent or more of the voting shares of First National Bank, St. Robert, Missouri. Comments on this application must be received not later than March 28, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *St. Paul Bancorporation, Inc.*, St. Paul, Nebraska; to become a bank holding company by acquiring 80 percent or more of the voting shares of St. Paul National Bank, St. Paul, Nebraska. Comments on this application must be received not later than March 28, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bay Bancshares, Inc.*, La Porte, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Bayshore National Bank of La Porte, and Bayport National Bank, both of La Porte, Texas. Comments on this application must be received not later than March 28, 1983.

Board of Governors of the Federal Reserve System, February 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5613 Filed 3-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Old Stone Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation*, Providence, Rhode Island (commercial lending; United States): To engage through its wholly-owned subsidiary, Guild Loan and Investment Company, in the activities of making and acquiring, for its own account or the account of others, commercial loans and other extensions of commercial credit, providing however, that Guild does not accept demand deposits or similar transaction accounts. These activities would be conducted from existing offices of Guild Loan and Investment Company located in Providence and Warwick, Rhode Island, and serving the continental United States, Alaska and Hawaii. Comments on this application must be received not later than March 28, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York (finance and factoring activities; southeastern United States): To engage, through its subsidiary, BT Commercial Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's accounts receivable, inventory or other assets; purchasing or acquiring accounts receivable and making advances thereon as would be done by a factor; servicing such loans or accounts for others; and acquiring and selling participations in such obligations. These activities would be conducted from an office in Atlanta, Georgia, serving Georgia, Alabama, Florida, South Carolina, North Carolina, Tennessee, Kentucky, Virginia and West Virginia. Comments on this application must be received not later than March 28, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georga 30303:

1. *Central Bancshares of the South, Inc.*, Birmingham, Alabama (insurance activities; Alabama): To act through its subsidiary, CSN Underwriters, Inc., as agent or broker for the sale of credit life, accident, health, property and casualty insurance directly related to extensions of credit by a bank or bank holding company; to act as agent or broker with respect to the provision of insurance directly related to the provisions of other financial services by Applicant or its subsidiaries. The activities are permitted under the Garn-St. Germain Depository Institutions Act of 1982, Pub. L. 97-320, Section 601(D). These activities will be conducted from offices throughout Alabama, serving the State of Alabama. Comments on this application must be received not later than March 28, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Manistique Corporation*, Manistique, Michigan (general insurance activities; Michigan): To engage *de novo* through The First Manistique Agency, a division of First Manistique Corporation, in general insurance activities including, but not limited to, life, accident and health, and physical damage insurance. The First National Bank of Manistique will service the counties of Schoolcraft and portions of Luce which have a population of approximately 3,948. The Manistique Lakes Bank of Newberry will service the counties of Mackinac, Alger and portions of Luce which have a population of approximately 2,700. Comments on this application must be received not later than March 23, 1983.

Board of Governors of the Federal Reserve System, February 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5614 Filed 3-3-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health; Request for Information on the Effectiveness of Hazardous Energy Control Procedures (Lockout/Tagout)

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of request for information.

SUMMARY: NIOSH is requesting information (as part of an Interagency Agreement with the Occupational Safety and Health Administration (OSHA)) documenting the effectiveness of specific lockout/tagout procedures designed for worker protection. Lockout/tagout procedures are designed to maintain a process or system in a safe condition during troubleshooting, servicing, maintenance, or re-energization. These lockout/tagout procedures are intended to prevent the release of hazardous energy (including electrical energy, mechanical energy, thermal energy, and chemical energy). The information obtained will be used by NIOSH and OSHA to develop statements of rationale for the selection and use of specific procedures under specific conditions. The information will also be used to develop a scientific study protocol to determine the effectiveness of specific hazardous energy control procedures.

DATE: Comments concerning this notice should be submitted by May 3, 1983.

ADDRESS: Any information, comments, suggestions, or recommendations should be submitted in writing to: Dr. James A. Oppold, Director, Division of Safety Research, National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, WV 26505.

FOR FURTHER INFORMATION CONTACT: Dr. Murray L. Cohen, Chief, or Dr. Michael B. Moll, Statistician, Standards and Consultation Branch, Division of Safety Research, NIOSH, Morgantown, WV, (304) 291–4575, or FTS 923–4575.

SUPPLEMENTARY INFORMATION: NIOSH conducts research programs aimed at reducing worker injuries by identifying accident causation agent/sequence, as well as identifying/developing effective hazard control practices. On January 31, 1980, NIOSH published in the **Federal Register** (45 FR 7006) a request for information on the use of effective lockout and interlock devices, systems, and procedures. As a continuation of that research effort, NIOSH is now requesting comments, suggestions, or information related specifically to the effectiveness of lockout/tagout procedures. At this time, NIOSH is particularly interested in information in any of the following areas:

(1) Available data or available sources of data, especially case reports, which identify worker injuries that are related to lockout/tagout procedures.

(2) Methods of enforcing hazardous energy control procedures and methods for obtaining feedbacks on the effectiveness of such procedures.

(3) Documentation of the effectiveness of adherence to lockout/tagout procedures during maintenance and servicing.

(4) Information regarding the rationale(s) used for selection and application of hazardous energy control methods during maintenance and servicing.

The information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act, will be available for examination and copying at the above address.

Dated: February 23, 1983.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 83-5647 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-18-M

National Environmental Policy Act (NEPA), Review of Program Actions

AGENCY: Centers for Disease Control (CDC), Public Health Service (PHS), HHS.

ACTION: List of CDC program actions that are categorically excluded from the NEPA environmental review process.

SUMMARY: This notice provides a list of CDC program actions which normally do not require either an environmental impact statement or environmental assessment (Council on Environmental Quality categorical exclusions, paragraph 1508.4; and the Health and Human Services (HHS) General Administration Manual, Part 30)).

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Frank S. Lisella, Chief, Environmental Affairs Group, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333; telephone (404) 452–4095, or FTS: 236–4095.

SUPPLEMENTARY INFORMATION: The HHS environmental review procedures and guidelines, which have been published as Part 30 of the HHS General Administration Manual (GAM), require that each HHS Operating Division identify those program actions which should be categorically excluded from environmental review requirements. The procedures for determining if a program action can be categorically excluded are found in Section 30–29–40 of the GAM. As part of the PHS program review, components of the CDC have reviewed their actions and have identified the following as suitable for categorical exclusion. These exclusions will apply unless the responsible program official determines that sufficient evidence exists to establish that the proposed action may have a significant environmental effect.

Categorical Exclusions

A. The following CDC program actions are excluded from environmental review requirements under provisions of the HHS GAM Section 30–20–40–B–1:

1. When a law grants an exception.

2. When the courts have found that an action does not require an environmental review.

3. When an action implements activities outside the territorial jurisdiction of the United States and such activities are excluded from review by Executive Order 12114.

B. The Following CDC program actions are excluded from environmental review requiremets based on their functional nature as described in HHS GAM Section 30–20–40–B–2:

1. Routine adminstrative and management support, including legal counsel, public affairs, program evaluation, monitoring, and individual personnel actions. Typical actions include:

a. Program planning and development, program management, program evaluation, and budgeting.

b. Legal and legislative review/support.

c. Communications and correspondence control.

d. Processing of individual personnel actions including travel.

e. Procurement of office supplies and equipment.

f. Extension/renewal of existing leases.

g. Other similar administrative support actions.

2. Appellate reviews (when CDC was a plaintiff in the lower court decision).

3. Data processing and systems analysis. Typical actions include:

a. Updating of existing data bases.

b. Printing and distributing reports, studies, guidelines, and other health related technical material.

c. Developing new/redesigning existing data systems to meet specific program needs.

d. Acquisition, development, and implementation of ADP systems.

4. The awarding of funds through grants and cooperative agreements for training, research, investigations, and technical assistance. Typical actions include:

a. Occupational safety and health reserach and training.

b. Childhood immunization.

c. Veneral disease control, research, demonstration, and public information and education.

d. Health programs for refugees under the Immunization and Nationality Act.

e. State-based diabetes control or other programs.

f. Preventive health and health services block grants.

g. Investigations and technical assistance.

5. Actions associated with the conduct of liaison functions with other government and nongovermental entities. CDC is represented on a wide range of groups such as:

a. Intergovernmental task forces.

b. Ad hoc committees.

c. Work groups.

d. National code setting organizations.

e. International committees.

f. Interdepartmental groups.

6. Actions related to routine maintenance, repair, or replacement of equipment or structural components (doors, windows, roof, etc.) of CDC controlled facilities and improvements to those facilities. (Note: This exclusion does not apply to facilities listed or eligible for listing on National Register of Historic Places.)

7. Actions associated with data collection, storage, and dissemination. These actions typically involve:

a. Surveillance of health, population, and other indices and analysis for program management and budget justification purposes.

b. Identification and definition of preventable health problems including conducting research and demonstrations.

c. Surveillance of diseases through epidemiologic, laboratory, and field investigations and data collection, analysis, and distribution.

d. Planning, developing, and producing the Morbidity and Mortality Weekly Report and various other surveillance reports.

8. Technical assistance by CDC program personnel. These actions typically consist of:

a. Technical assistance to other Federal agencies, other HHS components, State and local governments, universities, nonprofit organizations, foreign governments, and international organizations.

b. The assignment of CDC personnel to Federal, State, and local governmental agencies, universities, nonprofit organizations, foreign governments, and international organizations for technical assistance.

9. Actions related to the adoption of regulations and guidelines pertaining to the above activities (except technical assistance and those resulting in population changes).

C. The following CDC program actions are excluded from environmental review requirements under provisions of HHS GAM Section 30–20–40 based on the determination that they will not normally: (a) significantly affect the human environment (as defined in NEPA), or (b) affect an asset (as defined in the related acts) regardless of location or magnitude:

1. Direct delivery of medical, laboratory, or other related health services by CDC staff or by contract providers.

2. Utilization of health professionals or paraprofessionals to supplement existing manpower resources in medically underserved areas or during health emergencies.

3. Application of pesticides which are not classified for restricted use under provisions of the Federal Insecticide, Fungicide, and Rodenticide Act when used for routine pest control purposes.

4. Relocation of employees into existing owned or office space currently leased within the same metropolitan area.

D. The following CDC program actions are partially excluded from environmental review requirements under provisions of HHS GAM Section 30–20–40 based on the determination that they may cause a significant environmental effect or impact an asset at some but not all locations and/or levels of magnitude or they may have an effect/impact associated with some but not all environmental and related acts:

1. Actions associated with the construction of 10,000 square feet or less of occupiable space are excluded except when such construction impacts properties: (a) listed or eligible for listing on the National Register of Historic Places; (b) with possible archeological, prehistoric, or scientific importance; and/or (c) located where natural asset review is mandated (see GAM Section 30–50).

2. Program actions with similar or related actions subject to previous environmental review if the effects of the action have been determined environmentally insignificant and the historic/natural asset implications are the same as for the action(s) previously reviewed.

Dated: February 23, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83-5648 Filed 3-3-83; 8:45]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 83F-0037]

EMS-CHEMIE AG; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the EMS-CHEMIE AG has filed a petition proposing that the food additive regulations be amended to provide for the safe use of Nylon 12T in food-contact articles.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3670) has been filed by EMS-CHEMIE AG, CH-7013 Domat/Ems Switzerland, proposing that Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for the safe use of Nylon 12T manufactured by polymerization of *omega*-laurolactam, isophthalic acid and bis(4-amino-3-methylcyclohexyl)methane in food-contact articles.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-5479 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0006]

Monsanto Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Monsanto Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of beverage containers fabricated from acrylonitrile/styrene copolymer resins.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3690) has been filed by Keller and Heckman, 1150 17th St. NW., Washington, DC 20036, on behalf of Monsanto Co., proposing that § 177.1040 (21 CFR 177.1040) of the food additive regulations be amended to provide for the safe use of beverage containers fabricated from certain acrylonitrile/styrene copolymer resins.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated February 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-5481 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83C-0041]

Precision-Cosmet Co., Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Precision-Cosmet Co., Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol (a diazonium compound) for coloring soft (hydrophilic) contact lenses.

FOR FURTHER INFORMATION CONTACT: George C. Murray, National Center for Devices and Radiological Health (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition, CAP 3CO159, has been filed by Precision-Cosmet Co., Inc., Minnetonka, MN 55343, proposing that the color additive regulations be amended to provide for the safe use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol (a diazonium compound) for placing an identification mark on and in soft (hydrophilic) contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-5483 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0042]

Schenectady Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Schenectady Chemicals, Inc., has filed a petition proposing that the food additive regulations be admended to provide for the safe use of 2-2'-ethylidene bis(4,6-di-*tert*-butylphenol) as an antioxidant and/or stabilizer in acrylonitrile-butadiene-styrene copolymers and high-impact polystyrene and also for use in adhesive formulations intended for food-contact applications.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3691) has been filed by Schenectady Chemicals, Inc., c/o Jerome H. Heckman, Keller and Heckman, 1150 17th St. NW., Washington, DC 20036, proposing that the food additive regulations be amended to provide for the safe use of 2-2'-ethylidene bis(4,6-di-*tert*-butylphenol) as an antioxidant and/or stabilizer in acrylonitrile-butadiene-styrene copolymers and high-impact polystyrene and also for use in adhesive formulations intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-5480 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0036]

Standard Oil Co. (Indiana); Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Standard Oil Co. (Indiana) has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,5-dimethyl-2,5-di(*tert*-butylperoxy)hexane in the production of polyolefins.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3658) has been filed by Standard Oil Co. (Indiana), 200 E.

Randolph Dr., Chicago, IL 60601, proposing that the food additive regulations be amended to provide for the safe use of 2,5-dimethyl-2,5-di(*tert*-butylperoxy)hexane in the production of polyolefins.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 24, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-5482 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: San Juan District Office, chaired by Lynn Campbell, District Director.

DATE: Thursday, March 17, 1983, 10:30 a.m.

ADDRESS: Ponce Regional College, University of Puerto Rico, Ponce, PR 00731.

FOR FURTHER INFORMATION CONTACT: William E. Martinez-Soto, Consumer Affairs Officer, Food and Drug Administration, P.O. Box S-4427, Old San Juan Station, San Juan, PR 00905; 809-753-4264.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues. The topics to be discussed are orphan drugs, food labeling formats, and an update on sodium.

Dated: February 25, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-5332 Filed 3-3-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

Correction

In FR Doc. 82-1519, appearing on page 2836 in the issue of Friday, January 21, 1983, make the following correction.

On page 2836, in the **"FOR FURTHER INFORMATION CONTACT"** section, the Zip Code reading "21202" should read "21201".

BILLING CODE 1505-01-M

[Docket No 79N-0113; DESI 2847]

Certain Parenteral Multivitamin Products; Drug Efficacy Study Implementation; Withdrawal of Approval

Correction

In FR. Doc. 83-1419, beginning on page 2835 in the issue of Friday, January 21, 1983, make the following correction.

On page 2836, first column, fourth line of the last paragraph, "approval" should read "approved".

BILLING CODE 1505-01-M

National Institutes of Health

Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, National Institutes of Health, May 6, 1983, Building 31C, Conference Room 7, Bethesda, Maryland 20205, from 9:30 a.m. to adjournment.

The meeting will be open to the public on May 6 from 9:30 a.m. to adjournment to discuss program policies and planning for the Biomedical Research Support Grant Program and the Biomedical Research Support Shared Instrumentation Grant Program. Attendenance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Marjorie A. Tingle, Executive Secretary, Biomedical Research Support Subcommittee of the General Research Support Review Committee will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalogue of Federal Domestic Assistance Program No. 13.337, Biomedical Research Support, National Institutes of Health)

Dated: February 28, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-5569 Filed 3-3-83; 8:45 am]

BILLING CODE 4140-01-M

Environmental Health Sciences Review Committee; Meeting;

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on March 31-April 1, 1983 in Building 101 Conference Room, Research Triangle Park, North Carolina. This meeting will be open to the public from 8:30 a.m. to approximately 10:30 a.m. on March 31, 1983, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m., March 31, to adjournment on April 1, 1983, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Carol Shreffler, Executive Secretary, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmental Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

Dated: February 17, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-5568 Filed 3-3-83; 8:45 am]

BILLING CODE 4140-01-M

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, April 21–22, 1983 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on April 21, 1983, to discuss policy matters relating to the Minority Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 21, 1983, from approximately 1:30 p.m. and on April 22 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Minority Biomedical Research Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20205, telephone (301) 496–5545, will provide summaries of meeting and rosters of committee members. Dr. Sidney A. McNairy, Executive Secretary of the General Research Support Review Committee, Building 31, Room 5B29, Bethesda, Maryland 20205, telephone (301) 496–6745 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13,375, Minority Biomedical Research Support Program, National Institutes of Health)

Dated: February 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–5566 Filed 3–3–83; 8:45 am]

BILLING CODE 4140–01–M

Genetic Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on March 24, 1983, at the Hotel Empire, Broadway at 63rd Street, New York, New York 10023, beginning at 3:00 p.m.

This meeting will be open to the public on March 24, 1983, from 3:00 p.m. until 3:30 p.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 3:30 p.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ann Dieffenbach, Public Information Officer, NIGMS, Westwood Building, Room 9A10, Bethesda, Maryland 20205, Telephone 301–496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Dr. Helen Sunshine, Executive Secretary, Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland 20205 (Telephone 301–496–7125) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–862, Genetics Research, National Institute of General Medical Sciences, National Institutes of Health)

Dated: February 17, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–5567 Filed 3–3–83; 8:45 am]

BILLING CODE 4140–01–M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on April 27, 1983, 8:30 a.m. to adjournment, at the Linden Hill Hotel, Pooks Hill Road, Bethesda, Maryland. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of current digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496–2232, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: February 28, 1983.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 83–5570 Filed 3–3–83; 8:45 am]

BILLING CODE 4140–01–M

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 last published on February 25.

Public Health Service

National Institutes of Health

Subject: Protection of Human Subjects—Certification and Recordkeeping Requirements (0925–0137)—Reinstatement.

Respondents: Hospitals, colleges and universities.

OMB Desk Officer: Fay S. Iudicello.

Food and Drug Administration

Subject: Notice of Claimed Investigational Exemption for a New Drug (0910–0014)—Extension/No Change.

Respondents: Drug manufacturers.

Subject: Reporting Requirements Applicable to the Manufacture of Blood Grouping Serium (0910–0137)—Extension/No Change.

Respondents: Manufacturers of blood grouping serum.

Subject: Reporting Requirements Applicable to Normal Serum Albumin and Plasma Protein Fraction (0910–0137)—Extension/No Change.

Respondents: Manufacturers of normal serum albumin and plasma protein fraction.

OMB Desk Officer: Richard Eisinger.

Centers for Disease Control

Subject: Resurvey of Hospitals for the Study on the Efficacy of Nosocomial Infection Control—New.

Respondents: Short-term general hospitals.

OMB Desk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Pre-1957 Military Service—Federal Benefit Questionnaire (SSA–2512 (4–83))—Revision.

Respondents: Individuals with military service from September 16, 1940 to December 31, 1956.

OMB Desk Officer: Milo Sunderhauf.

Office of Human Development Services

Subject: Recordkeeping and Reporting in NPRM to Implement Provisions of the Comprehensive Older Americans Act—New.

Respondents: State agencies on aging and Indian tribes.

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 both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: February 25, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-5560 Filed 3-3-83; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Toxicology Program; Chemicals (11) Nominated for Toxicological Testing: Request for Comments

SUMMARY: On November 17, 1982, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review 11 chemicals nominated for toxicological testing and to recommend the types of testing to be performed. With this notice, the NTP solicits public comment on the 11 chemicals listed herein.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS, CONTACT: Dr. Dorothy Canter, Assistant to the Director, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register** and *NTP Technical Bulletin.* This enables outside individuals and groups to participate in the NTP evaluation process thereby helping the NTP to make better informed decisions as to whether to select, reject or defer chemicals for testing.

Relevant comments and data submitted in response to this request are reviewed and summarized by NTP technical staff and then forwarded to the NTP Board of Scientific Counselors for its evaluation of the nominated chemcials and to the NTP Executive Committee for its decision making about testing. The NTP chemical selection process is summarized in the **Federal Register,** April 14, 1981 (46 FR 21828), and also in the NTP FY 1982 Annual Plan, pages 137–139.

On November 17, 1982, the CEC evaluated 11 chemicals nominated to the NTP for toxicological testing. The table below lists each chemical, its Chemical Abstracts Service (CAS) registry number, and the types of testing recommended by the CEC.

Chemical	CAS NO.	Committee recommendation
1. Atrazine	1912-24-9	Deferred (see below).
2. 1,3-Dinitropyrene[1]	75321-20-9	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests.
3. 1,6-Dinitropyrene[1]	42397-64-8	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests.
4. 1,8-Dinitropyrene[1]	42397-65-9	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests.
5. 1-Nitropyrene	5522-43-0	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests. Carcinogenicity (inhalation). Co-carcinogenesis study with benzo(a)pyrene.
6. Ordram (Molinate)	2212-67-1	Deferred (see below).
7. Roundup (Glyphosate isopropylamine salt).	38641-94-0	Deferred (see below).
8. 2,3,4,6-Techrachiorophenol.	58-90-2	Deferred (see below).
9. 1,3,6,8-Tetranitropyrene.	28767-61-5	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests.
10. 2,4,7-Trinitrofluorenone.	129-79-3	90-day subchronic skin painting study.
11. 1,3,6-Trinitropyrene.	75321-19-6	*In vitro* cytogenetics. Mouse lymphoma assay. Other appropriate short-term tests.

[1] A mixture of the three dinitropyrenes (1,3-, 1,6-, and 1,8-dinitropyrene) was also recommended by the CEC for *in vitro* cytogenetics testing, the mouse lymphoma assay, other appropriate short-term tests, inhalational carcinogenicity testing, a co-carcinogenesis study with benzo(a)pyrene, and an inhalational teratology study. The CEC's testing recommendations were based upon concern about potential occupational and environmental exposures to these compounds and upon the desirability of complementing and extending the toxicological studies underway at the Environmental Protection Agency (EPA) on a mixture of the dinitropyrenes. The CEC recommended that the NTP ascertain the composition of the mixture that is being tested by EPA so that the Program can procure a mixture containing the same proportions of the three dinitropyrenes.

The four herbicides listed above, namely atrazine, ordram, roundup, and 2,3,4,6-tetrachlorophenol, were deferred by the CEC pending a review by EPA and NTP staff of the data submitted to the EPA Office of Pesticide Programs in support of the registration of these chemicals. Testing recommendations on these chemicals will be made at a subsequent CEC meeting.

A proposal for NTP reproductive effects testing of four aliphatic aldehydes, namely citral, crotonaldehyde, formaldehyde, and furfural, was also evaluated by the CEC following a review by several members of the Committee of the data on 12 aliphatic aldehydes under test by the NTP for various other toxicological endpoints. The CEC added butyraldehyde to the list of four compounds and recommended all five aldehydes for reproductive effects testing. Formaldehyde was recommended for an inhalational teratology study in rats and a two-generation reproductive study by the inhalation exposure route in rats. The remaining four aldehydes were each recommended for a teratology study. In addition, the CEC recommended that all five aldehydes receive consideration for testing in a three-generation *Drosophila* assay currently being evaluated by the National Institute for Occupational Safety and Health and the National Center for Toxicological Research.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Completed, ongoing and/or planned toxicological testing in the

private sector including detailed experimental protocols and, in the case of completed studies, resultant data.

(2) Modes of production, present production levels, and occupational exposure potential.

(3) Uses and resulting exposure levels, where known.

(4) Results of toxicological studies for structurally related compounds.

Please submit all information in writing by (thirty days after date of publication). Any submissions received after the above date will be accepted and utilized where possible.

Dated: February 28, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-5564 Filed 3-3-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(A 17379) PS]

Arizona; Conveyance

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), Smith and Lunt Dairy, P.O. Box 639, Pima, Arizona 85543, has purchased, by competitive sale, public lands in Graham County described as follows:

Gila and Salt River Mer., Arizona

T. 6 S., R. 24 E.,
Sec. 10, W½SW¼.
Containing 80 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of a patent to Smith and Lunt Dairy.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-5546 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18465]

Arizona; Proposed Withdrawal and Reservation of Lands

The Bureau of Prisons, Department of Justice, filed application, Serial No. A-18465, for the withdrawal of approximately 70.00 acres of public land from settlement, sale, location, or entry under all the general land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 2 E.,
Sec. 28, N½SW¼SW¼;
Sec. 29, E½SE¼NE¼, E½NE¼SE¼, NE¼SE¼SE¼.

The area described contains approximate by 70.00 acres in Maricopa County, Arizona.

The lands in sec. 29 are currently included in the Black Canyon Trails Area Designation.

The Bureau of Prisons desires that the land be withdrawn and reserved for the purpose of constructing a Federal Correctional Institution, sewage treatment plant, and a buffer zone.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Arizona State Office, Bureau of Land Management, at the address shown below, on or before May 30, 1983. Notice of public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(d) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2753.

Effective on the date of publication of this notice, the above-described land shall be segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: February 24, 1983.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-5545 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

[N-7052]

Nevada; Notice of Realty Action—Noncompetitive Sale Public Lands in Lincoln County, Nevada

February 25, 1983.

The following described land has been examined and identified 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):

Mount Diablo Meridian

T. 2 N., R. 69 E.,
Sec. 35, SW¼NW¼NE¼SE¼.

The above-described land, comprising 2.5 acres, is being offered by direct sale to W. C. Hollinger at current fair market value.

The lands are being offered as a direct, noncompetitive sale to W. C. Hollinger, the owner of the adjoining tract and improvements on the sale tract. The first cadastral survey of this area was performed in 1872. There were a number of errors in this original survey. The location of the private land in Ursine was established from the survey. In 1970 it was discovered the survey was inaccurate and in 1973 the area was resurveyed.

Mr. Hollinger found that with the change in the new survey the house he owned was partially on public land. Disposal by direct sale to Mr. Hollinger will legalize his occupancy of the land, protect his equity investment in the improvements on the land, and resolve a complicated trespass situation.

The lands have not been used and are not required for any Federal purpose. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system. The land will not be offered for sale for at least 60 days after the date of this notice.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning the sale is available for review at the Nevada State Office, 300 Booth Street, Reno, Nevada.

For a period of 45 days, interested parties may submit comments to the State Director (N-943), P.O. Box 12000, Reno, Nevada 89520.

Lacel E. Bland,

Acting Deputy State Director, Operations.

[FR Doc. 83-5646 Filed 3-3-83; 8:45]

BILLING CODE 4310-84-M

[N-37689]

Nevada; Notice of Realty Action—Non-Competitive Sale of Public Lands in Clark County

February 25, 1983.

The following described land has been determined to be suitable for disposition by non-competitive sale at current fair market value under Pub. L. 96-586 and in accordance with section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 25, N½NW¼NW¼NW¼.
Containing 5.0 acres.

Disposal of this land through a non-competitive sale would facilitate a suitable land use authorized through Recreation and Public Purposes Lease N-22430, the sale program under Pub. L. 96-586, land use planning in the area, state and local governmental planning and National Forest Service objectives.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe. This includes an existing oil and gas lease N-20086.[1]

And will be subject to:

1. An easement for streets, roads and utilities 50 ft. wide on the north, 75 ft. wide on the west and 30 ft. wide on the east, together with a spandrel area in the northeast corner thereof, being the southwest corner of the intersection bounded as follows: on the north by the south line of the 50 ft. thereof; on the east by the west line on the east 30 ft. thereof; and on the southwest by the arc of a curve concave southwesterly, having a radius of 25 ft. and being tangent to the south line of said north 50 ft. and tangent to the west line of said 30 ft.; also together with a spandrel area in the northwest corner thereof, being the southeast corner of the intersection, bounded as follows; on the west by the east line of the west 75 ft. thereof; on the north by the south line of the north 50 ft. thereof; and on the southeast by the arc of a curve concave southeasterly, having a radius of 54 ft. and being tangent to the east line of the west 75 ft. and tangent to the south line of the north 50 ft.

Detailed information concerning the identification of this land for disposal, including the planning documents, environmental assessment, and the record of public discussions, is available for review at either the Nevada State Office, 300 Booth Street, Reno, Nevada 89520 or the Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89108.

For a period of 45 days from the date of publication of this notice in **Federal Register**, interested parties may submit comments to the State Director, Nevada, Bureau of Land Management, P.O. 12000, Reno, Nevada 89520. Any adverse comments will be evaluated by the State Director, who may vacate or modify the Realty Action and issue a final determination. In the absence of any action by the State Director, this Realty action will become the final determination of the Department.

Lacel E. Bland,

Acting Deputy State Director, Operations.

[FR Doc. 83-5645 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

[1] Prior to the sale, the applicant, Redrock Southern Baptist Church, may request conveyance of the available Federally owned locatable and saleable mineral interest under Section 209 of the Federal Land Policy amd Management Act of October 21, 1976, 90 Stat. 2757; 43 U.S.C. 1719.

[N-30966]

Nevada; Termination of Proposed Withdrawal

February 22, 1983.

Notice of an application (N-30966) filed by the Bureau of Land Management, for withdrawal and reservation of public land was published as Federal Register Document 81-4377 on page 11369 of the February 6, 1981 issue. The Bureau has cancelled its application to segregate the critical habitat of the endangered plant species Osgood Mountains milk-vetch (Astragabus yoder-williamsii). The area has been formally designated as an Area of Critical Environmental Concern (ACEC). The following described 60 acres in Humboldt County, Nevada is affected:

Mount Diablo Meridian, Nevada

T. 38 N., R. 42 E.,
Sec. 6, N½SW¼NE¼, SW¼NW¼NE¼, SE¼NW¼NE¼,NE¼NW¼NE¼.
T. 39 N., R. 42 E.,
Sec. 31, SE¼SW¼SE¼.

The land is hereby relieved of the segregative effect of the above-mentioned application.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-5644 Filed 3-3-83; 8:45]

BILLING CODE 4310-84-M

[N-16614]

Nevada; Airport Lease Application Withdrawn

February 22, 1983.

Notice is hereby given that Nye County has withdrawn its airport lease application involving the following described lands:

Mount Diablo Meridian, Nevada

T. 21 S., R. 53 E.,
Sec. 5, All;
Sec. 8, E½, NE¼NW¼;
Sec. 9, W½;
Sec. 16, E½, NW¼, NE¼SW¼.

Withdrawal of the application was accepted on February 17, 1983 and at

that time the lands were relieved of the segregative effect of the application.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-5643 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, March 23, 1983, at the GGNRA Headquarters, Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Berger Benson
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Major agenda items for this meeting will be budget reviews of Golden Gate National Recreation Area and Point Reyes National Seashore, an update on the Delta King proposal and an update on Hyde Street pier redevelopment.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556-2920.

Minutes of this meeting will be available for public information by April 22, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: February 23, 1983.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 83-5558 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15133]

Algocen Transport Holdings Limited—Continuance in Control Exemption—Thibodeau-Finch Express Limited and Algocen Transport, Inc.

AGENCY: Inerstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemption Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Algocen Transport Holdings Limited, a Canadian corporation, which in turn is controlled by Algoma Central Railway, a Canadian rail carrier, seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Thibodeau-Finch Express Limited (No. MC-129573) and Algocen Transport, Inc. (No. MC-166343), both Canadian motor carriers.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioners' Representative, Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.

Comments should refer to No. MC-F-15133.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioners' representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 24, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5527 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-18)]

Atchison, Topeka and Santa Fe Railway Company—Abandonment—In Los Angeles County, CA; Findings

The Commission has found that the public convenience and necessity permit the Atchison, Topeka and Santa Fe Railway Company to abandon its rail line between milepost 15.44, near El Segundo, CA, and the end of the line at milepost 20.02 near Redondo Beach, CA, subject to conditions. A certificate will be issued authorizing abandonment 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 served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are set forth at 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5521 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15123]

Bowhay Truck Line, Inc.—Purchase Exemption—Johnson Truck Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions, Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Bowhay Truck Line., Inc. (Bowhay) (No. MC-147228), and Johnson Truck Line, Inc. (Johnson) (No. MC-105774) seek an exemption from the requirement of prior approval under 49 U.S.C. 11343 for the purchase by

Bowhay of a portion of Johnson's operating rights. This authority authorizes the transportation of metal products and machinery, over irregular routes, (1) Between points in 38 States, on the one hand, and, on the other, points in Clay and Osborne Counties, KS, and (2) between points in Mitchell County, KS, on the one hand, and, on the other, points in 25 States.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and,

(2) Petitioners' representatives, Jack L. Shultz (Bowhay), Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501–2028; William B. Barker (Johnson) Jandera, Gregg & Barker, P.O. Box 1979, Topeka, KS 66601.

Comments should refer to No. MC–F–15123.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioners' representatives. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 15, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5526 Filed 3–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 417 and Ex Parte No. 417 (Sub-1)]

Costing Methodologies for the Northeast Corridor: Commuter Service and Conrail Freight Service

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of final procedures.

SUMMARY: On January 22, 1982 (47 FR 3418, January 25, 1982) the Interstate Commerce Commission (Commission) issued proposed procedures for compensating Amtrak for use of its properties by commuter and freight services pursuant to the requirements of Section 1163(a) of the Northeast Rail Service Act of 1981 (Rail Act). The Commission also adopted these procedures as interim procedures, effective January 25, 1982. At that time the Commission determined that an avoidable costing methodology was the most appropriate basis for calculating the compensation to be paid to Amtrak by commuter rail passenger and freight services. Upon evaluating the comments received, the Commission has made certain modification to the procedures and has also included further explanation of its adoption of an avoidable costing methodology.

EFFECTIVE DATE: These final procedure are effective retroactively to January 25, 1982.

FOR FURTHER INFORMATION CONTACT:

Stephen Grimm, (202) 275–0839

or

James Wells, (202) 275–0840.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission decision. To purchase a copy of the full decision contact: T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC, 20423, telephone (202) 289–4357, DC metropolitan area or (800) 424–5403, toll free for outside the DC area.

Decided: February 1, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Andre dissented in part with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Andre, dissenting in part:

I note that the majority is not going to take the lead in the issue of incentive payments for service quality by launching a sub-numbered docket to investigate Amtrak's request to work service quality into the payment schedule.

I submit that we should not be so reluctant to take the leadership in this area. The majority's decision comments favorably on the concept of quality of service payments but then lets the matter die for reasons which are unclear. An adequate legal foundation for consideration of service quality as part of the payment schedule appears in section 402(a) of the Rail Passengers Service Act, 45 U.S.C. 562(a). It is in the interest of the riders and the taxpayers to ensure that service quality is maximized by an appropriate incentive scheme.

I hope that the majority's reluctance to take the initiative in this area will not deter Amtrak from developing a service incentive scheme and petitioning this agency to docket the proposal for rulemaking.

[FR Doc. 83–5520 Filed 3–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275–7278

or

Tom Smerdon (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
833	Richard Ogilvie, Trustee for Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-352, (Asbestos fibre)	3	2-28-83
834	Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-0100, (Bituminous steam coal)	1	2-28-83
837	St. Louis Southwestern Railway Co., ICC-SSW-C-0377, (Starch dextrine)	1	2-28-83
838	Burlington Northern Railroad Co., ICC-BN-C-0159, (Movement of empty coal cars)	2	2-28-83
839	Bessemer and Lake Erie Railroad Co., ICC-BLE-C-0012, (Bituminous coal) via Port of Conneaut, OH	3	2-28-83
840	Pittsburgh and Lake Erie Railroad, ICC-PLE-C-0101, (Bituminous steam coal) via Port of Ashtabula Harbor, OH	1	2-28-83

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
841	Norfolk and Western Railway Co., ICC-NW-C-0048, Supplement 1, (Grain products, ethyl alcohol, corn oil, sunflower seed oil, corn syrup and soybean oil)	1	2-28-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Chandler not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

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

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc.83-5518 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 39019]

New England Retail Express, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: New England Retail Express, Inc., a motor contract carrier, has requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due on March 18, 1983. The sought exemption will become effective on April 4, 1983, unless, in response to timely filed adverse comments, the Commission issues a decision withdrawing this relief.

ADDRESS: Send original and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Robin K. Williams (202) 275-7697

or

Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b) and 10762(f).

New England Retail Express, Inc., holds nationwide temporary authority to operate as a contract carrier transporting general commodities (with exceptions) between points in the United States (except Alaska and Hawaii) under continuing contract(s) with Puritan Furniture Corp., Norwood, MA. Petitioner seeks an exemption from the tariff filing requirements for all its contract operations with respect to Puritan Furniture Corp., including those under its temporary authority as well as those covered by its pending application for permanent authority, which was filed on December 6, 1982. New England Retail Express argues that the tariff filing requirement is costly and an undue burden, results in lost business opportunities, and impairs competition through loss of flexibility in the marketplace. Petitioner is anxious to avoid unnecessary expenses which handicap its efforts to provide economical and efficient service. It contends that since the national transportation policy emphasizes fostering competition and the removal of regulatory burdens, approval of its petition for exemption would foster those goals.

We see no reason to deny this carrier the savings to be realized from a tariff exemption for its existing and future contracts.[1] It appears that exemption of this carrier from the requirement that it file tariffs covering its contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Petitioner here presently holds temporary authority and is awaiting disposition of its pending contract carrier application for permanent authority. While this provisional grant can only apply to petitioner's existing temporary authority, we see no reason to require petitioner to file a second petition for exemption if its application for permanent authority is approved. Therefore, if its application for permanent authority is approved, and if this provisional exemption is made final, the final exemption will apply to any permanent authority coextensive with the temporary authority covered by the provisional exemption.

We provisionally grant the exemption. This provisional grant will become final after 30 days unless the commission issues a further decision modifying or withdrawing the grant in response to adverse comments that may be filed.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: February 24, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5519 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[1] A proceeding to investigate the exemption of motor contract carriers on an industry-wide basis has been instituted in Ex Parte No. MC-165, *Exemption of Motor Contract Carriers from Tariff Filing Requirements* (47 FR 57303), December 23, 1982.

[Finance Docket No. 30123]

Southern Pacific Transportation Company—Discontinuance of Passenger Train Service in Ventura and Los Angeles Counties, California

AGENCY: Interstate Commerce Commission.

ACTION: Notice of hearing.

SUMMARY: Southern Pacific Transportation Company has filed a petition to discontinue passenger train service between Oxnard, Ventura County, CA, and Los Angeles, Los Angeles County, CA. Pursuant to 49 U.S.C. 10909 and 49 CFR Part 1153, hearing on the petition will be held on April 6, 1983 at 9:30 a.m. at: Los Angeles County Superior Court, County Courthouse, Room 203, 111 North Hill Street, Los Angeles, CA. Any interested person may participate in the hearing.

DATES: Any person opposed to the petition may file and serve a protest by March 21, 1983. Filing of a protest is not necessary in order to participate in the hearing.

ADDRESSES:

An original and six copies of pleadings should be filed with: Rail Section, Interstate Commerce Commission, Room 5417, Washington, D.C. 20423.

A copy of all pleadings should be served on applicant's representative: Herbert A. Waterman, 813 Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 30123.

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, D.C. 20423, or call 289–4357 (D.C. metropolitan area) or toll free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5517 Filed 3–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action uder the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4 at (202) 275–7669.

MC–FC–81232, filed Fegruary 15, 1983. By decision of February 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to TERRELL C. CLARK, Stanleytown, VA, of Certificate No. MC–161427, issued October 27, 1982, to LEE-JAY MOTOR LINES, INC., Martinsville, VA, authorizing the transportation of *general commodities* (with the usual exceptions), between points in DE, GA, IN, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA, 24168 (703) 629–2818, for transferee.

[FR Doc. 83–5522 Filed 3–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; 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: Anheuser-Busch Companies, Inc., One Busch Place, St. Louis, MO 63118.

2. Wholly-owned Subsidiaries:

Anheuser-Busch, Inc., One Busch Place, St. Louis, MO 63118
August A. Busch & Co., Inc., One Busch Place, St. Louis, MO 63118
August A. Busch & Co. of Massachusetts, Inc., 111 Sixth Street, Cambridge, MA 02141
August A. Busch & Co. of Florida, Inc., One Busch Place, St. Louis, MO 63118
Busch Properties, Inc., 500 Community Federal Center, 12555 Manchester Road, St. Louis, MO 63131
Consolidated Farms, Inc., One Busch Place, St. Louis, MO 63118
Metal Container Corporation, 666 Mason Ridge Center Dr., St. Louis, MO 63141
Kingsmill Realty, Inc., 100 Kingsmill Road, Williamsburg, VA 23185
Busch International Sales Corp., One Busch Place, St. Louis, MO 63118
St. Louis Refrigerator Car Co., 2850 South Broadway, St. Louis, MO 63118
Manufacturers Railway Co., 2850 South Broadway, St. Louis, MO 63118
Manufacturers Cartage Co., 2850 South Broadway, St. Louis, MO 63118
M.R.S. Redevelopment Corp., 2850 South Broadway, St. Louis, MO 63118
M.R.S. Transport Company, 2850 South Broadway, St. Louis, MO 63118
Williamsburg Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
Fairfield Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
Busch Entertainment Corp., 500 Community Federal Center, 12555 Manchester Rd., St. Louis, MO 63131
Kingsmill Resorts, Inc., 100 Golf Club Road, Williamsburg, VA 23185
Container Recovery Corp., 666 Mason Ridge Center Dr., St. Louis, MO 63141
Metal Label Corporation, One Busch Place, St. Louis, MO 63118
Busch Creative Services Corp., 701 Lynch Street, St. Louis, MO 63118
Carolina Peanuts of Robersonville, Inc., 200 E. Third Street, Robersonville, NC 27871
Golden Eagle Distributing Co. (Tulsa Beer Branch), 2929 N. Florence, Tulsa, OK 74110
Busch Agricultural Resources, Inc., One Busch Place, St. Louis, MO 63118
Burch Industiral Products Corps., 10877 Watson Road, Sunset Hills, MO 63127
Anheuser-Busch International, Inc., One Busch Place, St. Louis, MO 63118
Anheuser-Busch Europe, Inc., 2800 S. Ninth Street, 5th Floor, St. Louis, MO 63118
Civic Center Corporation, 300 Stadium Plaza, St. Louis, MO 63102
Stadium Plaza Redevelopment Corp., 300 Stadium Plaza, St. Louis, MO 63102
Stadium Maintenance Corp., 300 Stadium Plaza, St. Louis, MO 63102
St. Louis National Baseball Club, Inc., 250 Stadium Plaza, St. Louis, MO 63102
Broadway Redevelopment Corp., 300 Stadium Plaza, St. Louis, MO 63102
Suffolk-Busch Development Corp., One Busch Place, St. Louis, MO 63118
Eagle Snacks, Inc., One Busch Place, St. Louis, MO 63118
Anheuser-Busch Wines, Inc., One Busch Place, St. Louis, MO 63118
Busch Equipment, Inc., One Busch Place, St. Louis, MO 63118
Campbell Taggart, Inc., 6211 Lemmon Avenue, Dallas, TX 75209
Bell-Art Advertising, Inc., 6211 Lemmon Avenue, Dallas, TX 75209
Rainbo Baking Co. of Corpus Christi, P.O. Box 4207, Corpus Christi, TX 78408
Rainbo Baking Co. of El Paso, P.O. Box 9277, El Paso, TX 79983
Rainbo Baking Co. of Fort Smith, P.O. Box 64, Ft. Smith, AR 72902
Rainbo Bakeries of San Joaquin Valley, Inc., P.O. Box 832, Fresno, CA 93712
Colonial Baking Co. of Huntsville, P.O. Box 5147, Huntsville, AL 35805
Rainbo Baking Co. of Johnson City, P.O. Box 2387, Johnson City, TN 37601
Ramtag, Inc., 6211 Lemmon Avenue, Dallas, TX 75209
El Charrito Corp., 1925 Valley View Lane, Farmers Branch, TX 75234
Larry's Food Products, Inc./a Subsidiary of El Charrito Corp., 14725 S. Broadway, Gardena, CA 90248
Anheuser-Busch Asia, Inc., 2800 S. Ninth Street, St. Louis, MO 63118
Rainbo Baking Co. of Lexington, P.O. Box 86, Lexington, KY 40501
Rainbo Baking Co. of Lubbock, P.O. Box 459, Lubbock, TX 79408
Rainbo Baking Co. of Louisville, P.O. Box 8245, Station E, Louisville, KY 40208

Evansville Colonial Baking Co., P.O. Box 1086, Owensboro, KY 42301
Paducah Colonial Baking Co., P.O. Box 3100, Paducah, KY 42001
Rainbo Baking Co. of Sacramento Valley, P.O. Box 5387, Sacramento, CA 95817
Rainbo Bread Co. of Saginaw, P.O. Box 3266, Saginaw, MI 48605
Kilpatrick's Bakeries, Inc., 2030 Folsom Street, San Francisco, CA 94110
Merico Divisional Machine Shop, 9523 Watson Industrial Park, Crestwoo, MO 63126
Merico Snack Food Div., P.O. Box 719, Paris, TX 75460
Merico, Inc., Corporate Offices, P.O. Box D, Carrollton, TX 75006
Merico, Inc., Carrollton Div., P.O. Box 457, Carrollton, TX 75006
Merico, Inc., Forest Park Div., P.O. Box D, Forest Park, GA 30050
Merico, Inc., Ft. Payne Div., P.O. Box 560, Ft. Payne, AL 35967
Merico, Inc., Indianapolis Div., P.O. Box 19325, Indianapolis, IN 46219
Merico, Inc., Little Rock Div., P.O. Box 9009, Little Rock, AR 72219
Herby's Food Products, Inc., 901 Santerre, Grand Prairie, TX 75050
Merico, Inc. Packaging Div., P.O. Box 1155, Paris, TX 75460
Coosa Baking Company/a Division of Merico, Inc., P.O. Box 5071, Rome, GA 30161
Penn Dutch Cookie Co./a Division of Merico, Inc., P.O. Box 107, Fleetwood, PA 19522
Rod's Food Products/a Division of Merico, Inc., 17380 Railroad St., City of Industry, CA 91749
Royal Foods/a Div. of Merico, Inc., 222 Minnesota, Indianapolis, IN 46203

1. Parent corporation and address of principal office: Beneto, Inc., Post Office Box 1496, 1875 South River Road, West Sacramento, CA 95691.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Western Hyway Distributing Co., Inc., a California Corporation, MC-142240.

1. Parent corporation and address of principal office: Pressure Vessel Service, Inc., 6473 Anstell Avenue, Detroit, MI 48213.

2. Wholly—owned subsidiaries which will participate in the operations, and states of incorporations:

(i) Bay Chemical Company—Michigan;
(ii) Waste Acid Services Inc.—Michigan;
(iii) Chemical Transport Services, Inc.—Michigan;
(iv) PVS Chemicals, Inc. (Illinois)—Michigan;
(v) PVS Chemicals, Inc. (New York)—Michigan;
(vi) PVS Chemicals, Inc. (Ohio)—Michigan;
(vii) FanChem Ltd.—Ontario, Canada.

1. Parent corporation and address of principal office: Standard Oil Company (Indiana)—200 E. Randolph Drive (P.O. Box 5910-A) Chicago, IL 60601.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Amoco Chemicals Corporation, 200 E. Randolph Drive (P.O. Box 8640-A), Chicago, IL 60680
(b) Pure Culture Products, Inc., 200 E. Randolph Drive (P.O. Box 8640-A), Chicago, IL 60680
(c) Welchem, Inc., 5450 N.W. Central Drive, Houston, TX 77092
(d) Amoco Oil Company, 200 E. Randolph Drive (P.O. Box 6110-A), Chicago, IL 60680
(e) Amoco Minerals Company, 7000 S. Yosemite St., Englewood, CO 80112
(f) Amoco Production Company, 200 E. Randolph Drive (P.O. Box 5340-A), Chicago, IL 60680
(g) Amoco Pipeline Company, 200 E. Randolph Drive (P.O. Box 6110-A), Chicago, IL 60680
(h) Amoco Fabrics Company, 550 Interstate North, Atlanta, GA 30339
(i) Amoco Foam Products Company, Shadowood Office Park—2111 Powers Ferry Road, Suite 200, Atlanta, GA 30339
(j) Amoco Engineered Plastics Company—45 East Maryland Avenue, St. Paul, MN 55117
(k) Amoco Container Company, Shadowood Office Park—2111 Powers Ferry Road, Suite 300, Atlanta, GA 30339
(l) Amoco Gas Company, 501 Westlake Park Blvd., Houston, TX 77253
(m) Cyprus Coal Company, 7000 S. Yosemite Street, Englewood, CO 80112

1. Parent corporation and address of principal office: West American Finance Corporation d.b.a. Boyd Martin Co. (a Utah corporation), 1260 West North Temple, Salt Lake City, UT 84116.

2. Wholly-owned subsidiaries which will participate in the operations, all incorporated ain the State of Utah:

(i) West American Transport, Inc.
(ii) Steve Regan Company
(iii) F.L.F., Inc.
(iv) Utah Industrial Trucks, Inc.
(v) West American Hardware, Inc. d.b.a. Strevell Paterson

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5522 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP-2-080]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: February 24, 1983.

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods.) The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicant with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, (202) 275-7030.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 95232 (Sub-1), filed February 15, 1983. Applicant: ALL JERSEY TRAILS, INC., 284 Main St., Butler, NJ 07405-1099. Representative: Edward F. Bowers, Seven Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201-992-2200. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157493 (Sub-2), filed January 20, 1983. Applicant: LYNCH BUS LEASING SERVICE, INC., d.b.a. LYNCH BUS SERVICE, R.D. 1, Box 263, Carbondale, PA 18407. Representative: Mr. Paul J. Kenworthy, P.O. Box 25, Clark Summit, PA 18411, 717-587-2533. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166083, filed February 3, 1983. Applicant: ARRIVA COACH, INC. 2140 Edgeware St., Silver Spring, MD 20904. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St. NW., Washington, DC 20004, 202-737-1030.Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166172, filed February 9, 1983. Applicant: DRIVE WAREHOUSE & SUPPLY COMPANY, 5618 Florence Blvd., Omaha, NE 68110. Representative: Edward A. O'Donnell, 1004-29th St., Sioux City, IA 51104, 721-255-3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166192, filed February 8, 1983. Applicant: WILLIAM CABRERA TRANSPORTATION SERVICES, INC., 45 Plaza Circle, Salinas, CA 93901. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501-521-8121. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166193, filed February 9, 1983. Applicant: WILLIAMS BUS SERVICE, P.O. Box 625, Quinton, VA 23141. Representative: Thomas O. Williams (same address as applicant) 804-932-4038. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166212, filed February 8, 1983. Applicant: C.P.K. d.b.a. PEPPERMILL'S WESTERN VILLAGE, Mesquite, NV 89024. Representative: Natale A. Carasali, 3700 Grant Drive #1, Reno, NV 89509, 702-826-8770. Transporting *passengers,* in charter and special operations, between Mesquite, NV and St. George, UT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83-5524 Filed 3-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-079]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: February 24, 1983.

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2((E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminary, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: Common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this

décision is neither a major Federal action significantly affecting the quality of the human environmental nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, (202) 275-7030.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

MC 72423 (Sub-17), filed February 4, 1983. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 East Chestnut St., Sterling, CO 80751. Representative: Jack B. Wolfe, 601 E. 18th Ave., No. 107, Denver, CO 80203, 303-522-6232. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Quality Stores, Inc., Quality Farm & Fleet, Inc., and Sterling Big R, Inc., of N. Muskegon, MI.

MC 107012 (Sub-796), filed February 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with ANG Coal Gasification Company, of Detroit, MI.

MC 120373 (Sub-4), filed January 18, 1983. Applicant: ROBERT L. ROY d.b.a. FORTMAN TRUCK LINE, 115 North 5th St., Hamilton, MT 59840. Representative: Robert L. Roy (same as applicant), (406) 363-2822. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Ravalli and Missoula Counties, MT.

MC 133643 (Sub-3), filed January 10, 1983. Applicant: MOORE VAN & STORAGE, INC., 2565 NE 33rd St. at I-35W-N, Fort Worth, TX 76106. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902, (301) 649-5074. Transporting *household goods,* between those points in the U.S., in and south of NY, PA, OH, IN, IL, IA, NE, CO, UT, NV, OR, and WA.

MC 136553 (Sub-109), filed February 15, 1983. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, IA 52001. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515-282-3525. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 140902 (Sub-23), filed February 15, 1983. Applicant: DPD, INC., 3600 NW. 82nd Ave., Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant), 305-593-3204. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Keene Corporation, Cutting Services Division, of St. Louis, MO, Akers Packaging Service, Inc., of Middletown, OH, Recticel Foam Corporation, of Buffalo, NY, C.C. Housing Corporation, of Syracuse, IN, The Boise Company, of Boise, ID, Balanced Foods, Inc., of Ridgefield, NJ, and ICI Americas, Inc., of Wilmington, DE.

MC 141212 (Sub-9), filed January 14, 1983. Applicant: JOHN RADKE, INC., Route 2, Box 93, Marathon, WI 54448. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086. Transporting *such commodities* as are dealt in or used by producers and distributors of salt, between points in Manistee County, MI, Hennepin County, MN, Williams County, ND, and Weber County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165453, filed December 30, 1982. Applicant: KUHN TRANSPORT, INC., 4408 Tytus Ave., P.O. Box 206, Middletown, OH 45042. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, those points IN on an south of Interstate Hwy 70, those points in KY on, east and north of a line beginning at the TN-KY State line and extending along Interstate Hwy 65 to junction Interstate Hwy 64, and than along Interstate Hwy 64 to the KY-WV State Line, and those points in PA on and west of U.S. Hwy 219, on the one hand, and, on the other, points in IL, IN, MI, WI, OH, KY, TN, WV, NY, and PA.

MC 165532, filed February 10, 1983. Applicant: JOHN M. GREENLEE, d.b.a. GREENLEE TRUCKING AND SPREADING SERVICE, 35 Austerlitz St., Chatham, NY 12037. Representative: Jeremy Kahn, 1511 K St., NW-Suite 733, Investment Bldg., Washington, DC 20005, 202-783-3525. Transporting (1) *chemicals and related products,* and (2) *clay, concrete, glass or stone products,* between points in the U.S., under continuing contract(s) with Agway, Inc., of Syracuse, NY.

MC 165552, filed January 4, 1983. Applicant: C & L TRANSPORTATION, INC., P.O. Box 339, Orefield, PA 18069. Representative: William J. McCarthy III, 825 North Twelfth St., Allentown, PA 18102, (215) 439-8430. Transporting (1) *coal,* between points in PA, on the one hand, and, on the other, points in RI, under continuing contract(s) with People's Coal of Cumberland, RI, and (2) *scrap metal,* between points in MA, on the one hand, and, on the other, points in DE, NJ, and PA, under continuing contract(s) with State Line Scrap Co., Inc., of So. Attleboro, MA.

MC 166022, filed February 1, 1983. Applicant: ELECTRONIC EXPRESS, INC., 720 Rosewll St., Marietta, GA 30060. Representative: John W. Greer, III, 57 Forsyth St., NW, Suite 925 Healey Building, Atlanta, GA 30303, (404) 523-1601. Transporting (1) *photographic instruments,* (2) *surgical or medical instruments or apparatus,* and (3) *machinery,* between points in GA, FL, AL, SC, NC, TN, VA, KY, MS, AR, LA, WV, and TX.

MC 166173, filed February 9, 1983. Applicant: SARTIN CONSTRUCTION AND TRUCKING, INC., P.O. Box 297, Sunnyside, WA 98944. Representative: James G. Sartin (same address as applicant), 509–837–3800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, ID, MT, OR, and WA.

MC 166182, filed February 8, 1983. Applicant: GERALD D. THOMPSON d.b.a. JERRY THOMPSON GRAIN & FEED, 247 Sierra Vista, P.O. Box 151, Sterling, CO 80751. Representative: David E. Driggers, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Center, Denver, CO 80264, 303–522–6750. Transporting *fertilizers*, between points in the U.S. (except AK and HI), under continuing contract(s) with Duval Sales Corporation of Houston, TX.

MC 166202, filed February 10, 1983. Applicant: ROYAL TRANSPORT, INC., 1520 Avenida Los Reyes, P.O. Box 18590, Tucson, AZ 85710. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Suite 500, Washington, DC 20006, 202–828–5015. Transporting *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Metalux Corp., of Americus, GA.

MC 166213, filed February 10, 1983. Applicant: RON WATTS TRUCKING, INC., 6920 N. 16th St., Lot 76, Omaha, NE 68112. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. Transporting *food and related products*, between points in IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166242, filed February 11, 1983. Applicant: ROHTSTEIN CORP., 70 Olympia Ave., P.O. Box 2129, Woburn, MA 01888. Representative: Max I. Rohtstein (Same address as applicant), 617–935–8300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, and VT.

[FR Doc. 83–5525 Filed 3–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

Correction

In FR Doc. 83–5108 appearing on page 8864, in the issue of Wednesday, March 2, 1983, make the following correction.

The first line of the "**DATES**" paragraph should read:

"**DATES:** Protests are due within 15 days".

BILLING CODE 1505–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Westin Hotel, North Michigan Avenue at Delaware, Chicago, Illinois on April 5 and 6, 1983, beginning at 9:00 a.m. each day.

The purpose of the meeting is to prepare recommended questions for the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B). A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 1, 1983.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 83–5530 Filed 3–3–83; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 21, 1983—February 25, 1983.

In order for an affirmative determination to be made and a certification of elibibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partically separate,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,544; National Steel Corp., Weirton Steel Div., Weirton, WV

TA–W–13,669; Transfer Machines, Inc., Troy, MI

TA–W–13,342; Perception Direction Div., Bobbie Brooks, Inc., Hialeah, FL

TA–W–13,436; Wells-Index Corp., Three Rivers, MI

TA–W–13,610; S & S Products, Inc., Wyandotte, MI

TA–W–13,484; J & M Fashions, Inc., Union City, NJ

TA–W–13,488; Lucy Rose Anna Coat Co., Inc., Hoboken, NJ

TA–W–13,465; Rockwell International Corp., Automotive Supply Div., Chattanooga, TN

TA–W–13,390; Russell, Burdsall & Ward Corp., Chicage, IL

TA–W–13,674; The Boeing Co., Seattle, WA

In the following case the investigation revealed that criterion (3) had not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,210; J.V. Components, Inc., Conway, NH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,664; Mastex Industries, Inc., Bay State Mills Div., Holyoke, MA

Aggregate U.S. imports of fabric are negligible.

TA–W–13,668; Sturgill Mining Co., Wise, VA

Aggregate U.S. imports of metallurgical coal are negligible.

Affirmative Determinations

TA–W–13,721; U.S. Steel Corp., Minnesota Ore Operations, Mt. Iron, MN

A certification was issued in response to a petition received on August 6, 1982

covering all workers separated on or after July 31, 1981.

TA–W–13,590; U.S. Steel Corp., Johnstown-Canton Works, Canton, OH

A certification was issued in response to a petition received on June 14, 1982 covering all workers separated on or after June 9, 1981.

TA–W–13,268; U.S. Steel Corp., Headquarters, Pittsburgh, PA

A certification was issued in response to a petition received on February 8, 1982 covering all workers separated on or after January 14, 1981.

TA–W–13,521; U.S. Steel Corp., Research Laboratory, Monroeville, PA

A certification was issued in response to a petition received on May 26, 1982 covering all workers separated on or after May 25, 1981.

TA–W–13,496; V & A Coat (Formerly Willow Coat Co.), Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after May 13, 1981.

TA–W–13,426; Boston Digital Corp., Hopkinton, MA

A certification was issued in response to a petition received on April 23, 1982 covering all workers separated on or after March 27, 1982.

TA–W–13,360; Beta Handbag & Luggage Corp., Hialeah, FL

A certification was issued in response to a petition received on March 22, 1982 covering all workers separated on or after April 2, 1981 and before April 1, 1982.

TA–W–13,345; Damsel Manufacturing Co., Inc., Avenel, NJ

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after November 20, 1981.

TA–W–13,345A; Damsel Manufacturing Co., Inc., Wilkes-Barre, PA

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after November 20, 1981.

TA–W–13,345B; Damsel Manufacturing Co., Inc., Plains, PA

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after November 20, 1981.

TA–W–13,612; U.S. Steel Corp., National-Duquesne Works, McKeesport, PA, and Duquesne, PA

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after October 1, 1981.

TA–W–13,391; U.S. Steel Corp., Lorain-Cuyahoga Works, Lorain, OH and Cleveland, OH

A certification was issued in response to a petition received on April 5, 1982 covering all workers separated on or after December 31, 1981.

TA–W–13,705; Aeolian Pianos, Inc., Aeolian American Div., Rochester, NY

A certification was issued in response to a petition received on August 9, 1982 covering all workers separated on or after October 4, 1981.

TA–W–13,375; Duluth Missabe & Iron Range Railway Co., Duluth, MN

A certification was issued in response to a petition received on March 25, 1982 covering all workers separated on or after September 1, 1981.

TA–W–13,409; U.S. Steel Corp., Johnstown-Canton Works, Johnstown, PA

A certification was issued in response to a petition received on April 7, 1982 covering all workers separated on or after April 6, 1981.

TA–W–13,483; Italian Fashions, Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after August 9, 1981.

TA–W–13,489; Lunar Fashions, Hoboken, NJ

A certification was issued in response to a petition received on May 13, 1982 covering all workers separated on or after November 1, 1981.

TA–W–13,490; Maria Fashions, Inc., Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after July 3, 1982.

TA–W–13,493; Natalie Ann Fashions, Inc., Union City, NJ

A certification was issued in response to a petition received on May 13, 1982 covering all workers separated on or after January 1, 1982.

TA–W–13,482; H & P Garment Co., Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after October 3, 1981.

TA–W–13,481; Fortune Fashions, Inc., Jersey City, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after May 13, 1981.

TA–W–13,644; Bethlehem Steel Corp., South Buffalo Railway Co., Lackawanna, NY

A certification was issued covering all workers engaged in employment related to the production of carbon cold rolled sheet and strip, galvanized sheet, hot rolled sheet and basic and semi-finished steel of the Lackawanna plant of Bethlehem Steel Corp. and all workers of the South Buffalo Railway Co.

I hereby certify that the aforementioned determinations were issued during the period February 21, 1983–February 25, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 1, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-5679 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 14, 1983–February 18, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not

contribute importantly to worker separations at the firm.

TA-W-13,505; Hecla Mining Co., Sherman Mine, Leadville, CO

TA-W-13,506; Hecla Mining Co., Star Mine, Wallace, ID

TA-W-13,507; Hecla Mining Co., Consolidated Silver Mine, Osborne, ID

TA-W-13,618; Midland Ross Corp., Capitol Castings Div., Phoenix, AZ

TA-W-13,626; Babcock & Wilcox Co., Tubular Products Group, Alliance, OH

TA-W-13,602; Connors Steel Co., Huntington, WV

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,625; Ashland Petroleum Co., Buffalo Refinery, Tonawanda, NY

Aggregate U.S. imports of refined petroleum products did not increase as required for certification.

TA-W-13,627; Buddy Knitwear, Inc., Hempstead, NY

Aggregate U.S. imports of fabric are negligible.

TA-W-13,629; Clinton Corn Processing Co., Montezuma, NY

Aggregate U.S. imports of fructose corn syrup and refined sugar are negligible.

Affirmative Determinations

TA-W-13,637; Kannner Dress Co., Elizabeth, NJ

A certification was issued in response to a petition received on July 8, 1982 covering all workers separated on or after January 28, 1982.

TA-W-13,589; Quote Me, Inc., Clifton Forge, VA

A certification was issued covering all workers of the firm separated on or after June 8, 1981 and before August 1, 1982.

TA-W-13,435; Tecumseh Products Co., Tecumseh Div., Marion, OH

A certification was issued in response to a petition received on April 19, 1982 covering all workers separated on or after April 13, 1981.

TA-W-13,552; Armco, Inc., Baltimore Works, Baltimore, MD

A certification was issued covering all workers engaged in employment related to the production of stainless steel wire rod, bar, basic and semi-finished steel of the firm separated on or after June 9, 1981.

A certification was issued covering all workers engaged in employment related to the production of stainless steel wire of the firm separated on or after January 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period February 14, 1983–February 18, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 22, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-5398 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of February 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Huntingdon Apparel Manufacturing Co. (ACTWU)	Huntingdon, Pa	2/14/83	2/9/83	TA-W-14,425	Slacks—men's.
Lehigh Portland Cement (UCLGAW)	Northampton, Pa	2/16/83	2/10/83	TA-W-14,426	Cement—portland.
Luzerne Apparel Manufacturing Corp. (ACTWU)	Elysburg, Pa	2/14/83	2/9/93	TA-W-14,427	Suits, sportcoats—men's.
Luzerne Apparel Manufacturing Corp. (ACTWU)	Berwick, Pa	2/14/83	2/9/83	TA-W-14,428	Sportcoats, sew vests—men's.
Magma Copper Co. (USWA)	San Manuel, Ariz	2/14/83	2/8/83	TA-W-14,429	Copper, mining and smelting.
Martin Marietta Cement (Eastern Division) (CLGAW)	Thomaston, Maine	2/16/83	2/7/83	TA-W-14,430	Cement—portland.
Martin Marietta Cement (CLGAW)	Northampton, Pa	2/16/83	2/9/83	TA-W-14,431	Do.
Reed Holdings, Inc., Birge Division (workers)	Cheektowaga, N.Y	2/15/83	2/8/83	TA-W-14,432	Wallcoverings.
SKW Alloys, Inc. (USWA)	Niagara Falls, N.Y	2/14/83	1/28/83	TA-W-14,433	Alloys—silicon and chrome.
TRW, Inc., Threading Tools Division (workers and UE)	Greenfield, Mass	2/14/83	2/3/83	TA-W-14,434	Tools cutting, thread tools, measuring, thread.
Blair Footwear, Inc. (workers)	Altoona, Pa	2/17/83	2/10/83	TA-W-14,435	Shoes, casual—women's.
Brandford Manufacturing Co. (ILGWU)	Newark, N.J	2/9/83	2/2/83	TA-W-14,436	Dresses.
Chevron USA, Inc., (IBT)	Perth Amboy, N.J	2/16/83	2/9/83	TA-W-14,437	Sundry petroleum products.
Cyprus Pima Mining Co. (workers)	Tucson, Ariz	2/15/83	2/9/83	TA-W-14,438	Copper, molybdenum concentrates—mine.
General Motors Corp., Packard Electric Division (Electrical, Radio & Machine Workers).	Clinton, Mass	2/7/83	2/1/83	TA-W-14,439	Components—wiring assembly harnesses.
Kaiser Aluminum & Chemical, Chalmette Works (USWA)	Chalmette, La	2/14/83	2/8/83	TA-W-14,440	Aluminum pigs, sows, ingots and rods.
Nedrich Shirt Manufacturing Co. (ACTWU)	Elizabethville, Pa	2/14/83	2/9/83	TA-W-14,441	Blouses—ladies.
Publix Shirt Corp. (ACTWU)	Hazleton, Pa	2/14/83	2/9/83	TA-W-14,442	Dress shirts—men's.
Sharon Steel Corp., Mining Division (USWA)	Fierro, N. Mex	2/14/83	2/4/83	TA-W-14,443	Copper mine and mill.
Tygart Industries, Inc. (USWA)	Versailles Boro, Pa	2/7/83	1/31/83	TA-W-14,444	Warehouses—fabricated steel plate.

[FR Doc. 83-5399 Filed 3-3-83; 8:45 am]
BILLING CODE 4510-30-M

Negative Determination Regarding Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance in the case listed below. In this case, the review indicated that there were no new facts not previously considered; that the determination was not based on a mistake; and that there was no misinterpretation of facts or of the law which would justify reconsideration. Therefore, denial of the application was issued.

TA-W-13,131: Jeep Corporation, Toledo, Ohio

Dated: February 25, 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

Signed at Washington, D.C. this 25th day of February 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-5680 Filed 3-3-83; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension Welfare Benefit Programs

Boldtco Restated Profit Sharing and Retirement Trust, et al.; Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemptions.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) if the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Boldtco Restated Profit Sharing and Retirement Trust Located in Appleton, Wisconsin

[Application No. D-3316]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) A proposed mortgage loan (the Loan) by the Boldtco Restated Profit Sharing and Retirement Trust (the Plan) to Messrs. Richard and Todd Popp (collectively the Popps), the proceeds of which will be used by the Popps to finance the purchase of certain real estate from the Berg Corporation, a wholly owned subsidiary of the Oscar J. Boldt Construction Company (the Employer), a party in interest with respect to the Plan, and (2) the guarantees of repayment of the Loan and of the interest rate on the Loan by the Employer.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing and retirement plan which had 79 participants and net assets of approximately $2,890,832 on February 29, 1980. The trustees (the Trustees) of the Plan are A. Kristian Jensen, Stephen Chavlovich, Robert H. Behling, Warren F. Parsons, Charles M. Boldt and Carol Westphal, all of whom are officers or employees of the Employer. Investment decisions for the Plan are made by the Trustees.

2. The applicants request an exemption to permit the Plan to make the Loan of $299,781 to the Popps, the proceeds of which will be used by the Popps to purchase property (the Property) from a subsidiary of the Employer. The proposed Loan represents less than 11 percent of the Plan's assets. The Popps are not parties in interest with respect to the Plan, however, their use of the Loan proceeds to purchase property from a wholly owned subsidiary of the Employer will benefit the Employer. The terms of the Loan are as follows:

a. The Loan will be repaid in monthly installments of principal and interest over a twenty year period.

b. The Employer guarantees repayment of the principal amount of the Loan within 60 days of default by the Popps on their payments and, in addition, guarantees that each month the Plan will receive interest at the rate of 16.5 percent per annum or the prime rate in effect on the first business day of each month at the First National Bank in Appleton, Wisconsin (First National), whichever is greater. First National has represented that it would make a loan to the Popps on the same terms and conditions, except that First National would charge interest based on its prime

rate, adjusted monthly, and would not require a guarantee of at least a 16.5 percent per annum interest rate.

c. The payment of interest will be allocated between the Popps and the Employer as follows: During each five year period of the Loan, the Popps will pay to the Plan interest at the greater of 16.5 percent per annum, or the prime rate of First National as quoted on the first business day of such five year period less five percent. The Employer will pay to the Plan on a monthly basis the difference, if any, as of the last business day of each month, between the interest paid by the Popps and the interest which would have accrued to the Plan based on the prime rate in effect on the first business day of that month at First National, such that the Plan will at all times during the term of the Loan receive interest at the greater of: (1) 16.5 percent per annum; (2) the prime rate of First National as quoted on the first business day of each five year period less five percent; or (3) the prime rate in effect on the first business day of each month at First National.

d. The Loan will be secured by a first mortgage on the Property and by a second mortgage on certain other real property which is owned by the Employer (the Southwest Property) (collectively, the Properties). The Employer represents that the security interest held by the Plan in the Properties will at all times be greater than 150 percent of the outstanding Loan balance. Documents evidencing the Plan's security interests in the Properties will be filed in accordance with Wisconsin law. The Property was appraised on December 31, 1981 by John Pfefferle (Pfefferle) who determined its fair market value on that date to be $390,000. The Southwest Property was appraised by Pfefferle on February 4, 1982, who determined its fair market value on that date to be $142,600. The Southwest Property is currently subject to a first mortgage in the amount of $140,000, of which $70,000 was outstanding on July 22, 1982. Pfefferle, who is independent of all parties to the proposed transactions, is the president of Appraisal Associates, Inc. which is located in Appleton, Wisconsin and has had over fifteen years of experience in the appraising of real estate.

3. First National, which is independent of the Employer, has been appointed as the independent fiduciary for the Plan with respect to the proposed Loan. First National certifies that it has reviewed the needs of the Plan and the terms and conditions of the Loan and has determined that the Loan is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries; that the terms and conditions of the proposed transaction are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party; and that it will monitor the terms and conditions of the Loan and enforce any rights the Plan has in the transaction. In addition, First National will have the responsibility for ensuring that the Loan is at all times collateralized to the extent of 150 percent of the outstanding balance of the Loan and that the Plan receives the interest rate guaranteed it herein.

4. The Trustees represent that the Loan is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries in that it will provide the Plan with a high rate of return on a secure investment.

5. In summary, the applicants represent that the proposed transaction meets the statutory criteria contained in section 408(a) of the Act as follows: (1) The Loan represents less than 11 percent of the Plan's current assets; (2) the Trustees represent that the Loan is in the best interest of the Plan and its participants and beneficiaries; (3) the Loan has been approved in advance and will be monitored by an independent fiduciary; (4) the value of the collateral securing the Loan will at all times be at least 150 percent of the outstanding Loan Balance; and (5) the Employer guarantees repayment of the Loan within 60 days of default by the Popps and that the Plan will, at all times during the term of the Loan, receive a rate of interest equal to the greater of 16.5 percent per annum or the prime rate, adjusted monthly, of First National.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number).

Neurological Associates of Tucson Profit Sharing Plan and Trust (the Profit Sharing Plan) and Neurological Associates of Tucson Money Purchase Pension Plan and Trust (the Pension Plan; Collectively, the Plans) Located in Tucson, Arizona

[Application Nos. D-3722 and D-3723]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the contribution by Neurological Associates of Tucson (the Employer) of two medical condominiums (Buildings B-8 and B-9) to the Profit Sharing Plan and the San Rafael Building (Building S/R) to the Pension Plan, provided the contribution is valued at its fair market value on the date contributed, and the leasing of the Buildings by the Plans to the Employer, under the terms set forth in this notice, provided such terms are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Profit Sharing Plan had 37 participants as of December 31, 1981 and, as of that date, had net assets of $1,444,195. The Pension Plan had 37 participants as of December 31, 1981, and had net assets of $1,117,201.

2. The Employer is an Arizona professional corporation, incorporated on June 21, 1963, which was organized primarily to provide neurological surgery and treatment in Tucson, Arizona. Currently, the Employer is the largest neurological group in Tucson, with approximately 9 physicians and 35 additional staff members.

3. Presently the Employer owns buildings which are used exclusively in the Employer's medical practice for patient examinations, doctors' offices and administrative offices. Buildings B-8 and B-9 are two medical condominiums which are located across the street from Tucson Medical Center, a 650 bed hospital. The current fair market value of Buildings "B" is $478,500, of which B-8 represents $96,500 and B-9 represents $380,000. As of June 1, 1982, the total encumbrance against Buildings "B" was $201,747, consisting of a first mortgage.

The monthly payments on the mortgage are $2,610.58, which will end on May 1, 1992. The other building, Building S/R, is also a medical condominium. Building S/R is located across the street from St. Joseph's Hospital, a 325 bed hospital. The current fair market value of Building S/R is $87,000, and it is encumbered by a first mortgage in the amount of $36,658. The monthly payments on the first mortgage on Building S/R are $469.91 and will end on August 1, 1992. The fair market value of the buildings was determined by an independent appraiser, Swango Real Estate Counseling and Valuation (Swango), of Tucson, Arizona.

4. The Employer has requested an exemption to contribute Buildings B–8 and B–9 to the Profit Sharing Plan and Building S/R to the Pension Plan. All the buildings will be transferred subject to their respective encumbrances. The Employer will claim as a deduction on its corporate income tax return an amount equal to the fair market value of the buildings, reduced by the outstanding balances due on the encumbrances at the time of transfer.

5. The Employer has also requested an exemption to lease the buildings from the Plans. The leases would be on a triple-net basis for a term of 15 years, with a rent adjustment every five years to reflect the then current fair market value of the buildings as determined by an independent appraiser acceptable to the independent fiduciary designated to oversee the transactions (see 7 and 8 below). At no time will the rentals be lower than the initial rent. Under the leases, the Employer will pay all expenses relating to the buildings, including maintenance, utilities, repair, taxes, insurance, and common area expenses so that the only expenditure responsibility of the Plans will be for the payment of principal and interest on the mortgages. The leases will provide that any expansion, improvements or renovations are to be made only by the Employer, solely at the Employer's expense, with any improvements belonging to the Plans at the termination of the leases. In event of default by the Employer in payment of the rentals, the leases will provide that the Plans at their discretion can either: (a) Sell the property to a third person and pay off any encumbrances; (b) relet the property to another tenant and continue to pay the encumbrances; or (c) void the lease and put the buildings to the Employer at a purchase price equal to the market value at the time of contribution, subject to encumbrances on the buildings at the time of the put. Such action is to be decided upon by the independent fiduciary designated to oversee the transactions.

6. The initial annual rental rates were determined by an independent appraisal by Swango. The annual rent for the first year for Buildings B–8 and B–9 will be approximately $53,000, and for Building S/R will be $9,800. These rentals will be sufficient to cover payments due on the encumbrances and any taxes due from unrelated business taxable income. Based on a net contribution value of $274,753 for Buildings B–8 and B–9, the net expected pre-tax return for the first year will be 7.9% based on cash flow. Building S/R, with a net contribution value of $50,342, is expected to have a pre-tax return for the first year of 8.3% based on cash flow.

The independent fiduciary has considered the rate of return to the Plans and notes that the previously cited figures are based only on cash flow to the Plans. He represents that the actual return to the Plans will be substantially higher due to appreciation and rental increases.

7. An unrelated party, Mr. James R. Hogan of Tucson, will be appointed as a named fidiciary for the Plans and will be given exclusive authority to manage and control all real property assets of the Plans. Mr. Hogan is owner/director of Hogan School of Real Estate and owner/broker of Hogan Investment Company, both of Tucson. Stewart Title and Trust Company of Tucson (Stewart Title) will collect all the rental payments. It will make the monthly payments on the mortgages and disburse the balance of the cash flow to the Plans' trustees. In addition, Stewart Title will make a monthly report to Mr. Hogan, which will enable him to monitor the leases to insure compliance with the terms and conditions and that timely payments are made on the encumbrances.

8. Mr. Hogan represents that he has considered the proposed contribution of the buildings to the Plans and has determined that the resulting investment by the Plans in the buildings is reasonably designed to further the purposes of the Plans by providing diversity, a current return to help meet current cash flow, and a projected return within the funding objectives of the Plan. He represents that his determination included the consideration of the risk of loss and opportunity for gain, including the potential impact of the unrelated business income tax, which will be either nominal or immaterial in relationship to the overall return from the investment. Mr. Hogan likewise represents that he has reviewed the terms of the proposed leases and finds that it would be in the best interests of the Plans and of their participants and beneficiaries to enter into the leases. Mr. Hogan has consulted with counsel familiar with the Act, and he has been advised of his duties, responsibilities and liabilities as a fiduciary under the Act.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (1) After the contribution of the buildings, they will comprise approximately 16% of the assets of the Profit Sharing Plan and 4% of the assets of the Pension Plan; (2) the contribution values and the fair market rental values for the buildings were established by an independent appraiser; (3) the proposed contributions and leases have been reviewed by Mr. Hogan, an independent fiduciary for the Plans, who has determined that the transactions are appropriate for the Plans and in the best interest of the Plans' participants and beneficiaries; and (4) Mr. Hogan will monitor the payments to the Plans under the leases and will take whatever action is appropriate to enforce the Plans' rights.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Drs. Weigler, Jacobsohn and Mollick, S.C. Amended and Restated Employees Pension Plan (the Plan) Located in Cadahy, Wisconsin

[Application No. D–3802]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of certain artwork by the Plan to Dr. Jordan M. Weigler (Dr. Weigler), a party in interest with respect to the Plan, provided that the sales price for the artwork is at least equal to its fair market value at the time of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with 10 participants and total assets of $276,827.82 as of June 30, 1982. The trustees of the Plan are Drs. Jordan M. Weigler, Peter H. Jacobsohn

and Sheppard Mollick, each of whom owns ⅓ of the shares of Drs. Weigler, Jacobsohn and Mollick, S.C. (the Employer). The custodian of the Plan's funds is the First Bank of Milwaukee, Wisconsin.

2. In August 1974, the Plan purchased a certain piece of artwork known as the "Square de Paris" by Marc Chagall (the Artwork) from the David Barnette Gallery (an unrelated party) of Milwaukee, Wisconsin. The Artwork was purchased for $5,500 and was print number 47 of a limited edition of 75. The Artwork has been continually stored in a safety deposit box at the First Wisconsin National Bank of Milwaukee, Wisconsin since its purchase.

3. The trustees of the Plan propose to sell the Artwork for cash to Dr. Weigler for its appraised value of $7,125. The Plan will not pay any sales commissions with respect to the proposed transaction. Mr. David J. Barnett (member of Appraisers Association of America) of the David Barnette Gallery, an unrelated appraiser, determined the fair market value of the Artwork to be $7,125 as of September 10, 1982.

4. The applicants represent that the Artwork is an illiquid investment which produces no income and requires various holding costs, including storage and appraisal fees. It is represented that the Artwork's rate of appreciation (approximately 3% per annum) has not provided an adequate rate of return to the Plan. Also, if the Artwork were sold by an art dealer, the applicant represents that a commission of between 20 to 25% would be taken by the dealer.

5. The applicant represents that the proposed sale will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The price to be paid to the Plan for the Artwork was determined by an independent appraiser;

(b) The Plan will be able to dispose of an illiquid and non-income producing asset;

(c) It will be a one time transaction for cash;

(d) No sales commissions will be paid by the Plan; and

(e) The trustees of the Plan represent that the proposed sale of the Artwork is in the best interests of the participants and beneficiaries of the Plan.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Bay Cities Mortgage Company Profit-Sharing Plan (the Plan Located in Walnut Creek, California

[Application No. D–3837]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale for cash in the amount of $9,822 by the Plan of its interest (the Interest) in a 1941 Cadillac Model 62 automobile (the Automobile) to John T. Gidré), a party in interest with respect to the Plan, provided that the price received by the Plan in such sale is at least equal to the fair market value of the Interest at the time of the sale.

Summary of Facts and Representations

1. The Plan, which is sponsored by the Bay Cities Mortgage Company, is a profit sharing plan with two participants, Gidré and Bonnie Council (Council). Gidré and Council are also the trustees (the Trustees) of the Plan. As a part of its assets, the Plan owns the Interest which consists of a 37½% undivided ownership interest in the Automobile. The Plan purchased the Interest on March 5, 1981 for cash in the amount of $7,500 from a party who was unrelated to the Plan. The remaining 62½% interest in the Automobile is owned by parties who also are unrelated to the Plan. The Interest represents approximately 14% of the assets of the Plan.

2. The applicant represents that at the time the Plan purchased the Interest, the Trustees anticipated that it would rapidly appreciate in value and that the Plan would be able to sell the Interest within 18 months from the date of its purchase. The Trustees now represent that due to unforeseen economic conditions the Automobile is not readily saleable and that the value of the Automobile is declining. The applicant represents that several unsuccessful attempts have been made to sell the Automobile in the open market. This effort to sell the Automobile has included advertising the Automobile for sale in the *Vintage Car Newspaper* and offering it for sale at several automobile shows.

3. The applicant is requesting an exemption which will permit Gidré to purchase the Interest for cash in the amount of $9,822. On August 13, 1982 an independent appraisal of the Automobile was performed by William L. Finefrock (Finefrock) whose office is located in Santa Maria, California and who is the publisher of the *Vintage Car Newspaper* and a specialist in the valuation of vintage automobiles. Finefrock represents that as of August 13, 1982 the fair market value of the Automobile was $22,500. The price of $9,822 that Gidré proposes to pay for the Interest represents the value of the Interest and a reimbursement to the Plan for its expenses related to the holding of the Interest. The Trustees represent that the proposed sale of the Interest to Gidré will be in the best interests of the participants of the Plan.

4. In summary, the applicant represents that the proposed sale will satisfy section 408(a) of the Act as follows: (1) The Trustees represent that the proposed sale will be in the best interests of the participants of the Plan; (2) the price used in the transaction has been established by an independent party; (3) the Plan will be able to sell an asset which is declining in value and which is not readily marketable; and (4) the Plan will recover expenses which it has incurred in holding the Interest.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Cartersville Cable T.V., Inc. Money Purchase Pension Plan (the Plan) Located in Cartersville, Georgia

[Application No. D–3883]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of certain stock by the Plan to Mr. Jon Oscher, a party in interest with respect to the Plan, for the amount of $20,875 in cash provided such amount is not less than the fair market value of such stock at the time of the consummation of the transaction.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with an estimated 15 participants. The Plan has total assets of $70,395 as of November 30, 1981. The trustee and administrator of the Plan is Mr. Jon Oscher (Mr. Oscher).

2. On August 14, 1981, the Plan purchased 500 shares of the common stock of Phoenix Resources Company (the Stock) for a total amount of $20,875. Since the purchase of the Stock, its value has declined, and on October 22, 1982, its asked price on the over-the-counter market was $5,375 ($10.75 per share) and its bid price was $4,875 ($9.75 per share). As of December 17, 1982, the prices quoted were 7½ bid, 9½ asked. These valuations of the Stock were confirmed by First Mid American, Inc., a stock brokerage company which is a member of the New York Stock Exchange.

3. The applicant proposes that the Stock be sold to Mr. Oscher at its original cost to the Plan of $20,875, so long as this amount equals or exceeds the fair market value of the Stock at the time it is sold to Mr. Oscher. Mr. Oscher will pay cash for the Stock, and the sale would be accomplished without payment by the Plan of any brokerage fee or other expenses related to the transaction.

4. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(a) It will be a one-time cash transaction;

(b) The Plan will receive more than fair market value for the Stock;

(C) The Plan will not be required to pay any brokerage or other fees in connection with the sale;

(d) The Plan will be able to avoid a loss as a result of the decline in value of the Stock; and

(e) The Plan trustee recommends that the proposed transaction be consummated.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 1st day of March 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-5804 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatement. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been

submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Bureau of Labor Statistics
Supplements to 790 BLS
BLS790AE, BLS790PT, BLS790CON, BLS790MIN, BLS790MFG, BLS790RAS
Monthly, other
Businesses or other institutions; small businesses
SIC: Multiple
12,560 responses; 1,982 hours; 6 forms

To test the feasibility of collecting hours and payroll for all employees and for part-time workers instead of or in addition to the hours and pay information being collected for production and nonsupervisory workers in support of a major revision and redesign of the BLS-790 survey.

Revision

Employment and Training Administration
Overpayment Detection/Recovery Activities
ETA 227
Quarterly
State or local governments
SIC: 944
212 responses; 13,992 hours

Federal law and standards require States to have adequate programs to prevent, detect and recover overpayments that result from willful misrepresentation and other reasons. This report provides data on the levels of fraud and nonfraud overpayment activity as well as recoveries of overpayments and prosecutions for fraud. Data are used to analyze program trends, for preparation and administration of State benefit payment control programs.

Extension (Burden Change)

Employment Standards Administration
Verification of Date of Birth (English)
WH-9
On Occasion
State or local governments
SIC: 729, 821, 943
21,000 responses; 3,500 hours; one form

Form WH-9 is needed for documentation of ages in connection with the enforcement of the Child Labor provisions of the FLSA. The form is used by Wage-Hour to request local schools and Bureaus of Vital Statistics to verify dates of birth.

Extension (No Change)

Employment Standards Administration
Notice of Final Payment or Suspension of Compensation Payments
LS-208
On Occasion
Businesses or other institutions (except farms)
SIC: Multiple
45,000 responses; 11,250 hours; one form

Form is used by insurance carriers and self-insured employers to report the payment of benefits under the Acts.

Signed at Washington, D.C. this 1st day of March 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-5665 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-27-M, 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-92-C]

Acme Coal Co.; Petition for Modification of Application of Mandatory Safety Standard (Correction)

This notice amends a summary of a petition for modification of a mandatory safety standard to correct the document published in the **Federal Register** on January 3, 1983 (48 FR 96). This correction is necessary to amend an erroneous statement made in the earlier **Federal Register** notice. Paragraph number 7 is hereby amended to read: 7. As an alternative method, petitioner proposes that the minimum quantity of air reaching each working face be of perceptible movement.

Request for Comments

Persons interested in this amendment to the petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5674 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-6-C]

Bell County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bell County Coal Corporation, P.O. Box 758, Middlesboro, Kentucky 40965 has filed a petition for modification of 30 CFR 75.1710 (cabs and canopies) to its Hignite No. 8 Mine (I.D. No. 15-11039) located in Bell County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The average coal height is 40 to 44 inches, with an unpredicatable pitch.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopy could strike and dislodge roofbolts, creating the potential of a roof fall. Canopies can also strike and dislodge cables, creating the possibility of fire or electrical shock.

4. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5670 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-37-M]

Callahan Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Callahan Mining Corporation, P.O. Box 905, Osburn, Idaho 83849 has filed a petition to modify the application of 30 CFR 57.11-59 (respirable atmosphere for hoist operators) to its Caladay Project (I.D. No. 10-00409) located in Shoshone County, Idaho. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that hoist operators be provided with an independent ventilation system that will convert, without contamination, to an approved and properly maintained two-hour self-contained breathing apparatus.

2. As an alternative method, petitioner proposes to use an MSA 401 air mask, fitted with a quick-connect coupling that will attach to a 229 cubic foot tank of compressed air. This supply will last nearly seven times as long as required to complete hoisting during a mine evacuation. The thirty minute back pack air supply will be more than adequate to reach a source of fresh air after hoisting is completed. Approximately six hundred feet exists between the hoist operator's cab and a reversible line starter which controls the main ventilation fan.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acing Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5869 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-3-C]

Eastover Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Eastover Mining Company, P.O. Box E, General Offices, Brookside, Kentucky 40801 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Darby No. 2 Mine (I.D. No. 15-11072) located in Harlan County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. The inherent geological conditions such as rolls and washouts have required the petitioner to drive through hard rock. This has limited the number of entries developed to three, numbered 2, 3, and 4. Number 2 entry is the return aircourse, number 3 is the belt and number 4 is the only intake airway available.

3. While part of the return air can be coursed through the old workings by means of a second fan, all the intake for working sections inby the three-entry system must pass through the single intake entry until some entries are cut out on the other side of the mountain for additional intakes. This single entry is not adequate to provide ventilation of the inby sections.

4. As an alternative method, petitioner proposes to use approximately 900 feet of the belt entry as an intake airway to supplement the main intake in the three-entry system.

5. In support of this proposed alternative method, petitioner states that:

a. Two airlocks will be built across the belt entry, one near the outby and the other near the inby end;

b. A carbon-monoxide detection system will be installed and maintained in the belt entry;

c. A suitable communication and monitoring system will be installed on the surface which can transmit an audiovisual signal to the sections inby the sensor;

d. In the event of a failure of the carbon monoxide detector, the two connections between the belt and the main intake entries will be closed by two permanent-type stoppings or a qualified person will be posted at the malfunctioning sensor to monitor the air every 15 minutes while miners are inby or until the sensor is repaired.

6. Petitioner states that the proposed alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5873 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-5-C]

Elk Lick Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Elk Lick Mining Co., Inc., P.O. Box 27, Iaeger, WV 24844 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 46-05603) located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The height of the coal seam varies between 43 and 52 inches. The mining equipment operates in entries which are 20 feet wide. There are no adverse rib conditions and no history of roof falls in areas where shuttle cars operate. A full roof bolting plan is used employing 30 inch roof bolts on 48 inch centers in all working areas and elsewhere as required.

3. Petitioner states that both canopies and cabs are incompatible with the present operations because of the size of the equipment in relation to the seam height and that such devices would result in a diminution of safety for the miners affected for the following reasons:

a. The canopies or cabs strike and dislodge roof bolts, resulting in unstable roof conditions, creating potentially hazardous conditions; and

b. Canopies and cabs restrict the equipment operator's visibility and cause discomfort, which forces the operators to lean out from the cabs and canopies, exposing body parts to potential injury from striking the rib and oncoming traffic.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5671 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-134-C]

Keystone Coal Mining Corp.; Petition for Modificiation of Application of Mandatory Safety Standard

Keystone Coal Mining Corporation, 655 Church Street, Indiana, PA 15701 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Urling No. 2 Mine (I.D. No. 36-04853) located in Indiana County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries.

2. The intake aircourses currently supplying the working section of the mine are experiencing continuous sloughing and falling of roof rock. In the near future, this will not permit adequate air to reach the working sections.

3. As an alternative to coursing belt air directly into returns, petitioner proposes to use belt air for ventilation in the working sections. An approved carbon monoxide monitor with audible and visual alarms will be installed and maintained near the tailpiece in each working section where the use of belt air is desired.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variences, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations andVariences.

[FR Doc. 83-5666 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-4-C]

Laurel Run Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Laurel Run Mining Company, Star Route Box 425, Mt. Storm, West Virginia 26739 has filed a petition to modify the application of 30 CFR 77.1605(k) (berms or guards) to its No. 1 Mine (I.D. No. 46-02845) located in Grant County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be installed on the outer banks of elevated roadways.

2. Petitioner states that the installation of berms or guards along .66 mile of roadway that provides access to settling ponds and a deep well pump would result in a diminution of safety for the miners affected because:

a. The area is subject to heavy snowfall and berms or guards would prevent proper snow removal;

b. Berms would prevent proper drainage of the roadways which would result in icy spots forming during cold weather and erosion at other times, making driving on the roadway more hazardous.

3. This roadway is not used by vehicles hauling coal; it is used only for access to settling ponds and a deep well pump. The roadway is used infrequently and at low speeds, usually only twice a day by one or two employees in a pick-up truck. The roadway has no steep grades or sharp curves.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 14, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5672 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-136-C]

Neece Creek Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Neece Creek Coal Co., Inc., P.O. Box 362, Nora, Virginia 24272 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine (I.D. No. 44-05415) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. As an alternative method, petitioner proposes to establish and maintain specified checkpoint monitoring stations to ensure adequate ventilation.

3. Petitioner states that the alternative method outlined above will ensure the health and safety of the miners affected.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5677 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-137-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, R.R. No. 2, Box 20, Freeburg, Illinois 62243 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its River King Underground No. 1 Mine (I.D. No. 11-01805), located in St. Clair County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure plugs on the components of a scoop.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of a fire or short circuit occurring in the scoop's electrical components.

3. As an alternative method, petitioner proposes that a spring-loaded harness snap or a spring hair pin device be used, in lieu of a padlock.

4. For these reasons, petitioner reqests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5667 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-7-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267 Sturgis, KY 42459 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 9 Mine (I.D. No. 15-13881) located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 50 to 54 inches in height, with undulations in the roof, unstable floor conditions, and ascending and descending grades creating dips.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies can strike and dislodge the roof bolts and roof-support system. The canopies cause a cramped operator compartment and reduce visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5676 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-96-C]

Saginaw Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Saginaw Mining Company, P.O. Box 275, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.1403-8(e) (criteria-track haulage roads; stopblocks or derails) to its Saginaw Mine (I.D. No. 33-00941) located in Belmont County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that positive stopblocks or derails be installed on all tracks near the top and at landings of shafts, slopes and surface inclines.

2. As an alternative method, petitioner proposes a spring-loaded switch and throw, installed out by the entrance of the slope opening, to be used as a derailment mechanism. This device will allow the supply cars to be directed into the supply yard tracks in lieu of entering the slope track if the supply cars were to be accidentally uncoupled from the hoist rope or brake car. Both tracks in the supply yard are provided with positive stop blocks at the tracks' end.

3. Petitioner believes that the spring-loaded switch and throw device provides adequate derailment protection against supply cars entering the slope tracks uncoupled from the hoist or brake car provided.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acing Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5668 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-2-C]

Star Lite Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Star Lite Mining Co., Inc., Box 69, Bevinsville, KY 41606 has filed a petition to modify the application of 30 CFR 75.1100-1(a) (waterlines) to its Mine No. 1 (I.D. No. 15-13623) located in Floyd County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that waterlines be capable of delivering 50 gallons of water per minute at a nozzle pressure of 50 pounds per square inch.

2. The mine is wet and muddy with standing water in most areas. The active working section has been driven approximately 300 feet; a conveyor belt running underground has been installed for a distance of 120 feet.

3. As an alternative method to installing a waterline along the conveyor belt, petitioner proposes to:

a. Patrol the conveyor belt, maintain it in good running condition, and rock dust where necessary;

b. Provide telephone communications from the surface to the dumping point;

c. Place 250 pounds of rock dust at intervals not to exceed 250 feet along the belt line;

d. Use only an approved fire resistant belt; and

e. Provide a belt slippage switch in the head drive unit.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office

of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5675 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-138-C]

Trinity Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Trinity Coal Corporation, P.O. Box 327, Haysi, Virginia 24256 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 5 Mine (I.D. No. 44-05912) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam varies in height from 17 to 60 inches, with severe undulating conditions.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies would constantly scrape the roof and roofbolts, creating the chances of a roof fall. The undulations could cause the equipment to wedge between the roof and the floor, creating stress on the canopies and the equipment, which may lead to improper functioning at future times. Canopies also severely restrict the equipment operator's visibility, causing the operator to lean out from under the canopy and to expose body parts to injury from striking the rib or falling rock. Cabs restrict the operator's movement and space, causing increased operator fatigue which could result in an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 4, 1983. Copies of the petition are available for inspection at that address.

Dated: February 23, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-5678 Filed 3-3-83; 8:45 am]

BILLING CODE 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Office of Personnel Management; 1982, Significant Actions

AGENCY: Merit Systems Protection Board.

ACTION: Notice of review of the significant actions of the Office of Personnel Management during 1982.

SUMMARY: 5 U.S.C. 1209(b) requires the Board to review annually the "significant actions" of the Office of Personnel Management (OPM) and report to the Congress and the President on whether those actions are in accord with merit system principles and free from prohibiteid personnel practices. The Board is now commencing its review of OPM significant actions during 1982. This Notice explains the Board's study and invites public comment on OPM programs during calendar year 1982.

DATES: For maximum consideration, comments should be made in writing and received by the Board on or before April 14, 1983.

ADDRESS: Comments should be sent to the Office of Merit Systems Review and Studies, Room 836, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, Attention: FAL

FOR FURTHER INFORMATION CONTACT: Frank A. Lancione, Office of Merit Systems Review and Studies, Rm 836, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, 202-653-8877.

SUPPLEMENTARY INFORMATION:

(a) *Background.* The Civil Service Reform Act of 1978 established a series of positive merit principles and prohibited personnel practices to govern the conduct of personnel management in the Federal Government (5 U.S.C. 2301 and 2302). The Merit Systems Protection Board is responsible for protecting the public interest in a civil service administered in accord with these merit objectives and free from improper practices. The Board does this by adjudicating employee appeals, acting on action brought by the Special Counsel, conducting special studies of the civil service and other merit systems, and reviewing the regulations and significant actions of OPM. The Office of Merit Systems Review and Studies (MSRS) has principal responsibility within the Board for merit systems studies and OPM oversight, including the annual report on OPM's significant actions.

(b) *What is a "significant action" report?"* The law allows the Board substantial discretion to determine which actions of OPM are "significant" to the merit system in any given year. In exercising its discretion as to which actions of OPM it will report on, the Board's first priorities are:

(1) To examine any OPM policy or program which might conflict with one of the statutory merit principles or cause the commission of a prohibited personnel practice; and

(2) To evaluate the extent to which other major decisions made or actions taken by OPM are in accord with and promote the merit principles.

(3) To consider technical questions of personnel management, budget questions, or questions relating to internal OPM administration only to the extent that they are relevant to making judgments on the broader merit systems issues described above.

(c) *Public Comment on 1982 OPM Actions.* The Board invites any interested person or organization to comment on:

(1) Which actions of the OPM during calendar year 1982 were "significant" for the merit system; and,

(2) Whether those actions were in accord with the merit systems principles and free from prohibited personnel practices.

(d) Although comments are invited on any action taken by OPM during 1982, comments should be germane to the Board's mandate as described in (b) above. In addition, the Board invites comment on the following:

(1) *Merit Pay.* The Civil Service Reform Act of 1978 established October 1, 1981 as the deadline for the Government-wide implementation of merit pay for supervisors and management officials in pay grades 13-15. Late changes in guidance to agencies on the amounts of money that could be paid out under merit pay caused problems during the 1981 pay out cycle. 1982 was the first year during which full funding under current rules was available. The Board invites comment

on how well the 1982 merit pay distribution satisfied the merit principle goal that "appropriate incentives and recognition should be provided for excellence in performance."

(2) *Special Selection Authority Replacing PACE Exam.* OPM has dropped the Professional and Administrative Careers Exam. It has created a new special appointing authority agencies can use when recruiting externally for jobs formerly filled through PACE. The Board invites comment on the operation of these new appointment procedures during 1982. What impact, if any, have they had on candidates for Federal jobs and agency personnel programs? How have they contributed to the merit principle goal of "selection and advancement solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity"?

(e) The Board will protect the identity of persons submitting comments and the confidentiality of such comments to the extent permitted by law.

Dated: February 18, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83-5187 Filed 3-3-83; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of information collection that will affect the public.

Agency clearance officer: Herman G. Fleming (202) 357-9421.

OMB Officer: Gwendolyn Pla, (202) 395-7313.

Title: 1983 Survey of Doctorate Recipients.

Affected Public: Individuals. Persons taking doctorates in science, engineering, and the humanities.

Number of responses: 24,000; total of hours 6,000.

Abstract: Information yielded by the survey will enable the National Science Foundation to comply with the legislative requirement to collect information about scientific and technical personnel which can be used in policy and planning activities by government agencies and private institutions.

Dated: February 24, 1983.

Herman G. Fleming,

OMB Clearance Officer.

[FR Doc. 83-6529 Filed 1-77-83; 8:45 am]

BILLING CODE

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 81 and 64 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas & Electric Company (the licensee), which revised the licenses for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (the facility), located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

The amendments modify license conditions to incorporate the most recent revisions to the Physical Security Plan.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

The licensee's filings dated August 17 and October 7, 1982 are being withheld from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see: (1) Amendment Nos. 81 and 64 to Facility Operating License Nos. DPR-53 and DPR-69 and (2) the Commission's related letter to the licensee dated February 24, 1983. These items are available for public inspection at the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (1) and (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of February 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-5602 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co.; Negative Declaration Regarding Proposed Approval to the Technical Specifications of License DPR-23

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an approval to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee) for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, South Carolina.

The approval would allow the H. B. Robinson Steam Electric Plant Unit No. 2 to transfer slightly contaminated sediment from its present settling pond to its adjacent fossil plant ash pond, in accordance with the licensee's request for approval dated January 17, 1983. We have concluded that there will be no change in the conclusions or evaluations given in the H. B. Robinson Unit 2 FES dated April 1975 in regard to radiological impacts on man or biota due to the proposed change.

The Commission has prepared an environmental impact appraisal for the proposed approval and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenue, Hartsville, South Carolina 29550. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of February 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-5603 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219, License No. DPR-16 EA 82-108]

GPU Nuclear Corp. (Oyster Creek Nuclear Generating Station); Order Imposing Civil Monetary Penalties

GPU Nuclear Corporation, Parsippany, New Jersey 07054 (the "licensee") is the holder of License No. DPR-16 (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the Oyster Creek Nuclear Generating Station in Ocean County, New Jersey, in accordance with conditions specified therein. The license was issued on August 1, 1969.

II

Inspections of the licensee's activities under the license were conducted between November 3, 1981 and March 17, 1982 at the Oyster Creek Nuclear Generating Station in Ocean County, New Jersey. As a result of these inspections, it appears that the licensee had not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated November 30, 1982. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission license conditions which the licensee had violated, and the amount of civil penalty proposed for each violation. An answer dated December 30, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered, That: The licensee pay civil penalties in the amount of Forty Thousand Dollars ($40,000) within thirty days of the date of this Order, by check, draft or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC license conditions as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 15th day of February 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

APPENDIX

Evaluations and Conclusions

For each violation and associated civil penalty identified in the NRC's November 30, 1982 Notice of Violation and Proposed Imposition of Civil Penalties, the original violation and licensee's response are stated and the NRC's evaluation and conclusion regarding the licensee's response are presented. The licensee's response was provided in a letter dated December 30, 1982 from Mr. Peter B. Fiedler, Vice President and Director, Oyster Creek, to the Director, Office of Inspection and Enforcement. The NRC staff evaluations and conclusions are based on the December 30, 1982 letter.

Item A

Statement of Violation. Table 3.1.1, Section H of the Technical Specifications requires that, for each trip function listed in the section, there be a minimum of two operating trip systems capable of isolating the isolation condenser, except for when the reactor temperature is less than 212° F and the vessel head is removed or vented. The system must be capable of automatically closing two redundant valves in the influent steam line and two redundant valves in the condensate return line of an isolation condenser whenever a high flow condition in either the steam or condensate line is detected. If this specification cannot be met, the isolation condenser must be manuallly isolated.

Contrary to the above, between 8:45 p.m. on December 3, 1981 and 11:45 a.m. on December 4, 1981, while the reactor temperature was greater than 212° F, the trip system for the "A" Isolation Condenser was inoperable in that one of the redundant isolation valves, No. V-14-30, in the steam influent line to the "A" Isolation Condenser, would not close automatically and the "A" Isolation Condenser was not manually isolated.

This is a Severity Level III Violation (Supplement I).

(Civil Penalty—$20,000.)

Licensee Response. By letter dated December 30, 1982, the licensee admits Violation A cited in the NRC's November 30, 1982 Notice. The licensee challenges the classification of the violation as Severity Level III, claiming this classification is contrary to the NRC Enforcement Policy. The licensee requests reclassification of the violation as Severity Level IV and total remission of the civil penalty because Severity Level IV violations do not generally result in civil penalties.

The licensee agrees that the decision by shift supervision to declare the isolation condenser operable, considering the results of the surveillance tests, was a judgment error. The licensee claims the violation was an isolated occurrence not indicative of normal performance by supervision, and also claims a knowing violation did not occur. The licensee contends that past experience contributed to the decision to declare the isolation condenser operable. The licensee indicates that knowledge of prior incidents of valve binding due to tight packing, and several instances of torque switches out of adjustment, led the Group Shift Supervisor to conclude that the original failures of the valve to operate were

corrected by cycling. The licensee also implies that the Group Shift Supervisor was hindered from properly evaluating the situation because of other activities in progress at the time. The licensee further states that the decision to declare the valve operable was not made by the Operations Manager.

The licensee disagrees with the Severity Level III classification, and requests reclassification of the violation at Severity Level IV with no civil penalty since a loss of redundancy, and not a loss of function occurred, and since the Operations Manager did not declare the valve operable.

NRC Evaluation of Licensee Response. After reviewing the licensee's response, the NRC staff has concluded that the violation did occur and no mitigation of the civil penalty for Violation A is warranted. The severity level remains as cited because a limiting condition for operation was exceeded, and although a safety function was not lost, a degraded condition existed which should have alerted the licensee to take the required action. However, timely operator action was not taken. Therefore, classification of this violation at Severity Level III is consistent with Supplement 1.C.1 of the NRC's Enforcement Policy (10 CFR 2, Appendix C).

The licensee was cited for not manually isolating the "A" isolation condenser after one of the isolation valves in the steam influent line of that isolation condenser would not automatically close as required. The licensee stated that the Group Shift Supervisor, based on his knowledge of recent incidents of valve binding due to tight packing and torque switches out of adjustment, concluded that the original failure of the valve to operate was corrected by cycling this valve. Cycling the valve does not correct torque switch problems and cannot be relied upon to correct "tight packing" problems unless the valve had just been repacked. Action should have been taken to determine the cause of the malfunction rather than relying on an assumption that the symptoms were due to packing problems experienced in the past. The further implication that the extent of activities in progress may have prevented a proper evaluation of the situation is unacceptable. It is clear that the Group Shift Supervisor was aware that it took several attempts to successfully cycle the valve.

The licensee further stated that the Operations Manager did not declare the valve operable. However, the Operations Manager was given the information that it took several attempts to successfully cycle the valve.

Further investigation should have been ordered to confirm the assumption of tight packing/torque switch maladjustment.

The licensee also states in the December 30, 1982 letter that the violation is not similar to Violation B in any meaningful sense. The NRC staff agrees that the two Technical Specifications that were violated are not similar. However, the action that would have prevented both violations from occurring is the same, namely, adequate surveillance testing. It is for this reason that a separate base civil penalty of $40,000 for each violation, which would have resulted in a cumulative penalty of $80,000, was not proposed. Rather, the base civil penalty of $40,000 was assessed for the one problem area, namely inadequate surveillance testing, and the penalty was equally divided between Violations A and B.

NRC Conclusion. This violation did occur as originally stated. The violation is appropriately classified at Severity Level III. Assessment of a $20,000 civil penalty is appropriate because both it and Violation B are examples of the same problem area, namely inadequate surveillance testing. Had this violation been considered separately, a $40,000 penalty could have been assessed for each violation. The information in the licensee's response does not provide a basis for modifying the enforcement action.

Item B

Statement of Violation. Technical Specification 3.5.A.3 requires, in part, that primary containment integrity be maintained whenever the reactor is critical or the reactor water temperature is above 212° F with fuel in the reactor vessel.

Section 1.13 of the Technical Specifications defines primary containment intergrity and requires, in part, that all automatic containment isolation valves specified in Table 3.5.2 be either operable or secured in the closed position. Table 3.5.2 of the Technical Specifications, entitled *Containment Isolation Valves*, lists the reactor building to suppression chamber vacuum breakers as containment isolation valves.

Technical Specification 3.5.A.4.a requires that two reactor building to suppression chamber vacuum breakers in each line shall be operable at all times when primary containment integrity is required. If this condition is not met, the reactor shall be in cold shutdown in 24 hours, subject to the provisions in Technical Specification 3.5.A.4.b.

Technical Specification 3.5.A.4.b permits operation for up to seven days with one operable reactor building to suppression chamber breaker provided the vacuum breaker is locked closed and primary containment is not violated.

Contrary to the above, between May 14, 1980 and February 26, 1982, valve V-26-16, which is both a primary containment isolation valve and a reactor building to suppression chamber vacuum breaker, was inoperable because of incorrect reassembly. As a result: (1) The automatic isolation function of the valve was inoperable and the valve was not secured in the closed position, and (2) only one supression chamber vacuum breaker was operable during all those periods between May 14, 1980 and February 26, 1982 when the reactor was critical or the reactor water temperature was greater than 212° F with fuel in the reactor vessel.

This is a Severity Level III Violation (Supplement I).

(Civil Penalty—$20,000.)

Licensee Response. By letter dated December 30, 1982, the licensee admits Violation B cited in the NRC's November 30, 1982 Notice. The licensee challenges the classification of the violation as Severity Level III, claiming the classification is contrary to the NRC Enforcement Policy. The licensee claims the violation is of minor safety significance and requests reclassification of the violation as Severity Level V. The licensee also requests remission of the civil penalty since Severity Level V violations do not generally result in civil penalties.

The licensee states that the primary cause of the violation was inadequacies in their procedures for inspecting the vacuum breaker and for preforming local leak rate tests. These inadequacies consisted of insufficient maintenance instructions in the inspection procedure and the lack of a requirement in the test procedure for the test engineer to verify the valve position with the control room prior to performing the test. The licensee indicated that a combination of both deficiencies was required to cause the violation.

The licensee suggests that this violation does not fit a Level III as stated in Supplement I.C.1 of the Enforcement Policy because there was no loss of a safety function (only a loss of redundancy for the vacuum breaker function and the isolation function), and although a degraded condition did occur, sufficient information did not exist to alert the operator that the plant was operating in violation of a technical specification limiting condition for

operation action statement. The licensee further contends that the violation is of minor safety significance and should be classified at Severity Level V with no civil penalty.

NRC Evaluation of Licensee Response. After reviewing the licensee's response to Violation B, the NRC staff has concluded that the violation did occur and no mitigation of the civil penalty is warranted. The severity level remains as cited because a limiting condition for operaton was exceeded and although a safety function was not lost, a degraded condition existed due to loss of redundant capabilities.

The licensee was cited for the reactor being critical with a redundant vacuum breaker/isolation valve being inoperable in excess of the time allowed by two technical specification limiting conditions for operation action statements. This violation occurred because of improper reassembly of the valve after maintenance and failure of the leak test to detect the improper assembly. The licensee maintains that sufficient information did not exist to alert them they were in an action statement condition. This was not, however, a situation in which informaton was lacking notwithstanding all reasonable actions by the licensee. The information was unavailable because of the licensee's own actions. The local leak rate test, had it been performed satisfactorily, would have provided information sufficient to alert the licensee that the leak rate was in excess of the technical specification limiting conditions for operation because of the improper valve reassembly. Therefore, classification of this violation at Severity Level III is consistent with the intent of Supplement I.C.1 of the NRC Enforcement Policy. In that regard, the NRC staff notes that the examples of violations in the Supplements are neither controlling nor exhaustive as indicated in Section III of the Enforcement Policy.

NRC Conclusion. This violation did occur as originally stated. The violation is appropriately classified at Severity Level III. Assessment of a $20,000 civil penalty for this violation is appropriate because both it and Violation A are examples of the same problem area, namely inadequate surveillance testing. Had this violation been considered separately, a $40,000 penalty could have been assessed for each violation. The information in the licensee's response does not provide a basis for modifying the enforcement action.

[FR Doc. 83-5604 Filed 3-3-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR-58 and Amendment No. 52 to Facility License No. DPR-74, issued to Indiana and Michigan Electric Company (the licensee), which modify the licenses to include a requirement to maintain a Guard Training and Qualification Plan to be followed in accordance with 10 CFR 73.55(b) and Appendix B to 10 CFR 73. The amendments are effective immediately and must be implemented within 60 days of the date of issuance and are to be implemented in accordance with the provisions of 10 CFR 73.55(b)(4). All security personnel shall be qualified within two years of this approval. The Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities), is located in Berrien County, Michigan.

The filings for the amendments, comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards condition.

The licensee's filings dated September 14, 1981, as revised November 30, 1981, May 27, 1982, July 23, 1982 and December 21, 1982, are being withheld from public disclosure pursuant to 10 CF 73.21.

For further details with respect to this action, see: (1) Amendment Nos. 70 and 52 to License Nos. DPR-58 and DPR-74, and (2) the Commission's related letter to the licensee dated February 22, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (1) and (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of February 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-5605 Filed 3-3-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket: 50-298; License: DPR-46 EA 82-46]

Nebraska Public Power District, Cooper Nuclear Station; Order Imposing Civil Monetary Penalties

I

Nebraska Public Power District (the "Licensee") is the holder of Operating License No. DPR-46 ("the license") issued by the Nuclear Regulatory Commission ("NRC" or the "Commission"). The license authorizes operation of the Cooper Nuclear Station. The facility is located at the licensee's site in Nemaha County, Nebraska. The license was issued on January 8, 1974.

II

During a telephone conversation in January 1982 between C. A. Hackney, NRC Region IV, NPPD's Manager of Licensing, and a licensing engineer; in a February 8, 1982 letter to NRC Region IV from NPPD's Division Manager of Licensing and Quality Assurance; and during a March 9, 1982 oral briefing to NRC by various NPPD personnel, the licensee stated that the prompt notification system for the Cooper Nuclear Station required by Appendix D to 10 CFR 50 to be installed by February 1, 1982 had been installed and was operational. An NRC special inspection and an NRC investigation conducted during the period of March 11-30, 1982 determined that the prompt notification system was not installed or operational. The NRC served the licensee with a written Notice of Violation and Notice of Proposed Imposition of Civil Penalties by letter dated August 9, 1982. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations which the licensee had violated, and the amount of the civil penalty proposed. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated October 7, 1982.

III

Upon condsideration of Nebraska Public Power District's responses and the statements of fact, explanation, and argument in denial or mitigation contaned therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and

Enforcement has determined that civil penalties should be imposed. However, after consideration of the circumstances surrounding this event, the amount of the civil penalties has been reduced. The August 9, 1982 Notice of Violation and Proposed Imposition of Civil Penalties is hereby amended to provide that in Item I only one material false statement was made. This statement, that the prompt notification system was installed and operational, was first made during the January 1982 telephone call and repeated in the February 8, 1982 letter and the March 9, 1982 briefing. A civil penalty of $100,000 is imposed for that item.

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96–295, and 10 CFR 2.205, it is hereby ordered, that: The licensee pay civil penalties in the total amount of One Hundred Twelve Thousand Dollars for Items A and B as described in the August 9, 1982 Notice of Violation and Proposed Imposition of Civil Penalties as amended in Section III of this Order within 30 days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may within 30 days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the hearing request shall be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violataion of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties as amended in section III above, and

(b) Whether on the basis of such violations the Order should be sustained.

Dated at Bethesda, Maryland this 18 day of February 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

APPENDIX

Evaluation and Conclusions

For each violation and associated civil penalty identified in the Notice of Violation and Proposed Imposition of Civil Penalties (dated August 9, 1982) the original violation is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response (dated October 7, 1982) to each item is presented.

Item A

Statement of Violation. The Commission's regulations, specifically, 10 CFR 50.54(s)(2)(i) and Section IV.D.3 of Appendix E to 10 CFR Part 50, require that each facility holding an operating license shall by February 1, 1982 demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway emergency planning zone.

Contrary to the above, during an inspection conducted on March 11, 1982, the NRC determined that the licensee had not demonstrated that administrative and physical means had been established for alerting and providing prompt instructions to the public within the plume exposure pathway emergency planning zone. Specifically, five of the mobile sirens identified by the licensee in its Emergency Plan as part of its prompt notification system had not been removed from their shipping containers and a sixth mobile siren had a missing part. Further, during the investigation, statements from representatives of the local volunteer fire fighting organizations who were to use the mobile sirens indicate that they had not received indoctrination or training prior to March 12, 1982 with respect to their role in the operation of the prompt public notification system. As a result, the facility was operated with an inoperable public notification system from February 1, 1982 through March 12, 1982, inclusive, a period of 40 days.

For the first 12 days in March, 1982, each each day of failure to meet the requirements for a prompt public notification system constitutes a separate Severity Level III violation. A daily civil penalty of $1,000 is being proposed for each day for a cumulative civil penalty in the amount of $12,000 for these violations.

Licensee's Response. The licensee asserts that it was not in violation of NRC's emergency planning regulations. It claims that it interpreted the regulations differently than NRC but that the requirements for implementation of the regulations were uncertain at the time and its interpretation was reasonable. The licensee asserts that it viewed compliance with the regulations as complete when the mobile sirens were delivered to the local fire departments because it believed FEMA was responsible for assuring that offsite response systems were adequate and that time would be provided to correct deficiencies following the FEMA review.

Finally, the licensee asserts NRC staff should have indicated NPPD's actions would not result in full compliance. Since they did not, and indeed, since the staff made a statement to the Commission in August 1981 that NPPD was in compliance, NPPD submits it has a reasonable basis for assuming that it was in compliance.

NRC Evaluation. The licensee's arguments here are without merit. The regulations require the licensee, not FEMA, to install and test the prompt notification system by February 1, 1982. 10 CFR 50.54(q), and Appendix E, Section IV.D.3. Although the staff may have concurred in August 1981 in NPPD's proposed approach towards compliance with the regulations, the staff fully expected, and the licensee should have been aware, that the system was to be put in place and made operational. The staff construed the licensee's representations of June 30, 1981 to mean that the system would be completed by July 31, 1981, and on this basis reported to the Commission that NPPD was in compliance. The system could not have been completed if the mobile sirens were not installed. The license's response suggests it was aware of its responsibility to ensure that the system functioned properly. The licensee states it conducted an independent test of the decibel level of the mobile sirens and prepared route maps and coordinated with local fire departments even after it distributed the sirens. Unfortunately, the licensee did not follow through on these actions. It removed the item from its corporate tracking system and, as a result, the job was not adequately completed. The siren system was not made "operational" in that several sirens were still in their cartons on February 1, 1982.

Conclusions. The staff concludes that the licensee failed to comply with the emergency preparedness requirements and the violation stands.

Item B

Statement of Violation. During a telephone conversation in January 1982 between C. A. Hackney, NRC Region IV, and NPPD's Manager of Licensing and a licensing engineer; in a February 8, 1982 letter to NRC Region IV from the NPPD's Division Manager of Licensing and Quality Assurance; and during a March 9, 1982 oral briefing to NRC by various NPPD personnel, the licensee stated that the prompt public notification system for the Cooper Nuclear Station had been installed and was operational.

Contrary to the above, when the statements referred to were made, the NPPD prompt notification system was not installed and operational. Each of the statements made by licensee representatives in January 1982, on February 8, 1982 and on March 9, 1982 concerning the status of the prompt notification system constituted a material false statement within the meaning of Section 186 of the Atomic Energy Act of 1954, as amended. The statements were false in that as of March 9, 1982, the prompt notification system was neither installed nor operational. The false statements were material in that had the NRC known of the true situation, action would have been taken by NRC to assure compliance.

Each material false statement is a Severity Level II violation and is assessed a proposed civil penalty of $96,000. A cumulative civil penalty of $288,000 is proposed for the three material false statements.

Licensee Response. The licensee acknowledges the inaccuracy of the statements but asserts that none of the statements is a material false statement because the statements were not: (1) Necessary to enable NRC to determine whether a license should be modified or revoked; (2) if made "in connection with" a power reactor license, required to have been submitted under oath; or (3) in two out of three of the statements, written and signed by the licensee. Furthermore, the licensee questions whether any of the statements was material because even if NRC had known the actual status of the prompt notification system it would only have proposed a civil penalty for failure to comply. Finally, the licensee asserts that none of the statements was false because the licensee believed that as it interpreted the NRC regulations, it had complied. In particular, with respect to the telephone call, the licensee asserts the statement was not false because: NPPD was simply attempting to say it was in compliance, the NRC charaterized compliance as being installed and operational, and so NPPD adopted those words.

In addition, the licensee asserts: (1) That the violations for the material false statements should not have been charcterized as Severity Level II violations; (2) that the action taken is inconsistent with other enforcement actions, e.g. *Pilgrim;* (3) that the cause of the violation was not management inattention to NRC requirements; (4) that NRC should not penalize public utilities; (5) that the NRC enforcement policy should not be retroactively applied; and (6) that the action should be mitigated because of the licensee's corrective actions, good enforcement history and lack of prior notice of similar events.

NRC Evaluation. The staff believes that a material false statement within the meaning of Section 186 of the Atomic Energy Act 1954, as amended, was made. Section 186 of the Atomic Energy Act provides that "a. Any license may be revoked for any false statement in the application or any statement of fact required under Section 182." In the VEPCO decision, *Virginia Electric and Power Company* (North Anna Power Station, Units 1 and 2), CLI–76–22, 4 NRC 480 (1976), *Affirmed, Virginia Electric and Power Company* v. *U.S. Nuclear Regulatory Commission* 571 F.2d 1289, 1291 (4th Cir. 1978), the Commission has determined that Section 186 is a full disclosure statute and is applicable to omissions as well as affirmative statements. Since an omission is by its very nature unsigned and unsworn, statements need not be singed or sworn to constitute material false statements.

The staff disagrees with the licensee's argument that the statements were not material. When the staff learned on March 11, 1982 that the prompt notification system was not installed, it immediately issued a Confirmatory Action Letter calling for the licensee to take immediate action to put the system in place. Had the staff been informed on February 1, 1982 that the system was not installed and operational, it would have required installation immediately and compliance would have been achieved at that time. The licensee's response could have been used to determine whether the license should be modified or revoked or whether other enforcement action would be appropriate. Contrary to NPPD's suggestion, it is not necessary for the NRC to indicate the full range of potential actions and consequences each time it communicates with a licensee, and failure to do so does not foreclose it from exercising one of those options. Therefore, the statements were clearly material. Finally, the licensee's assertion that the statements were not false because the licensee had reason to believe it was in compliance with the requirements must be rejected because, for the reasons set forth in the discussion of the violation involving noncompliance with the requirements, the system was not installed and operational as required by the regulations. Furthermore, under Commission case law, a statement need not be intentionally false to constitute a material false statement. Finally, the licensee's argument that "operational" did not mean "operational" but rather its own interpretation of compliance is unacceptable. It ignores the plain meaning of operational. As NPPD notes, the NRC often relies on informal communication with licensees. The NRC will obviously assume a licensee intends the common meaning of words absent some qualification. To assume otherwise would be unworkable and make communication impossible.

With regard to the licensee's other arguments: (1) The staff does not agree that these material false statements should be evaluated as Severity Level III violations. These violations fit the example of Supplement VII B.1. (2) Because of the importance which the Commission attributes to the prompt notification system requirements, the staff does not believe that the level of enforcement action proposed in this case is inconsistent with other similar enforcement actions. However, as discussed below, the staff has concluded that certain adjustments in the penalty for other reasons are appropriate. (3) As described more fully in the evaluation of the licensee's response to Item A, NPPD management was responsible for ensuring that the prompt notification system was installed and operational by February 1, 1982. Because management failed to give this matter adequate attention, the system was not installed and operational by that date. (4) Public utilities are held to the same standard of protection of the public health and safety as private utilities and enforcement actions for both types of utilities must be consistent. (5) Under the interim Enforcement Policy and case law, the Commission had discretion to impose civil penalties for material false statements. Further guidance regarding the exercise of this discretion was provided in new Enforcement Policy. The Commission did not retroactively apply the enforcement policy. (6) The staff has recommended a reduction in the civil penalty. The staff does not

believe that any further mitigation of the penalty would be appropriate.

Conclusion. The Commission originally proposed a penalty for three material false statements; each of the three material false statements was categorized as a Severity Level II violation under the Enforcement Policy, 10 CFR Part 2, Appendix C; and the base penalty for each was increased by fifty percent. In light of the licensee's response and further study of the circumstances surrounding the violation, the staff has concluded that a citation for one material false statement is appropriate and that the maximum penalty of $100,000 be imposed for this violation due to the serious breakdown in management control.

[FR Doc. 83-5606 Filed 3-3-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co., et al.[1] (Millstone Nuclear Power Station, Unit 3); Receipt of Application for Facility Operating License; Notice of Availability of Applicants' Environmental Report Notice of Consideration of Issuance of Facility Operating License; and Notice of Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for a facility operating license from the Northeast Nuclear Energy Company, acting as an agent for the fifteen utilities listed below. Northeast Nuclear Energy Company has no ownership interest in the Millstone Nuclear Power Station, Unit 3, but will design, construct, and operate the facility for The Connecticut Light and Power Company and Western Massachusetts Electric Company (lead applicants) and the other applicants. The Millstone Nuclear Power Station, Unit 3 is a pressurized water reactor located in the Town of Waterford, New London County, Connecticut on the north shore of Long Island Sound. The reactor is designed to operate at a core power level of 3411 megawatts thermal, with an equivalent net electrical output of approximately 1156 megawatts.

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the applicants filed an environmental report as part of the application. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the Office of Policy Management Comprehensive Planning Division, 80 Washington Street, Hartford, Connecticut 06115 and at the Southeastern Connecticut Regional Planning Agency, 139 Boswell Avenue, Norwich, Connecticut 06360.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

The Commission will consider the issuance of a facility operating license to the applicants which would authorize the applicants to possess, use and operate the Millstone Nuclear Power Station, Unit 3 in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicants' application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commisson's regulations in 10 CFR Chapter I. Construction of the facility was authorized by Construction Permit No. CPPR-113, issued by the Commission on August 9, 1974. The applicants have advised that construction may be completed as early as November 1985.

Prior to issuance of an operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By March 24, 1983, the applicants may file a request for a hearing with respect to issuance of the facility operating license. By April 4, 1983, any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board, will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be

[1] Northeast Nuclear Energy Company (a wholly-owned subsidiary of Northeast Utilities) has no ownership interest in the Unit. The following fifteen electric utilities own the unit as tenants in common: The Connecticut Light and Power Company and Western Massachusetts Electric Company (also wholly-owned subsidiaries of Northeast Utilities), Burlington Electric Light Department, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, Connecticut Municipal Electric Energy Cooperative, Fitchburg Gas and Electric Light Company, Village of Lyndonville Electric Department, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company and the Vermont Electric Cooperative, Inc.

entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by April 4, 1983. A copy of the petition must also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Garfield, Esq., Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the applicant. Any requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a later petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(1)(I)–(v) and 2.714(D).

For further details pertinent to the matters under consideration, see the application for the facility operating license, including the Final Safety Analysis Report and the Environmental Report, forwarded on February 2, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for the facility operating license; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of the proposed operating license and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5282 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 4th day of February 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83-5607 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-375]

Negative Declaration for the Rockwell International Corporation L-85 Nuclear Examination Reactor

The U.S. Nuclear Regulatory Commission (the Commission) has considered the Order authorizing dismantling of facility and disposition of component parts for the Rockwell International Corporation (the licensee) L-85 Nuclear Examination Reactor operated under Facility License No. R-118. The Order authorizes the licensee to disassemble the reactor which had operated at power levels up to 3 kW (thermal), and to dispose of the component parts.

The Commission's Office of Nuclear Reactor Regulation has prepared an environmental impact appraisal for this training reactor. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 22d day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-5606 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-375]

Rockwell International; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated March 10, 1980, as amended by letter dated December 14, 1982, Rockwell International (the licensee) requested authorization to dismantle its L-85 Nuclear Examination Reactor (the facility), located at the licensee's site at Santa Susana Field Laboratory, Ventura County, California, and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the **Federal Register** on April 30, 1980 (45 FR 30759). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts under the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an environmental impact appraisal for this action. Based on that appraisal, the Commission has determined that this action will no result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, Rockwell International is hereby authorized to dismantle the facility covered by Facility License No. R-118, and dispose of the component

parts in accordance with its corrected dismantling plan dated December 14, 1982 and the Commission's rules and regulations.

After completion of the dismantling and decontamination of the reactor, the submission of a report on the radiation survey to confirm that radiation levels in the facility area meet the values defined in the dismantling plan, and inspection by representatives of the Commission, consideration will be given to whether a further order should be issued terminating Facility License No. R-118.

For further details with respect to this action see: (1) The application for authorization to dismantle facility and dispose of component parts dated March 10, 1980, as revised by letter dated December 14, 1982, (2) the Commission's related Safety Evaluation, (3) the Commission's Environmental Impact Appraisal, and (4) the Commission's Negative Declaration dated February 22, 1983 (which is also being published in the **Federal Register**). All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22d day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-5609 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Exemption to 10 CFR 50, Appendix A, General Design Criterion 56; Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption to 10 CFR Part 50, Appendix A, General Design Criterion 56 until March 22, 1983, to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California.

The exemption is associated with Amendment No. 12 to Facility Operating License NPF-10, issued to the licensees on December 23, 1982. The exemption allows the licensees 90 days to change two remote-manual CCW non-critical loop isolation valves to automatic isolation. The exemption is based on the Staff's evaluation as reflected in the Safety Evaluation accompanying Amendment No. 12 and on a finding by the NRC staff that the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

For further details with respect to this action, see: (1) The Commission's letter to the licensees dated February 22, 1983, (2) Amendment No. 12 to Facility Operating License No. NPF-10, dated December 23, 1982 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of February 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-5610 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al; Issuance of Amendments Facility Operating License Nos. NPF-10 and NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF-10, and Amendment No. 4 to Facility Operating License NPF-15 to Southern California Edison Company (SCE), San diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility) located in San Diego County, California. These amendments are effective February 17, 1983.

The amendments modify the Emergency Preparedness license conditions to grant additional time to satisfy the requirements of 10 CFR 50.47(b)(12) related to medical services. These amendments were requested by the SCE letter of January 14, 1983 and were authorized by the Atomic Safety and Licensing Board's Order of February 1, 1983.

Issuance of these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of these amendments is subsumed by the prior public notice of the overall action regarding issuance of operating licenses for these facilities, published in the **Federal Register** on April 7, 1977 (42 FR 18460).

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and the pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) Southern California Edison Company's letter dated January 14, 1983, (2) Amendment No. 15 to Facility Operating License No. NPF-10, and (3) Amendment No. 4 to Facility Operating License NPF-15.

These items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of February, 1983.

for the Nuclear Regulatory Commission

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-5611 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445/446-OL (ASLBP No. 79-430-06 OL)]

Texas Utilities Generating Co., et al., Comanche Peak, Units 1 & 2; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Texas Utilities Generating Company, et al.* (Comanche Peak, Units 1 & 2), Docket Nos. 50-445/446-OL, is hereby reconstituted by

appointing Dr. Walter H. Jordan to the Board in place of Dr. Richard F. Cole, who because of a schedule conflict, is no longer able to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

Marshall E. Miller, Chairman
Dr. Kenneth A. McCollom
Dr. Walter H. Jordan

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Dr. Walter H. Jordan, 881 W. Outer Drive, Oak Ridge, Tennessee 37830.

Issued at Bethesda, Maryland this 24th day of February 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-5612 Filed 3-3-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19541; File No. SR-Amex-83-3]

American Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change By Relating To Amendment of Exchange Rules 131 and 154 on Percentage Orders

Pursuant to section 19 (b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b) (1), notice is hereby given that on February 10, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to amend Rules 131 and 154 to allow percentage orders to be converted and executed on "zero plus" ticks (for buy orders) and "zero minus" ticks (for sell orders) when the order causing the conversion is at least 5,000 shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The Commission recently approved amendments to Amex Rules 131 and 154 which redefined the term "percentage orders" and provided new procedures to facilitate the handling of such orders. (See SR-Amex-82-21.) Included in these rule changes is a new procedure whereby a percentage order may be converted into a regular limit order (if so specified in writing by the entering broker) thus enabling it to fully participate in a block trade or in the opening trade in the security. This procedure was implemented since a percentage order could not participate in a block transaction that would otherwise have been an electing sale, even though such participation would fully satisfy the terms of the order.

Exchange Rules 131 and 154 now provide that a percentage order can only be converted on a stabilizing tick. In order to further facilitate the execution of blocks, add liquidity to the market and enable specialists to handle percentage orders more effectively, the Exchange has further revised Rules 131 and 154 so as to allow percentage orders to be converted and executed on zero plus ticks (for buy orders) or zero minus ticks (for sell orders) when the order causing the conversion is at least 5,000 shares. The 5,000 share requirement is being imposed to limit the conversion of percentage orders on destabilizing ticks as previously requested by the Commission staff.

(2) *Basis.* The proposed amendments are consistent with Section 6 (b) of the Exchange Act in general and further the objectives of Section 6 (b) (5) in particular in that they are designed to facilitate the handling of large orders, while making percentage orders a more useful tool for investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5634 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

February 25, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities and Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock: [1]

Bally's Park Place, Inc.
Common Stock, $.10 Par Value

The security is currently traded over-the-counter and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1983 written data, views and arguments concerning the above-referenced application. 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 application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is 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. 83-5636 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12216]

Exxon Shipping Co.; Application and Opportunity for Hearing

February 28, 1983.

Notice is hereby given that Exxon Shipping Company (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Bankers Trust Company under an indenture dated as of October 15, 1975 (the "Qualified Indenture") among Exxon Pipeline Company ("Exxon Pipeline"), as issuer, Exxon Corporation ("Exxon") as Guarantor and Bankers Trust Company which was heretofore qualified under the Act, and the successor trusteeship by Bankers Trust under an indenture dated as of September 1, 1982 among the Company as issuer, Exxon as Guarantor, and Bankers Trust Company as successor Trustee (the "New Indenture"), are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as Trustee under the Qualified Indenture or under the New Indenture. The New Indenture was filed as an Exhibit to Registration Statement No. 2-79104 of Exxon and the Company under the Securities Act of 1933, which was declared effective on September 10, 1982, and was contemporaneously qualified under the Act.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which any other securities of the same issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application the Company alleges that:

(1) At September 1, 1982, Exxon Pipeline, as issuer, and Exxon, as Guarantor, had outstanding $300,000,000 aggregate principal amount of 8⅞% Debentures Due October 15, 2000, under the Qualified Indenture (the "Debentures"). The Debentures issued pursuant to the Qualified Indenture were registered under the Securities Act of 1933 and the Qualified Indenture was qualified under the Act. Exxon Pipeline is a wholly-owned subsidiary of Exxon.

(2) Bankers Trust Company is successor Trustee under the New Indenture under which there is outstanding $757,111,590 aggregate principal amount of Guaranteed Deferred Interest Debentures Due 2012. The Company is a wholly-owned subsidiary of Exxon.

(3) The obligations of Exxon under the Qualified Indenture and under the New Indenture are wholly unsecured and all such obligations will rank equally without seniority or subordination of any such obligations to any of the others.

(4) No default has at any time existed under the Qualified Indenture or the New Indenture.

(5) Such differences as will exist between the Qualified Indenture and the New Indenture are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the Qualified Indenture were it to act as trustee under the New Indenture.

The Company has waived: (1) Notice of hearing, (b) hearing on the issues raised by the application, and (c) any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than March 22, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, that the issues of fact or law raised by said Applicant which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

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[1] The Boston Stock Exchange applied for unlisted trading privileges on November 27, 1979. The security has been trading on the exchange pursuant to a temporary exemption from the registration requirements of Section 12 of the Act contained in Rule 12a-5. The exemption will continue until the Commission grants for denies the unlisted trading privileges application.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5635 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19550; File No. SR-NASD-82-25]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

February 28, 1983.

In the matter of National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

The National Association of Securities Dealers, Inc. ("NASD"), submitted copies of a proposed rule change on November 12, 1982, and an amendment thereto on December 7, 1982, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), to amend both Section 28 of Article III of the NASD Rules of Fair Practice and the Board of Governors Interpretation on Private Securities Transactions ("Interpretation") under Section 27 of Article III of the NASD Rules of Fair Practice.

Section 28 prescribes the responsibilities of members and their associated persons when securities transactions are knowingly executed by a member ("executing member") for an associated person of another member ("employer member"). The proposed rule change will require that an associated person notify an executing member of his affiliation with an employer member whenever an account is opened or a securities transaction requested if that associated person has a financial interest in the transaction or discretionary authority over such account ("qualified account"). An executing member will be required to notify the employer member in writing prior to executing transactions, to give duplicate copies of confirmations to the employer member upon written request, and to notify the associated person that such communications will be sent to the employer member. Transactions in variable contracts and redeemable investment company securities will be exempted from these notice requirements. The proposed rule change would also amend the Interpretation by exempting transactions in variable contracts or redeemable investment company securities done for the personal account of an associated person.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Act Release No. 19347, December 16, 1982) and by publication in the **Federal Register** (47 FR 58416, December 30, 1982. No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A of the Act and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and thereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5638 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19549; File No. SR-NASD-82-17]

National Association of Securities Dealers, Inc.; Filing of Amendment to Proposed Rule Change

February 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 3, 1983, the National Association of Securities Dealers, Inc. ("NASD"), filed with the Securities and Exchange Commission an amendment to proposed rule change SR-NASD-82-17 which prescribes standards for NASD members who do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the NASD ("foreign members"). The proposed rule change, notice of which was published on October 6, 1982, in Securities Act Release No. 19105, 34 FR 19105 (October 14, 1983), would amend Schedule C of the NASD's By-Laws to require foreign members to meet certain conditions for membership. The amendment clarifies that foreign members must utilize, either directly or indirectly, the services of a registered broker-dealer, registered clearing agency, or bank located in the United States to clear all transactions involving NASD members unless both parties to the transaction agree otherwise.

In order to assist the Commission in determining whether to approve the proposed rule change as amended or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NASD-82-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5637 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22863 (70-6843)]

Ohio Valley Electric Corp.; Proposed Refinancing of Demand Notes

February 25, 1983.

In the matter of Ohio Valley Electric Corp., P.O. Box 468, Piketon, Ohio 45661.

The Ohio Valley Electric Corporation ("Ohio Valley"), an electric utility subsidiary of American Electric Power Company ("AEP"), a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2) and 50(b)(2) promulgated thereunder.

Ohio Valley and its wholly owned subsidiary, Indiana-Kentucky Electric

[1] 17 CFR 200.30-3(a)(12).

Corporation, operate electric generation facilities for the principal purpose of supplying electric power to an agency of the United States of America. The capital stock of Ohio Valley is jointly owned by AEP, Allegheny Power System, Inc., a registered holding company, and several other utility companies, which, pursuant to a power agreement, provide supplemental power to, and purchase surplus power from, Ohio Valley and its subsidiary.

Shortly after its organization in 1952, Ohio Valley was authorized by this Commission to issue and sell $10,000,000 principal amount of unsecured demand notes pursuant to a loan agreement with several banking institutions. The demand notes mature ninety days after demand for payment thereof, and bear interest at a rate per annum equal to the prime commercial lending rate of Citibank, N.A., agent for the lending banks, as the rate may fluctuate from time to time, for loans having ninety-day maturities.

Ohio Valley requests the authority to refinance these demand notes at any time until December 31, 1983, by issuing up to $10,000,000 aggregate principal amount of unsecured promissory notes in connection with borrowings from one or more commercial banks, pursuant to a proposed Term Loan Agreement ("Agreement"), for terms of not less than two nor more than ten years. It is contemplated that Ohio Valley may enter into a single agreement for the full amount of the proposed loan, or separate agreements with different banks, each for a part of the proposed borrowings, possibly having different maturities. Each promissory note will bear interest not greater than 200 basis points over the then applicable prime rate payable to Citibank, N.A. under the existing loan agreement as of the date upon which a definitive Agreement is executed, but in no event greater than 14% per annum. No compensating balances or commitment fees will be required.

The proposed Agreement also provides that in the event a note is paid prior to maturity, or upon the occurrence of an event of default, Ohio Valley will be required to pay a fee to the lending bank calculated to reimburse the bank for interest lost, if any, as a result of the prepayment. All proceeds from the borrowings will be applied to retire the outstanding demand notes. Prepayment penalty provisions in the existing loan agreement have been waived. Ohio Valley will incur no penalty for prepayment of the outstanding demand notes.

Ohio Valley states that it believes that funds at a fixed rate at or near the applicable prime rate are currently available on loans having maturities of up to but not exceeding two years. Rates quoted to Ohio Valley on loans having longer maturities have generally been in the range of up to 200 basis points higher than the prime rate. Ohio Valley believes that it will be of long-term benefit to the company to reduce its exposure to wide fluctuations in interest rate expense and to refund its outstanding variable rate demand notes, in whole or in part, with proceeds of notes having longer maturities, even though such long-term notes may bear a fixed rate of interest higher than current short-term rates at the time of such borrowings.

Ohio Valley also asserts that long-term debt financing of the kind herein proposed is the most practicable and cost-effective in light of its size, capital needs, and the relative difficulty of more conventional alternatives such as mortgage bond financing. Ohio Valley presently has no effective mortgage indenture nor is it encumbered with any other type of long-term debt.

It is represented that Ohio Valley will not be required to obtain a guaranty of its obligations under the proposed Agreement by any of the companies holding its capital stock. Ohio Valley believes that the lending bank or banks will look only to the continuing obligations to purchase and supply power under the aforementioned power agreement. Accordingly, the proposed Agreement specifies that the termination of the inter-company power agreement shall be an event of default, and that certain amendments or material modifications thereof would require the lender's written consent.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 22, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5632 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19546; File No. SR-Phlx-83-1]

Philadelphia Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

February 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 27, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described hererin. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx is proposing to amend Rule 715 to change the due date for monthly reporting of floor brokerage commission income and the payment of the prescribed assessment to the twenty-eighth day of the month following the month covered by the report. The Phlx states that the statutory basis for the proposed amendment is Section 6(b)(4) of the Securities Exchange Act which provides among other things, for the equitable allocation of dues, fees and other charges.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. Phlx-83-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-5633 Filed 3-3-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company Maximum Annual Cost of Money To Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective March 1, 1983, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 10.545% per annum.

Dated: February 28, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-5661 Filed 3-3-83; 8:45 am]

BILLING CODE 8025-01-M

Illinois; Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Illinois, will hold a public meeting at 9:00 a.m., on Wednesday, March 23, 1983, at the Dirksen Federal Building, 219 S. Dearborn Street, Room 1221, Chicago, Illinois, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call John L. Smith, District Director, U.S. Small Business Administration, 219 S. Dearborn Street, Room 437, Chicago, Illinois, (312) 353-4508.

Dated: February 28, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-5658 Filed 3-3-83; 8:45 am]

BILLING CODE 8025-01-M

Kentucky; Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting at 9:00 a.m., Friday, March 25, 1983, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call B. R. Wells, District Director, U.S. Small Business Administration, P.O. Box 3517, Louisville, KY 40201, (502) 582-5971.

Dated: February 28, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-5660 Filed 3-3-83; 8:45 am]

BILLING CODE 8025-01-M

Utah; Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, will hold a public meeting at 10:00 a.m., Wednesday, March 30, 1983, at the New Ogden Hilton Hotel, Ogden, Utah, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138; (801) 524-5800.

Dated: February 25, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-5657 Filed 3-3-83; 8:45 am]

BILLING CODE 8025-01-M

Wisconsin District Advisory Council; Meeting

The U.S. Small Business Administration, Wisconsin District Advisory Council, located in the geographical area of Madison, will hold a public meeting at 10:00 a.m., on Wednesday, March 30, 1983, at the Federal Center, 212 East Washington Avenue, Room 213, Madison, Wisconsin, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information write or call C. A. Charter, District Director, U.S. Small Business Administration, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703; (608) 264-5205.

Dated: February 28, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-5659 Filed 3-3-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 19]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. 6 to 13). An underwriting limitation of $3,017,000 has been established for the company.

Name of Company:

Affiliated FM Insurance Company

Business Address:

Allendale Park
P.O. Box 7500
Johnston, Rhode Island 02919

State of Incorporation:

Rhode Island

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as

to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28870 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 23, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-5655 Filed 3-3-83; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1982 Rev., Supp. No. 20]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code. An underwriting limitation of $820,000 has been established for the company.

Name of Company:
COVENANT INSURANCE COMPANY
Business Address:
95 Woodland Street
Hartford, Connecticut 06105
State of Incorporation:
Connecticut

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28874 to reflect this addition. Copies of the Circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 23, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-5656 Filed 3-3-83; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists new and revised forms. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Ave. NW., Washington, DC, 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-6880.

DATE: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 23, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revisions

1. Department of Veterans Benefits.
2. Annual Income Report.
3. VA Forms 21-4179, 21-8913, 21-8914, 21-8915, 21-8916, 21-8917, 21-8918, 21-8919, 21-8920.
4. Annually.
5. Persons in receipt of VA disability and death pension and parents dependency and indemnity compensation.
6. 2,000,000 responses.
7. 666,667 hours.
8. Not applicable under 3504(H).

* * * * *

1. Department of Veterans Benefits.
2. Veterans Mortgage Life Insurance Statement.
3. 29-8636.
4. On occasion.
5. Veterans in receipt of specially adopted housing grants.
6. 1000 responses.
7. 250 hours.
8. Not applicable under 3504(H).

* * * * *

1. Department of Veterans Benefits.
2. Declaration of Marital Status.
3. 21-686C.
4. On occasion.
5. Person(s) claiming VA benefits for dependent spouse child(ren).
6. 226,000 responses.
7. 56,500 hours.
8. Not applicable under 3504(H).

New Forms

1. Department of Veterans Benefits.
2. Applications for Educational Assistance Test Program Benefits.
3. 22-8889.
4. On occasion.
5. Persons applying for benefits under Chapter 107, 10 U.S.C. (Pub. L. 96-342, Sec. 901); and commanding officers of individuals applying for benefits while on active duty.
6. 300 responses.
7. 150 hours.
8. Not applicable under 3504(H).

* * * * *

1. Officer of Academic Affairs, Department of Medicine and Surgery.
2. Nursing Student Educational Expenses.
3. 10-0003 d and e.
4. Annually.
5. Schools of nursing offering baccalaureate or specified master's programs will be asked to report.
6. 380 responses.
7. ½ hour.
8. Not applicable under 3504(H).

[FR Doc. 83-5653 Filed 3-3-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 44
Friday, March 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, March 15, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-308-83 Filed 3-2-83; 2:50 pm]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, March 8, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Appeal No. 82–11–FOIA–182–NY, concerning a request for all documents contained in a national origin discrimination charge file.
4. Freedom of Information Act Appeal No. 82–12–FOIA–252, concerning a request for EEO–6 forms submitted by ten educational institutions between 1975 and 1982.
5. A Review of the Sexual Harassment Guidelines under E.O. 12291.
6. Management Directive to Federal Agencies Containing Interim Procedures for Processing Complaints of Employment Discrimination Against Recipients of Federal Financial Assistance.
7. Proposed § 621, Height and Weight Requirements of Volume II of the EEOC Compliance Manual.
8. Proposed § 632, Violations Involving Advertising, Recordkeeping, or Posting of Notice; EEOC Compliance Manual, Volume II, EEOC Order 915.
9. Proposed Modification of Contract 0/5010/0177 and Obligation of FY 83 funds.

Closed:

1. Litigation Authorization; General Counsel Recommendations (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.

This Notice Issued March 1, 1983.

[S-306-83 Filed 3-1-83; 4:38 pm]

BILLING CODE 6750-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:03 p.m. on Tuesday, March 1, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of assets acquired by the Corporation from American City Bank, Los Angeles, California (Case No. 45,623–L).

In calling the meeting, the Board 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), that Corporation business required its consideration of the matter 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 matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)].

Dated: March 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-307-83 Filed 3-2-83; 2:50 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

[FR 302]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 10, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting for this date:

Finance Committee Report

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-311-83 Filed 3-2-83; 3:53 pm]

BILLING CODE 6715-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: No. 48, Page No. none at this time. Date Published—No date at this time.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, March 3, 1983 at 10 a.m.:

The Boston Five Cents Savings Bank, Boston, Massachusetts
Securities Offerings
Organization and Chartering of *De Novo* Federal Stock Associations and Related Regulatory Amendments
Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven
Amendment Concerning Conflicts of Interest Involving Mortgage Insurance

[No. 21, March 2, 1983]
[S-309-83 Filed 3-2-83; 3:12 pm]
BILLING CODE 6720-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Wednesday, March 2, Thursday, March 3 and Friday, March 4, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, March 2:*

9:30 a.m.
Briefing on Salem (Public Meeting) (Additional item)
11:00 a.m.
Discussion/Possible Vote on Contested Issues in Waterford Full Power Proceeding (Closed—Exemption 10) (Time change)
2:00 p.m.
Briefing on Staff Actions Regarding Location of Emergency Operations Facilities (Public Meeting) (As announced)

Thursday, March 3:

10:00 a.m.
Briefing on Nuclear Data Link (Public Meeting) (As announced)
2:00 p.m.
Discussion of Possible Enforcement Action (Closed—Exemption 5) (Time change)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. UCS Objection to Commission Meeting Re TMI-1 Seismic Concerns as Violating *Ex Parte* Prohibition (As announced)

Friday, March 4:

10:00 a.m.
Briefing on Activities of Committee to Review Generic Requirements (CRGR) (Public Meeting) (Time change)
2:00 p.m.
Status and Discussion of Shoreham (Closed—Exemption 10) (Tentative) (As announced)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Linda Stoloff (202) 634–1410.

March 1, 1983.

Linda Stoloff,

Office of the Secretary.

[S-310-83 Filed 3-2-83; 3:18 pm]
BILLING CODE 7590-01-M

federal register

Friday
March 4, 1983

Part II

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.

New General Wage Determination Decision

Arizona	AZ83-5102 AZ83-5105

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: AL82-1087	Dec. 10, 1982.
Florida:	
FL82-1015	March 5, 1982.
FL82-1083	Nov. 19, 1982.
Louisiana:	
LA82-4053	Nov. 5, 1982.
LA83-4001	Jan. 7, 1983.
LA83-4019	Feb. 4, 1983.
New York:	
NY81-3024	Apr. 3, 1981.
NY81-3062	Sept. 11, 1981.
New Jersey:	
NJ81-3053	Oct. 9, 1981.
NJ81-3063	Dec. 28, 1981.
Oklahoma:	
OK82-4035	June 25, 1982.
OK83-4012	Jan. 14, 1983.
OK83-4011	Jan. 14, 1983.
Texas:	
TX82-4025	June 18, 1982.
TX83-4004	Jan. 7, 1983.
TX83-4006	Jan. 7, 1983.
TX83-4007	Jan. 7, 1983.
Virginia: VA81-3015	Mar. 6, 1981.
Wyoming: WY82-5106	Mar. 12, 1982.
Indiana: IN82-2030	May 14, 1982.

Supersedeas Decisions 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.

Illinois: IL82-2032(IL83-2014)	May 21, 1982.

Cancellation of General Wage Determination Decisions

The general wage decisions listed below are cancelled. Agencies with construction projects pending to which one of the cancelled decisions would have been applicable should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR 1.7(b)(2), the incorporation of one of the cancelled decisions in contract specifications, the opening of bids is within ten (10) days of this notice, need not be affected.

AR-2058—Kanawha County, West Virginia dated October 4, 1974 in 39 FR 35948—Residential Construction.

NJ79-3052—Morris County, New Jersey dated November 30, 1979 in 44 FR 69102—Residential Construction.

Signed at Washington, D.C., this 25th day of February 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Arizona
DECISION NUMBER: A283-5102
COUNTY: Maricopa
DATE: Date of Publication
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.79	$2.27
BOILERMAKERS	18.86	3.86
BRICKLAYERS: Stonemasons	16.43	2.75
CARPENTERS:		
Carpenters; Saw Filer; Shingler; and Drywall; Hangers	12.935	2.53
Floor Layer and Piledriver	13.28	2.53
Millwrights	14.34	2.55
CEMENT MASONS:		
Cement Masons	12.91	2.40
Concrete Troweling, Sawing and Scoring, Curb and Gutter, Grinding Machine Operator; Clary and similar type of power Screed; Color pigment; Steps; Composition Finisher	13.10	2.40
DRYWALL TAPERS	15.06	1.20
ELECTRICIANS:		
Electricians	17.95	2.14+ 3%
Sound Installers	16.00	2.14+ 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.03	2.69+ a
Helpers	12.62	2.69+ a
Probationary Helpers	9.015	
GLAZIERS	15.39	1.78
INSULLATION INSTALLERS	8.57	
IRONWORKERS	16.25	5.02
LABORERS	7.55	
LATHERS	15.61	1.06
LINE CONSTRUCTION:		
Groundmen	12.81	4.20+ 3%
Equipment Operator; Powdermen, and Mechanics	15.13	4.20+ 3%
LINE CONSTRUCTION: (Cont'd)		
Linemen, Crane Operator, Sagger, and Pilot	$17.05	$4.20+ 3%
Cable Splicers	17.56	4.20+ 3%
PAINTERS:		
Brush and Roller; Sandblaster (Nozzleman); Sheetrock Taper; Floor Coverer; Sandblaster (Pot Tender)	13.54	1.30
Spray; Paperhanger	13.79	1.30
Creosote Applier	13.87	1.30
Swing Stage:		
Brush; Sandblaster	13.94	1.30
Spray	14.19	1.30
Steeplejack	14.40	1.30
Steel and bridge, Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and air tool Operator; Steel Sandblaster	14.47	1.30
Steel and bridge, Spray	14.67	1.30
PLASTERERS	16.34	2.41
PLUMBERS	19.85	3.13
ROOFERS	10.84	2.11
SHEET METAL WORKERS	17.39	3.15
SOFT FLOOR LAYERS	11.10	.92
SPRINKLER FITTERS	18.17	2.83
TILE, MARBLE, and TERRAZZO WORKERS	13.74	2.76
TILE FINISHERS	11.77	1.79
POWER EQUIPMENT OPERATORS:		
Group 1	8.75	2.78
Group 2	10.75	2.78
Group 3	11.21	2.78
Group 4	11.76	2.78
Group 5	12.42	2.78
Group 6	13.06	2.78
Group 7	13.44	2.78
Group 8	13.85	2.78
Group 9	14.59	2.78

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Group 1	$10.32	$2.52
Group 2	10.48	2.52
Group 3	10.75	2.52
Group 4	11.18	2.52
Group 5	11.37	2.52
Group 5A	11.61	2.52
Group 6	11.77	2.52
Group 7	12.27	2.52
Group 8	12.905	2.52
Group 8A	13.85	2.52
Group 8B	13.32	2.52

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; and Christmas Day

GROUP DESCRIPTIONS

POWER EQUIPMENT OPERATORS

Group 1: Air Compressor Operator; Pump Operator; Conveyor Operator; Generator Operator (all); Power Grizzly Operator; Fireman (all); Welding Machine Operator; Tripper Operator; Concrete Mixer Operator, skip type; Highline Cableway Signalman

Group 2: Oiler; Forklift and Ross Carrier Operator; Skiploader, 1½ cu. yd. and less; Pavement Breaker; Roller Operator (except as otherwise classified); Wheel-type Tractor Operator (Ford-Ferguson type); Slurry Seal Machine Operator (driver Moto-paver); Power Sweeper

Group 3: Self-propelled Chip Spreading Machine Conveyor Operator; Dinky Operator, under 20 ton; Elevator Hoist Operator, Husky and similar

Group 4: Motor Crane Driver; Beltcrete Operator; Curing Machine Operator, Boring Bridge and Texture; Cross Tineing and Pipe Float; Straw Blower; Hydrographic Seeder; Hydrographic Mulcher; Jumbo Finishing Machine; Joint Inserter

Group 5: A-Frame Boom Truck or Winch Truck Operator; Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Screed Operator; Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

Group 6: Aggregate Plant Operator (including crushing, screening, and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine Operator (including Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman, or Handler; Drilling Machine Operator, all types and sizes except as otherwise classified; Field Equipment Serviceman; Kolman Belt Loader Operator or similar type, with belt width 48" or over; Locomotive Engineer (including Dinky 20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Operator, up to and including 12 cu. yds. (Turnapull, Euclid, Cat, D.W. Hancock, and similar equipment); Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all type apshalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types with a rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K.W. or more; Surface Heater and Planer Operator; Traveling Pipe-wrapping Machine Operator

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Pneumatic-tried Scraper Operator, all sizes and types over 12 cu. yds. MRC (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper); Trenching Machine Operator

Group 8: Asphalt or Concrete Planing, Rotomill, and Milling Machine Operator; Auto Grade Machine Operator (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type and Mobile Mixers; Concrete Pump Operator, with boom attached (truck mounted); Crane Operator, Crawler and Pneumatic type under 100 ton capacity MRC; Crawler-type Tractor Operator, with boom attachment or Slope Bar; Derrick Operator; Forklift Operator for hoisting personnel; Gradall Operator; H. D. Mechanic and/or Welder; Helicopter Hoist Operator; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grader Operator, any type power blade; Motor Grader Operator, with Elevating Grader attachment; Mucking Machine Operator;

Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment over 45 cu. yds. MRC); Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types rated capacity 4 cu. yd. but less than 8 cu. yds.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type tractor; Tower Crane (or similar type) Operator; Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 9: Crane Operator, Pneumatic or Crawler, 100 ton hoisting capacity and over MRC rating; Helicopter Pilot, FAA qualified, when used in construction work other than executive travel and single casual rental; Highline Cableway Operator, over 20 ton rated capacity and using traveling head and tail tower; Remote-control Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS

Group 1: Teamsters; Pick-ups; Station Wagon; Man Haul Driver

Group 2: Dump or Flatrack (2 or 3 axle); Water Truck (under 2500 gallons); Buggymobile (1 cu. yd. or less); Bus Driver; Self-propelled Street Sweeper; Shop Greaser

Group 3: Dump or Flatrack (4 axle); Dumptor or Dumpster (less than 7 cu. yds.); Water Truck (2500 gallons but less than 4000 gallons); Tireman

Group 4: Dumptor or Dumpster (7 cu. yds. but less than 16 cu. yds.); Dump or Flatrack (5 axle); Water Truck (4000 gallons and over); Slurry type equipment Driver or Leverman; Vacuum Pump Truck Drivers; Flaherty Spreader or similar type equipment or Leverman; Transit Mix (8 cu. yds. or less mixer capacity); Ambulance Driver

Group 5: Dump or Flatrack (6 axle); Transit Mix (over 8 cu. yds. but less than 10.5 cu. yds.); Rock Truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 cu. yds.

Group 5A: Oil Tanker or Spreader and/or Bootman, Retortman or Leverman

Group 6: Transit Mix (over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity); Ross Carrier, Fork Lift or Lift Truck; Hydro Lift, Swedish Crane, Iowa 300 and similar types; Concrete Pump (when integral part of transit Mix Truck); Dump or Flatrack (7 axle); Transport Driver (unless axle rating results in higher classification)

Group 7: Dump or Flatrack (8 axle)

Group 8: Off-highway equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e. Cat, DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling Water Tanks, Fuel Tanks or other applications under Teamster Classifications; Rock Trucks (Dart, Euclid, or other similar end dump types) 16 cu. yds. and over; Eject-alls; Dumptor or Dumpster (16 cu. yds. and over); Dump or Flatrack (9 axle)

Group 8A: Heavy-duty Mechanic/Welder; Body and Fender Man

Group 8D: Field Equipment Servicemen or Fuel Truck Driver

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))

NEW DECISION

STATE: Arizona COUNTY: Pima
DECISION NUMBER: AZ83-5105 DATE: Date of Publication
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.79	$2.27
BRICKLAYERS	10.00	
CARPENTERS:		
Carpenters; Saw Filer; and Shingler	12.935	2.53
Floor Layer and Piledriver	13.28	2.53
CEMENT MASONS	12.84	2.47
DRYWALL HANGER	10.50	
DRYWALL TAPER	9.00	
ELECTRICIANS	17.00	.80+ 11⅓%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.03	2.69+ a
Helpers	12.62	2.69+ a
Porbationary Helpers	9.015	
GLAZIERS	15.39	1.78
INSULLATION INSTALLER	8.75	
IRONWORKERS	16.25	5.02
LABORERS	7.23	
LATHERS	15.61	1.06
MILLWRIGHT	10.00	
PAINTERS:		
Brush	12.47	1.77
Spray and Sandblasters	13.07	1.77
Paperhangers	12.60	1.77
PLASTERERS	10.50	
PLUMBERS	19.84	3.13
ROOFERS	11.17	1.50
SHEET METAL WORKERS	16.74	3.19
SPRINKLER FITTERS:		
Fire Protection	18.17	2.83
Lawn-Landscape	9.00	.95

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	$ 8.75	$2.78
Group 2	10.75	2.78
Group 3	11.21	2.78
Group 4	11.76	2.78
Group 5	12.42	2.78
Group 6	13.06	2.78
Group 7	13.44	2.78
Group 8	13.85	2.78
Group 9	14.59	2.78
TRUCK DRIVERS:		
Group 1	10.32	2.52
Group 2	10.48	2.52
Group 3	10.75	2.52
Group 4	11.18	2.52
Group 5	11.37	2.52
Group 5A	11.61	2.52
Group 6	11.77	2.52
Group 7	12.27	2.52
Group 8	12.905	2.52
Group 8A	13.85	2.52
Group 8B	13.32	2.52

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; and Christmas Day

GROUP DESCRIPTIONS

POWER EQUIPMENT OPERATORS

Group 1: Air Compressor Operator; Pump Operator; Conveyor Operator; Generator Operator (all); Power Grizzly Operator; Fireman (all); Welding Machine Operator; Tripper Operator; Concrete Mixer Operator, skip type; Highline Cableway Signalman

Group 2: Oiler; Forklift and Boss Carrier Operator; Skiploader, 1½ cu. yd. and less; Pavement Breaker; Roller Operator (except as otherwise classified); Wheel-type Tractor Operator (Ford-Ferguson type); Slurry Seal Machine Operator (driver Moto-paver); Power Sweeper

Group 3: Self-propelled Chip Spreading Machine Conveyor Operator; Dinky Operator, under 20 ton; Elevator Hoist Operator, Busky and similar

Group 4: Motor Crane Driver; Beltcrete Operator; Curing Machine Operator, Boring Bridge and Texture; Cross Tineing and Pipe Float; Straw Blower; Hydrographic Seeder; Hydrographic Mulcher; Jumbo Finishing Machine; Joint Inserter

Group 5: A-Frame Boom Truck or Winch Truck Operator; Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Screed Operator; Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

Group 6: Aggregate Plant Operator (including crushing, screening, and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine Operator (including Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman, or Handler; Drilling Machine Operator, all types and sizes except as otherwise classified; Field Equipment Serviceman; Kolman Belt Loader Operator or similar type, with belt width 48" or over; Locomotive Engineer (including Dinky 20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Operator, up to and including 12 cu. yds. (Turnapull, Euclid, Cat, D.W. Hancock, and similar equipment); Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all type apshalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types with a rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K.W. or more; Surface Heater and Planer Operator; Traveling Pipe-wrapping Machine Operator

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Pneumatic-tried Scraper Operator, all sizes and types over 12 cu. yds. MRC (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper); Trenching Machine Operator

Group 8: Asphalt or Concrete Planing, Rotomill, and Milling Machine Operator; Auto Grade Machine Operator (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type and Mobile Mixers; Concrete Pump Operator, with boom attached (truck mounted); Crane Operator, Crawler and Pneumatic type under 100 ton capacity MRC; Crawler-type Tractor Operator, with boom attachment or Slope Bar; Derrick Operator; Forklift Operator for hoisting personnel; Gradall Operator; H. D. Mechanic and/or Welder; Helicopter Hoist Operator; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grader Operator, any type power blade; Motor Grader Operator, with Elevating Grader attachment; Mucking Machine Operator;

Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment over 45 cu. yds. MRC); Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types rated capacity 4 cu. yd. but less than 8 cu. yds.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type tractor; Tower Crane (or similar type) Operator; Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 9: Crane Operator, Pneumatic or Crawler, 100 ton hoisting capacity and over MRC rating; Helicopter Pilot, FAA qualified, when used in construction work other than executive travel and single casual rental; Highline Cableway Operator, over 20 ton rated capacity and using traveling head and tail tower; Remote-control Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

DECISION NO. AI83-5105 Page 4

TRUCK DRIVERS

Group 1: Teamsters; Pick-ups; Station Wagon; Man Haul Driver

Group 2: Dump or Flatrack (2 or 3 axle); Water Truck (under 2500 gallons); Buggymobile (1 cu. yd. or less); Bus Driver; Self-propelled Street Sweeper; Shop Greaser

Group 3: Dump or Flatrack (4 axle); Dumptor or Dumpster (less than 7 cu. yds.); Water Truck (2500 gallons but less than 4000 gallons); Tireman

Group 4: Dumptor or Dumpster (7 cu. yds. but less than 16 cu. yds.); Dump or Flatrack (5 axle); Water Truck (4000 gallons and over); Slurry type equipment Driver or Leverman; Vacuum Pump Truck Drivers; Flaherty Spreader or similar type equipment or Leverman; Transit Mix (8 cu. yds. or less mixer capacity); Ambulance Driver

Group 5: Dump or Flatrack (6 axle); Transit Mix (over 8 cu. yds. but less than 10.5 cu. yds.); Rock Truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 cu. yds.

Group 5A: Oil Tanker or Spreader and/or Bootman, Retortman or Leverman

Group 6: Transit Mix (over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity); Ross Carrier, Fork Lift or Lift Truck; Hydro Lift, Swedish Crane, Iowa 300 and similar types; Concrete Pump (when integral part of transit Mix Truck); Dump or Flatrack (7 axle); Transport Driver (unless axle rating results in higher classification)

Group 7: Dump or Flatrack (8 axle)

Group 8: Off-highway equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e. Cat, DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling Water Tanks, Fuel Tanks or other applications under Teamster Classifications; Rock Trucks (Dart, Euclid, or other similar end dump types) 16 cu. yds. and over; Eject-alls; Dumptor or Dumpster (16 cu. yds. and over); Dump or Flatrack (9 axle)

Group 8A: Heavy-duty Mechanic/Welder; Body and Fender Man

Group 8D: Field Equipment Servicemen or Fuel Truck Driver

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))

Modification Page 1

DECISION NO. AL82-1087 - MOD. #2	Basic Hourly Rates	Fringe Benefits
(December 10, 1982 -- 47 FR 55588)		
Blount,Cherokee,Clay,Cleburne,Colbert,Cullman, DeKalb,Fayette,Franklin, Jackson,Lamar,Lauderdale, Lawrence,Limestone,Madison, Marion,Marshall,Morgan, Randolph, & Winston Cos., ALABAMA		
HEAVY CONSTRUCTION		
CHANGE:		
PLUMBERS & PIPEFITTERS (Colbert Co.)	$14.99	2.44

DECISION NO. FL82-1015 -- MOD. # 3	Basic Hourly Rates	Fringe Benefits
(March 5, 1982 --47 FR 9654)		
ORANGE COUNTY, FLORIDA		
BUILDING CONSTRUCTION		
CHANGE:		
ASBESTOS WORKERS	$ 15.75	2.16
BOILERMAKERS	14.20	3.015
ELECTRICIANS	13.80	4%+1.10
ELEVATOR CONSTRUCTORS:		
Mechanics	12.47	2.69+ a+b
Helpers	8.73	2.69+ a+b
IRONWORKERS	13.68	3.10
PAINTERS:		
Brush	10.80	1.28
Paperhangers,Spray, & Sandblasters	11.30	1.28
ROOFERS:		
Roofers	11.50	1.00
Kettlemen	10.05	1.00

DECISION NO. FL82-1083 -- MOD. #1	Basic Hourly Rates	Fringe Benefits
(November 19, 1982 -- 47 FR 52317)		
Cape Canaveral AFS,Patrick AFB, Kennedy Space Flight Center, & Melaber Radar Site in Brevard & Volusia Counties in Florida.		
BUILDING,HEAVY, & HIGHWAY CONSTRUCTION		
CHANGE:		
CARPENTERS:		
Carpenters	$11.62	$ 1.50
Piledriverman	12.12	1.50
IRONWORKERS	13.68	3.10
LINE CONSTRUCTION:		
1. Linemen & Class A Opers.	14.57	4%+.65
2. Cable Splicers	14.72	4%+.65
3. Class B Opers.	9.94	4%+.65
4. Groundmen	7.33	4%+.65
PAINTERS:		
Brush	10.80	1.28
Spray,Paperhanging, & Sandblasting	11.30	1.28
ROOFERS:		
Roofers	11.50	1.00
Kettlemen	10.05	1.00

Modification Page 2

DECISION NO. LA82-4053 - MOD. #8 (47 FR 50421 - 11/5/81) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 1 - Electricians	$17.14	13-5/10%
Cable splicers	17.39	13-5/10%
Zone 4 - Electricians	18.10	.70+3-2/10%
Cable splicers	18.35	*
Zone 6 - Electricians	15.15	1.15+3-1/2%
Cable splicers	15.65	1.15+3-1/2%
Zone 8 - Electricians	14.93	.80+3-1/2%
Cable splicers	15.18	.80+3-1/2%
Glaziers - Zone 3	15.30	.78
Line Construction:		
Zone 2:		
Linemen	17.14	13-3/10%
Cable splicers	17.39	13-3/10%
Equipment ops.	75%JR	13-3/10%
Truck drivers & groundmen	45%JR	13-3/10%
Zone 6:		
Linemen, equipment ops.	15.15	1.15+3-1/2%
Cable splicers	15.65	1.15+3-1/2%
Groundmen	4.19	1.15+3-1/2%
Sheet metal workers:		
Zone 1	16.21	2.19+3%
Zone 3	16.26	1.86+3%+c

Footnote:
C-Labor Day shall be a paid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available, employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work.

OMIT:Allen,Beauregard,Cameron & Jefferson Davis from Zone 3 Sheet metal workers zone definitions & add to zone 1 definitions

DECISION NO. LA83-4001 - MOD. #2 (48 FR 928-1/7/83) Jefferson,Orleans, Bossier,Caddo,Calcasieu Beauregard,Cameron, Jefferson Davis,Allen, Plaquemines,St. Bernard St. Charles Pars.,La.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers: Zones 3,4 & 5	$16.21	2.19+3%

DECISION NO. LA83-4019 - MOD. #1 (48 FR 5448-2/4/83) Calcasieu Par., La.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	16.21	2.19+3%

DECISION NO. NY81-3024 - MOD. #7 (46 FR 20442 - April 3, 1981) BRONX, KINGS, NEW YORK, QUEENS & RICHMOND COS., NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	16.14	7.03

DECISION NO. NY81-3062 - MOD. #4 (46 FR 45530 - Sept. 11, 1981) WESTCHESTER CO., NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS	16.68	5.75

Modification Page 3

DECISION NO. NJ81-3053 - MOD. #20 (46 FR 50243 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS, BUILDING CONSTRUCTION:		
ZONE 2	10.55	2.85
ZONE 4	11.50	1.90
ROOFERS:		
ZONE 2		
Composition, damp & waterproofers	16.92	2.43
Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris)	8.25	2.43

DECISION NO. NJ81-3063 - MOD. #15 (46 FR 62746 - Dec. 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS, INSULATORS & MILLWRIGHTS:		
ZONE 3		
Carpenters & insulators	16.01	20.5%
MILLWRIGHTS	16.26	20.5%
LINE CONSTRUCTION (EXCLUDING RAILROAD CONSTRUCTION)		
ZONE 1		
Linemen, cable splicers, equipment operators	17.71	10.75%+2.45
Groundmen	15.96	10.75%+2.45
ROOFERS:		
ZONE 1		
Composition, damp & waterproofers	16.92	2.43
Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris)	8.25	2.43
ZONE 2		
Composition	16.50	3.50
Slate and Tile	16.625	3.50

OMIT:
ROOFER CLASSIFICATION AND RATES FOR ZONE 3 AND 4

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Atlantic, Cape May, Cumberland, Burlington, Camden, Gloucester, Salem, Mercer, Monmouth (remainder of county) and Ocean (remainder of County) Counties.

ZONE 2 - Monmouth (the entire county except the southwest corner which includes Perrineville and the towns west there of) and Ocean (from the county line southward to Cassville, Lakehurst, Whitings, Wheatland and Cedar Bridge inclusive) Counties.

Modification Page 4

DECISION #OK82-4035-MOD.#4 (47 FR 27683-June 25,1982 Tulsa,Delaware,Creek, Craig,Mayes, & Roger Cos., OK.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line Construction:		
Lineman	$15.80	3%+.65
Cable Splicers	17.06	3%+.65
Hole digger Operator;	14.08	3%+.65
Heavy equipment ops.(pole or cat equivalent)	14.08	3%+.65
Jackhammer	11.25	3%+.65
Line truck (winch op.)	12.40	3%+.65
Powderman	13.68	3%+.65
Groundman	10.09	3%+.65
Truck driver (flat bed ton half & under)	10.73	3%+.65

DECISION #OK83-4012-MOD.#3 (48 FR 1916-January 14, 1983 Alfalfa,Beckham,Blaine, Caddo,Canadian,Carter, Cleveland,Comanche,Cotton, Custer,Dewey,Ellis,Garfield,Garvin,Grady,Grant, Greer,Harmon,Harper,Jackson,Jefferson,Johnston, Kay,Kingfisher,Kiowa,Lincoln,Logan,Love,McClain, Major,Marshall,Murray, Noble,Oklahoma,Payne,Pontotoc,Roger Mills,Pottawatomie,Seminole,Stephens, Tillman,Washita,Woods & Woodward Cos., OK.	Basic Hourly Rates	Fringe Benefits
ADD:		
Ironworkers - Area 5	$14.29	1.14
Area Definitions		
Ironworkers - Area 5		
Alfalfa,Grant,Kay,Woods		
CHANGE:		
Electricians		
Area 1 - Zone 1	15.60	9%+1.05
Zone 2	15.85	9%+1.05
Zone 3	16.10	9%+1.05
Cable Splicers		
Area 1 - Zone 1	15.85	9%+1.05
Zone 2	16.10	9%+1.05
Zone 3	16.35	9%+1.05
Electricians		
Area 4	17.10	9%+.80
Cable Splicers		
Area 4	18.81	9%+.80

DECISION #OK83-4011-MOD.#4 (48 FR 1913-January 14, 1983) Adair,Atoka,Bryan,Coal, Cherokee,Craig,Creek,Delaware,Haskell,Hughes,Leflore,Latimer,McIntosh, Mayes,Muskogee,Nowata, Okfuskee,Okmulgee,Osage, Ottawa,Pawnee,Pittsburg, Pushmataha,Rogers,Tulsa, Sequoyah,Wagoner and Washington Counties, OK.	Basic Hourly Rates	Fringe Benefits
OMIT:		
Painters-Area II (wages & area definition)		
CHANGE:		
Supersedeas Decision No. OK81-4069 dated Sept. 4, 1981 to read "No. OK82-4062 dated Nov. 26, 1982"		
Painters-Area I (area definition) Pawnee,Osage,Washington, Nowata,Rogers,Mayes,Creek, Tulsa,Okfuskee,Okmulgee, Wagoner,Cherokee,Adair, Muskogee,Sequoyah,McIntosh,Haskell,Pittsburg, Latimer,Leflore & Pushmataha Cos.		
Bricklayers-Stonemasons Area 1	$16.60	1.75
Carpenters Area 5 Piledrivermen	16.00	
Sheet Metal Workers Area 2	16.58	3% +1.78

Modification Page 5

DECISION NO. TX82-4025 - MOD. #6 (47 FR 26550-6/18/82) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians	$16.54	1.08+ 12%

DECISION NO. TX83-4004 - MOD. #3 (48 FR 936-1/7/83) Galveston & Harris Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Galveston Co.:		
Electricians	18.38	1.10+ 12%
Cable splicers	19.38	1.10+ 12%
Harris County	18.38	1.08+ 12%
Marble, tile & terrazzo workers:		
Galveston County	15.41	

DECISION NO. TX83-4006 - MOD. #3 (48 FR 933-1/7/83) Travis County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line Construction:		
Linemen	16.39	.80+ 3-1/2%
Groundmen	9.01	.80+ 3-1/2%

DECISION NO. TX83-4007 - MOD. #2 (48 FR 932-1/7/83) Wichita Co., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters	13.95	1.78
Millwrights	14.45	1.78
Laborers - Group 1	7.85	.72
Group 2	7.98	.72
Group 3	8.10	.72
Group 4	8.35	.72

DECISION NO. VA81-3015- MOD. #7 (46 FR 15666-MARCH 6,1981) RADFORD ARMY AMMUNITION PLANT, VIRGINIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SHEET METAL WORKERS	$12.74	1.77

DECISION NO. WY82-5106 - Mod. #6 (47 FR 10968 - March 12, 1982) Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming	Basic Hourly Rates	Fringe Benefits
Add:		
Natrona County to heading of Modification Numbers 4 and 5		

DECISION NO. IN82-2030 -	Basic Hourly Rates	Fringe Benefits
MOD. #3 (47 FR 20986 - May 14, 1982) Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley Cos., Indiana		
Change:		
Carpenter; Millwrights; Piledirvers & Soft Floor Layers:		
Adams, Cass, Fulton, Grant, Howard, Huntington, Miami, Tipton, Wabash & Wells Cos.:		
Carpenters; Soft Floor Layers	$14.68	1.75
Millwrights	14.68	1.75
Piledrivermen	15.43	1.75
Allen, Dekalb, Noble, Steuben & Whitley Cos.:		
Carpenters, Soft Floor Layers	13.40	.72+6%
Millwrights; Piledrivermen	13.80	.72+6%
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson, (excl. Edinburgh), Marion, Montgomery, (Morgan excl. Twp. of Washington & Baker), Shelby, (Camp Atterbury Area, Moral, & Van Buren Twps.), & Warren Cos.:		
Carpenters; Millwrights	15.78	3.25
Light commercial	11.84	3.25
Bartholomew (Rem. of Co.) Johnson, Edinburgh, & Shelby (Rem. of County)		
Carpenters, Soft Floor Layers	13.86	2.00
Millwrights	14.61	2.00
Piledrivermen; Burners & Welders	14.36	2.00
Benton, Clinton, Tippecanoe, and White Cos.		
Carpenters; Soft Floor Layers	14.61	2.02
Millwrights, Piledrivermen	14.96	2.02
Blackford, Delaware, Jay, & Madison Counties:		
Carpenters & Soft Floor Layers	13.63	2.47
Millwrights	13.93	2.47
Piledrivermen	13.83	2.47
Monroe, Morgan (Twps. of Washington & Baker) Cos.		
Carpenters: Soft Floor Layers	15.40	2.04
Piledrivermen	15.65	2.04
Millwrights	16.15	2.04

DECISION NO. IN82-2030 -	Basic Hourly Rates	Fringe Benefits
MOD. #4 (47 FR 20986 - May 14, 1982) Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley Cos., Indiana		
Change:		
Asbestos Workers:		
Remaining Counties	$16.75	2.45
Boilermakers	18.83	3.405
Bricklayers, Caulkers, Cleaners, Pointers and Stonemasons:		
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, Morgan & Shelby Cos.	15.84	2.58
Cement Masons:		
Boone, Hamilton (S. ½ of Cos., N. to New Rte. Indiana Hwy. #32 incl. Noblesville), Hancock (Southern & Western part of Co. N. to but not incl. Town of Wilkinson, & E. to but not incl. Town of Fortville), Hendricks, Johnson, Marion, Morgan, (N½, & Shelby (ending at Pleasant View) Counties	14.10	1.95
Electricians:		
Bartholomew, Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Montgomery, Morgan and Shelby Cos.	16.95	19½%
Elevator Constructors:		
Remaining Counties	16.37	2.43+ a+b
Glaziers:		
Remaining Counties	18.00	
Ironworkers:		
Bartholomew, Boone (excluding (NW ¼), Clinton (E½), Delaware (S 2/3 of Co.), Grant (SW Portion), Hamilton, Hancock, Henricks, Howard, Johnson, Madison, Monroe, Morgan, Shelby, & Tipton (excl. NW ¼) Counties	15.55	3.60+ 1%
Marion County	15.40	3.60+ 1%
Marble & Tile Setters; Terrazzo Workers:		
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery & Morgan Cos. Marble Setters; Tile Setters	16.56	2.54
Terrazzo Workers	16.56	2.50
Painters:		
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (N½), & Shelby Counties: Brush; Rollers; Drywall Tapers & Finishers	14.30	1.40
Plasterers:		
Boone, Hamilton (So. ½ N. to Indiana Rte. #32), Hancock (S. & Western Part No. to State Rd. #234 & E. to Co. Rd. #300 - W), Hendricks, Johnson, Marion, Morgan (N½) & Shelby Cos.	16.51	1.02
Plumbers and Steamfitters:		
Bartholomew (Camp Atterbury), Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Marion, Maimi, (So. of Rte #218), Morgan, Shelby, & Tipton Counties	16.95	2.16

MODIFICATIONS P. 8

DECISION NO. IN82-2030 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Roofers:		
Bartholomew, Boone, Hancock, Hendricks, Johnson, Marion, Monroe, Morgan, & Shelby Cos.:		
Composition	15.50	2.00
Slate and Tile	15.75	2.00
Sheet Metal Workers:		
Bartholomew, Boone, Delaware, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, Shelby, & Tipton Counties	17.61	3.22
Sprinkler Fitters	16.67	2.83
Laborers:		
Bartholomew, Fountain, Henricks, Johnson, Monroe, Morgan, & Warren Counties:		
Group I	10.83	1.89
Group II	11.03	1.89
Group III	11.13	1.89
Group IV	11.83	1.89
Marion & Shelby Counties:		
Group I	11.30	1.89
Group II	11.50	1.89
Group III	11.60	1.89
Group IV	12.30	1.89
Power Equipment Operators:		
Adams, Allen, Benton, Blackford, Cass, Clinton, DeKalb, Delaware, Grant, Hamilton, Hancock, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Wells, White, & Whitley Counties:		
Group 1	16.75	2.10
Group 2	15.80	2.10
Group 3	12.80	2.10
Group 4	11.30	2.10

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ILLINOIS
DECISION NUMBER: IL83-2014
Supersedes Decision No. IL82-2032 dated May 21, 1982 in 47 FR 22305
DESCRIPTION OF WORK: Heavy & Highway Construction Projects

COUNTIES: *See Below
DATE: Date of Publication

*Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will

	Basic Hourly Rates	Fringe Benefits
CARPENTERS; Piledrivermen:		
Boone & DeKalb Cos.	$15.58	2.52
DuPage & Lake Cos.	16.50	3.38
Kane, Kendall, & McHenry Cos.	14.00	2.35
Will Co.	15.88	2.35
CEMENT MASONS:		
Boone Co.	14.92	3.15
DeKalb, Kane (S. Part), & Kendall Cos.	16.80	3.31
DuPage Co.	15.40	2.92
Kane (N. Part) & McHenry Cos.	18.05	2.06
Lake Co.	16.20	3.90
Will Co.	17.31	3.35
ELECTRICIANS:		
Boone & DeKalb (Except Sandwich Twp.) Cos.	17.48	2.16
DeKalb (Sandwich twp.), Kane (Aurora, Sugar Grove, Big Rock, Kaneville, Blackberry, Batavia, Geneva Twps. & City of St. Charles), & Kendall Cos.	17.95	3.50
DuPage Co.	17.78	4.80
Kane (Rem. of Co.) & McHenry Cos.	18.10	3.44
Lake Co.	17.71	4.07
Will Co.	17.68	3.09
IRONWORKERS:		
Boone, DeKalb (Except S.E. 2/3 of Co.), & McHenry (N.W. ¼ of Co.) Cos.	17.00	4.375
DeKalb (Rem.of Co.), DuPage (Except Argonne & Vic.), Kane, Kendall (N. Part), & McHenry (S.E. ¼ of Co.) Cos.	19.75	1.705
DuPage (Argonne & Vic,), Kendall (S. Part), & Will Cos.	16.09	5.535
Lake & McHenry (Hebron, Woodstock & E. Thereof) Cos.	17.68	4.83

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Boone, DeKalb, DuPage, Kane, Kendall, Lake, & McHenry Cos.:		
Linemen; Digger Op.; & Crane (15 Tons or above)	17.05	2.61+a
Equipment Op.; Semi-Truck Drivers	14.48	2.32+a
Groundmen Truck Drivers	11.54	1.96+a
Groundmen	11.16	1.93+a
Will Co.:		
Linemen; Equipment Ops.	17.05	3.79
Groundmen	12.10	2.69
PAINTERS:		
Boone Co.:		
Brush; Roller	14.95	2.19
Open Structural Steel	15.20	2.19
Spray	15.50	2.19
Sandblasting	15.95	2.19
DeKalb, DuPage, Kane, Kendall, & McHenry Cos.:		
Brush; Spray; Sand-Blasting	13.55	1.91
Lake Co.:		
Brush	14.50	1.37
Will Co.:		
Brush	14.55	2.10
Bridges with:		
Butt Plates & Handrails	14.55	2.10
W/Superstructures	15.55	2.10
WO/Superstructures	15.05	2.10
TRUCK DRIVERS:		
Boone Co.:		
2-3 Axles	12.00	1.55
4 Axles	12.15	1.55
5 Axles	12.35	1.55
6 Axles	12.55	1.55
Remainder of Counties:		
2-3 Axles	12.25	62.00b
4 Axles	12.40	62.00b
5 Axles	12.60	62.00b
6 Axles	12.80	62.00b

DECISION NO. IL83-2014

	Basic Hourly Rates	Fringe Benefits
LANDSCAPE WORK (DuPage, Kane, Lake, McHenry & Will Cos.:		
Plantsmen	$8.18	c&d
Truck Driver; Tractor Trailer (3 Axles or more) and Equipment Operator	8.66	c&d
Truck Drivers - Single Axle	8.24	c&d
LABORERS:		
DeKalb County:		
Class I	13.02	2.665
Class II	13.22	2.665
Class III	13.32	2.665
Remaining Counties:		
Heavy & Highway Construction:		
Group 1	13.90	1.92
Group 2	3.975	1.92
Group 3	14.05	1.92
Group 4	14.175	1.92
LABORERS (CONT'D):		
Remaining Counties:		
Sewer & Tunnel Construction:		
Group 1	$13.90	$1.92
Group 2	14.025	1.92
Group 3	14.125	1.92
Group 4	14.25	1.92
POWER EQUIPMENT OPERATORS:		
Class 1	16.75	4.50
Class 2	16.20	4.50
Class 3	15.10	4.50
Class 4	13.80	4.50
Class 5	12.65	4.50

CLASSIFICATION DEFINITIONS - LABORERS:
DeKalb County

CLASS I - Common Laborers; Carpenters' Tenders; Tool, Cribmen, Firemen, or Salamander Tenders; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Asphalt Plant Laborers; Wrecking Laborers; Fireproofing Laborers; Driving of Stakes; Stringlines for all Machinery; Asphalt Workers with Machines and Layers; Grade Checker; Signal Man on Crane; Coring Machine Operator; Concrete Workers (wet), on Concrete Paving; Placing, Cutting and Tying of Reinforcing Steel Form Setters-Street and Highway

CLASS II - Scaffold Workers; Handling of Materials Treated with any Foreign Matter Harmful to Skin or Clothing; Bulk Cement Handlers; Unloading of Re-Bars; Tunnel Tenders in Free Air; Batch Dumpers; Mason Tenders; Kettle and Tar Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; Vibrator Operators; Mortar Mixer Operators; Cement Silica; Clay Fly Ash; Lime and Plasters Handlers (Bulk or Bag); Deck Hand; Dredge Hand and Shore Laborers; Bankmen on Floating Plant; Power Tools; Material Selector (Firebrick or Castable Material); Chain Saw Operators; Air Tamping Hammerman; Concrete Saw Operator; Front End Man on Chip Spreader; Luteman; Asphalt Raker

CLASS III - Jackhammer and Drill Operator; Laborers with De-Watering Systems; Bottom Sewer Workers Plus Depth; Cofferdam Workers Plus Depth; Caisson Workers Plus Depth; Gunnite Nozzle Men; Leadman on Sewer Work; Welders, Cutters, Burners, & Torchmen; Layout Man and/or Tile Layer; Screenman on Asphalt Pavers; Laborers Tending Masons with Hot Material; Multiple Concrete Duct-Leadman; Curb Asphalt Machine Operator; Ready-Mix Scalemen; Permanent, or Temporary Plant; Laser Beam Operator; Concrete Burning Machine Operators; Underpinning and Shoring of Building; Pump Men

CLASSIFICATION DEFINITIONS - LABORERS (CONT'D):
Remaining Counties:
Heavy & Highway Construction:
Group 1 - Construction; Tenders; Material Expeditor (Asphalt Plant); Street Paving, Grade Seperation, Sidewalk, Curb & Gutter, Stripers & All Laborers not Otherwise Mentioned
Group 2 - Asphalt Tampers & Smoothers; Cement Gun
Group 3 - Cement Gun Nozzle (Laborers) Gunite
Group 4 - Rakers & Lutemen; Machine-Screedmen; Kettlemen; Mixermen; Drum-Men; Jackhammermen (Asphalt); Paintmen; Mitre Box Spreaders; Laborers on Birch, Overman & Similar Spreader Equipment; Laborers on Apsco; Laborers on Air Compressors; Paving Form Setters; Jackhammermen (Concrete); Power Driven Concrete Saws; Other Power Equipment
Sewer & Tunnel Construction:
Group 1 - Top Laborers; All Laborers not Otherwise Mentioned
Group 2 - Concrete; & Steel Setters
Group 3 - Cement Carriers; Cement Mixers; Concrete Repairmen; Mortar Men; Scaffold Men; & Second Bottom Men
Group 4 - Air Trac Drill Operations; Bottom Men; Bracers-Bracing; Bricklayers Tenders; Catch Basin Diggers; Drainlayers; Dynamiters; Form Men; Jackhammermen; Pipelayers; Rodders; Welders & Burners; & Well Point System Men

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

Class 1: Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Spreader; Autograde; Belt Loader; Caisson Rigs; Central Redimix Plant; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Linden, Peco and Machines of a like nature; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature; Derricks; All Derrick Boats; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature, 1 cu. yd. and over; Mucking Machine, under 1 cu. yd.; Piledrivers and Skid Rig; Pre-stress Machine; Pump Cretes, Dual Ram (requiring frequent lubrication and water); Rock Drill, Crane type; Slip Form Paver; Straddle Buggies; Tractor w/boom; Tractaire w/attachments; Trenching Machine; Underground Boring and/or Mining Machine, under 5 ft.; Wheel Excavator Widener (Apsco)

Class 2: Mechanic-welder; Batch Plant; Bituminous Mixer; Bulldozer; Combination Backhoe Front End Loader Machine; Concrete Breaker of Hydro-hammer; Concrete Grinding Machine; Concrete Mixer or Paver, 7S Series to and including 27 cu. ft.; Concrete Spreader; Concrete Curing Machine; Burlap Machine; Belting Machine and Sealing Machine; Finishing Machine; Concrete Grader; Motor Patrol; Auto Patrol; Form Grader; Pull Grader; Subgrader; Highlift Shovels or Front End Loader; Hydraulic Boom Trucks (all attachments); Locomotives, Dinky; Pump Cretes; Squeeze Cretes, Screw type Pumps; Cypsum Bulker and Pump; Rock Drill (self-propelled); Boto-tiller; Seaman, etc.; Self-propelled Scoops; Tractor drawn, self-propelled Compactor, Spreader, Chipstone, etc.; Scraper; Tank Car Heater; Tractor, push, pulling Sheeps Foot, disc.; Compactor, etc.; Tug Boats

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (CONT'D):

Class 3: Boilers; Boiler and Throttle Valve; Brooms, all power propelled; Cement Supply Tender; Compressor Throttle Valve; Concrete Mixer (2 bags and over); Conveyor, portable; Fireman on Boiler; Forklift Trucks; Greaser Engineer; Grouting Machine Hoists; Automatic Hoists; All Elevator Hoists; Tugger, single drum; Jeep Diggers; Pipe Power Saw, Concrete; Power-driven Pug Mills; Rollers, all; Steam Generators; Stone Crushers; Stump Machine; Winch Truck with "A" Frame; Work Boats; Tamper; Form Motor driven

Class 4: Air Compressors, all; Generators; Heaters; Mechanical Light Plants, all (1 through 5); Pumps, all; Pumps, well points; Tractaire; Welding Machines (2 through 6)

Class 5: Oilers

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)).

[FR Doc. 83-5243 Filed 3-3-83; 8:45 am]

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federal register

Friday
March 4, 1983

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Meeting and Proposed Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on April 11, 1983, from 9 a.m. to approximately 6 p.m. The meeting will be open to the public to discuss:

- Report on the Social and Ethical Issues of Genetic Engineering with Human Beings;
- Report of Working Group on Revision of the Guidelines;
- Proposed update of risk-assessment plan;
- Amendment of Guidelines;
- Revision of large-scale physical containment recommendations;
- Classification of microorganisms for purposes of Guidelines;
- Review of protocols for required containment levels; and
- Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 3B10, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

There will be no meeting of the Large-Scale Review Working Group in conjunction with this meeting.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: February 18, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-5330 Filed 3-3-83; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on April 11, 1983, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by April 4, 1983.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Proposed Modification of Appendix G–II–D–2–c (P4 Containment)

The RAC Working Group on Revision of the Guidelines, at its January 21, 1983, meeting, discussed modifying the language of Appendix G–II–D–2–a of the NIH Guidelines for Research Involving Recombinant DNA Molecules (47 FR 38048, August 27, 1982). That Appendix currently reads:

Appendix G–II–D–2–a. Experimental procedures involving organisms that require P4 level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive pressure isolation suits.

During the January 21, 1983, discussion, it was noted that the specification requiring use of the Class III glove box is to protect the investigator from infection acquired through aerosol exposure. The Class III glove box, however, does not afford protection when infection by the organism being studied does not occur through the respiratory route. Members of the working group pointed out that automatic assignment of all procedures to the Class III glove box, as specified in Appendix G–II–D–2–a, is not desirable since manipulations are more difficult to perform in the glove box. This slows research while not necessarily protecting the investigator. The working group suggested that authority to set containment for certain experiments within the P4 facility might be delegated to the local IBC in situations in which colonization or infection does not ordinarily result from aerosol exposure.

On the recommendation of the working group, NIH staff has proposed the following modification of Appendix NG–II–D–2–c, which is considered the more appropriate section to modify:

Appendix G–II–D–2–c. *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II. In those cases where the host is an organism which does not cause infection by the respiratory route (e.g., use of *E. coli* K–12 or *S. cerevisiae* host-vector systems), the local IBC may set appropriate containment for procedures within the P4 facility.

II. Proposed Modification of Section III–B–5

The RAC Large-Scale Review Working Group, which met on October 26, 1982, has forwarded to RAC without comment a proposal by Dr. Allan Waitz of DNAX Corporation (a wholly owned subsidiary of Schering-Plough Corporation) to amend Section III–B–5 of the NIH Guidelines. Section III–B–5 currently reads:

III–B–5. Experiments Involving More Than 10 Liters of Culture. The appropriate containment will be decided by the IBC. Where appropriate, the large-scale containment recommendations of the NIH should be used (45 FR 24968).

Dr. Waitz said greater flexibility in scale-up procedures would be gained if the IBC could be notified simultaneously with initiation of large-scale procedures involving *E. coli* K–12, *Saccharomyces cerevisiae* and *Bacillus subtilis* host-vector systems. He suggested that Section III–B–5 be modified to read as follows:

III–B–5. *Experiments Involving More Than 10 Liters of Culture.* The appropriate containment will be decided by the IBC except where exempted under Section III–D–5. Where appropriate, the large-scale containment recommendations of the NIH should be used (45 FR 24968).

Language in Appendix C, *Exemptions Under III–D–5,* would also be modified to reflect this change. The relevant paragraphs of Appendix C–II, C–III, and C–IV, which deal with exceptions to the exemption, would be modified to read as follows:

Large-scale experiments (i.e., more than 10 liters of culture) require IBC notice simultaneously with the initiation of experiments where IBC-approved practices and an IBC-approved P1–LS containment facility will be used. Where these conditions are not satisfied, refer to Part III–B–5.

III. Proposed Modifications of Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (45 FR 24968, Federal Register of April 11, 1980)

A. Proposed Modification of Section VII–D–6

Mr. Richard F. Geoghegan of E. I. DuPont de Nemours and Company has requested that Section VII–D–6 of the Large-Scale Recommendations be revised. Section VII–D–6 reads as follows:

VII–D–6. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level will be maintained at or slightly below atmospheric pressure.

Mr. Geoghegan proposed that Section VII–D–6 be modified to read as follows:

VII–D–6. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level be maintained at no more than 10 psig.

He argued that the revision will permit fermentations more in line with industrial practices (high biomass production through efficient oxygen transfer) to be conducted, without compromising safety by operating at unnecessarily high vessel pressures. The RAC Large-Scale Review Working Group, at its meeting on October 26, 1982, however, felt the language might appropriately be modified, but felt no specific pressure limit should be indicated as any pressure limit should be dependent on the maximum design presure of the system. The working group, thus, suggested the following language:

VII–D–6. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level will be maintained at a pressure as low as possible, consistent with equipment design, in order to maintain the integrity of containment features.

The Large-Scale Review Working Group at its meeting on October 26, 1982, recommended this language by a vote of five in favor, none opposed, and no abstentions.

Both proposed modifications of Section VII–D–6 are published for comment.

B. Proposed Modification of Sections VII–B–1, VII–C–1, and VII–D–1

Dr. Allan Waitz of DNAX Corporation has proposed revising Sections VII–B–1, VII–C–1, and VII–D–1 of the Large-Scale Recommendations. The current language of those Sections reads as follows:

VII–B–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to reduce the potential for escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Section II–B–1 of the Giudelines are met.

VII–C–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Section II–B–2 of the Guidelines are met.

VII–D–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessels used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system provided all physical containment requirements specified in Section II–B–3 of the Guidelines are met.

Dr. Waitz suggested the first sentence in all of these sections should be modified to read as follows:

Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system used for the propagation, growth and processing of cultures, other primary containment equipment, or other appropriate method of containment approved by the IBC which is designed to reduce the potential for escape of viable organisms * * *

The Large-Scale Review Working Group, at its meeting on October 26, 1982, pointed out that a closed primary system is one from which there is no release of organisms into the environment or work place; a primary system could be defined as a fermentor attached to several pieces of processing equipment. The working group agreed that the language as currently written is purposely flexible while at the same time conveying the intent; they, therefore, recommended against accepting this proposal.

C. Proposed Modification of Section VII–B–3

Dr. Allan Waitz also proposed amending Part VII–B–3 which reads as follows:

VII–B–3. Sample collection from a closed system, the addition of materials to a closed system and the transfer of culture fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Dr. Waitz suggested that the word "prevents" implies an absolute condition which at the P1–LS level is neither realistic nor necessary. He suggested that the work "minimizes" be substituted for the word "prevents." The Large-Scale Review Working Group did not discuss this proposal at its meeting on October 26, 1982.

IV. Proposed Incorporation Into Guidelines of Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

Dr. Allan Waitz of DNAX Corporation proposed that the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (45 FR 24968) be formalized by incorporating them into the Guidelines as a new Appendix. Dr.

Waitz said industry believes such an action would provide a more efficient mechanism for further comment or change to the Recommendations. He expressed industry's concern that failure to take such action may leave a perceived gap in the overall regulatory scheme thereby encouraging the development of conflicting regulatory requirements.

The Large-Scale Review Working Group, which met on October 26, 1982, forwarded this proposal to the RAC and to the Working Group on Revision of the Guidelines without comment.

The Working Group on Revision of the Guidelines, at its January 21, 1983, meeting, recommended incorporation into the Guidelines of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules. If the RAC recommends this action, editiorial modifications to revise and update sections of the Physical Containment Recommendations will be necessary. The proposed incorporation of the Physical Containment Recommendations into the Guidelines as a new Appendix K, requires all sections be renumbered. Minor editorial changes will be introduced throughout the document to reflect the modifications introduced into the Guidelines since the Recommendations were published in April 1980. Proposed changes within the text are enumerated below. Readers should note that sections in the Recommendations which contain proposed revisions are identified by their current Section numbering. The proposed modified language is identified by new section numbering. The revised Large-Scal Recommendations are reprinted in their entirety at the end of this section.

A. Section VII. Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

1. Section VII would become Appendix K.

2. The language of the first paragraph would be modified. It currently reads:

> This part of the NIH Guidelines specifies physical containment guidelines for large-scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to all large-scale research or production activities approved by the Director, NIH, in accordance with Sections IV- E-2-b-(1)-(e) and IV-E-1-b-(3)-(d) of the NIH Guidelines.

That paragraph would be modified to read as follows:

> This part of the NIH Guidelines specifies physical containment guidelines for large-scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to large-scale research or production activities as specified in Section III-B-5 of the Guidelines.

3. The third paragraph (first bullet) will be modified to read:

> Appendix K shall replace Appendix G when quantities in excess of 10 liters of culture are involved in research or production.

4. An editorial modification, substituting "Section IV-B-4" for "Section IV-D-4," will be introduced into the third paragraph of the introduction. That paragraph will be modified to read:

> The institution shall appoint a biological safety officer if it engages in large-scale research or production activities involving viable organisms containing recombinant DNA molecules. The duties of the biological safety officer shall include those specified in Section IV-B-4 of the Guidelines.

B. Section VII-A. Selection of Physical Containment Levels.

This section will be renumbered as Appendix K-A.

C. Section VII-B. P1-LS Level

1. Section VII-B will be renumbered as Appendix K-B.

2. Section VII-B-1 will be renumbered to Appendix K-B-1 and an editorial modification will substitute Section "Appendix G-II-A" for "Section II-B-1." The last sentence of Section VII-B-1 will read:

> Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G-II-A of the Guidelines are met.

3. Section VII-B-2 will be renumbered Appendix K-B-2 and an editorial modification will substitute "Appendix K-B-3" for the current "VII-B-3." The first sentence of Section VII-B-2 would read:

> Appendix K-B-2. Culture fluids (except as allowed in Appendix K-B-3) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure.

4. In Section VII-B-6, an editorial modification will change the language to read:

> Appendix K-B-6. Emergency plans required by Section IV-B-3-f shall include methods and procedures for handling large losses of culture on an emergency basis.

D. Section VII-C. P2-LS Level

1. Section VII-C will be renumbered to Appendix K-C.

2. Section VII-C-I will be renumbered Appenix K-C-1 and in the last sentence of Section VII-C-1, an editorial modification will substitute "Appendix G-II-B" for the current "Section II-B-2."

3. Section VII-B-2 will be renumbered to Appendix K-C-2 and an editorial modification will substitute "Appendix K-C-3" for the current "VII-C-3."

4. In Section VII-C-11, to be renumbered Appendix K-C-11, an editorial modification will substitute "Section IV-B-3-f" for the current "Section IV-D-3-d."

E. Section VII-D. P3-LS Level

1. Section VII-D will be renumbered to Appendix K-D.

2. Section VII-D-1 will be renumbered to Section Appendix K-D-1 and an editorial modification will substitute "Appendix G-II-C" for the current "Section II-B-3."

3. Section VII-D-2 will be renumbered to Appendix K-D-2 and an editorial modification will substitute "Appendix K-D-3 for the current " IV-D-3."

4. In Section VII-D-12, to be renumbered Appendix K-D-12, an editorial modification will substitute "Substitute IV-B-3-f" for the current "Section IV-D-3-d."

5. In Section VII-D-14-a, to be renumbered Apendix K-D-14a, an editorial modification will substitute "Appendix K-D-13a" for "Section VII-D-13-a."

Note.—In addition, if the Large-Scale Recommendations are incorporated into the Guidelines, the language of Secion III-B-5 of the Guidelines should also be modified as follows:

III-B-5. *Experiments Involving More Than 10 Liters of Culture.* The appropriate containment will be decided by the IBC. Where appropriate, Appendix K, Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules, should be used.

Proposed Appendix K

Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

This part of the NIH Guidelines specifies physical containment guidelines for large-scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to large-scale research or production activities as specified in Section III-B-5 of the NIH Guidelines.

All provisions of the NIH Guidelines shall apply to large-scale research or production activities with the following modifications:

• Appendix K shall replace Appendix G when quantities in excess of 10 liters of culture are involved in research or production.

• The institution shall appoint a biological safety officer if it engages in large-scale research or production activities involving viable organisms containing recombinant DNA molecules. The duties of the bological safety officer shall include those specified in Section IV–B–4 of the Guidelines.

• The institution shall establish and maintain a health surveillance program for personnel engaged in large-scale research or production activities involving viable organisms containing recombinant DNA molecules which require P3 containment at the laboratory scale. The program shall include: preassignment and periodic physical and medical examinations; collection, maintenance and analysis of serum specimens for monitoring serologic changes that may result from the employee's work experience; and provisions for the investigation of any serious, unusual or extended illness of employees to determine possible occupational origin.

Appendix K–A. *Selection of Physical Containment Levels.* The selection of the physical containment levels required for recombinant DNA research or production involving more than 10 liters of culture is based on the containment guidelines established in Part III of the Guidelines. For purposes of large-scale research or production, three physical containment levels are established. These are referred to as P1–LS, P2–LS, and P3–LS. The P1–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require P1 containment at the laboratory scale. The P2–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require P2 containment at the laboratory scale. The P3–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require P3 containment at the laboratory scale. No provisions are made for large-scale research or production of viable organisms containing recombinant DNA molecules which require P4 containment at the laboratory scale. If necessary, these requirements will be established on an individual basis.

Appendix K–B. *P1–LS Level.*

Appendix K–B–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propogation and growth of cultures) or other primary containment equipment (e.g., biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to reduce the potential for escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–A of the Guidelines are met.

Appendix K–B–2. Culture fluids (except as allowed in Appendix K–B–3) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–B–3. Sample collection from a closed system, the addition of materials to a closed system and the transfer of culture fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–B–4. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–B–5. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–B–6. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–C. *P2–LS Level.*

Appendix K–C–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–B of the Guidelines are met.

Appendix K–C–2. Culture fluids (except as allowed in Appendix K–C–3) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–C–3. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of cultures fluids from one closed system to another shall be done in a manner which prevents the release or aerosols or contamination of exposed surfaces.

Appendix K–C–4. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiences equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–C–5. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–C–6. Rotating seals and other mechanical devices directly associated with a closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–C–7. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to

contain operations involving viable organisms containing recombinant DNA molecles shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–C–8. A closed system used for the propagation and growth of viable organisms containing the recombinant DNA molecules shall be tested for integrity of the containment features using the organism that will serve as the host for propagating recombinant DNA molecules. Testing shall be accomplished prior to the introduction of viable organisms containing recombinant DNA molecules, and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–C–9. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified. This identification shall be used in all records reflecting testing, operation, and maintenance and in all documentation relating to use of this equipment for research or production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–C–10. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–C–11. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–D. *P3–LS Level.*

Appendix K–D–1. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessels used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system provided all physical containment requirements specified in Appendix G–II–C of the Guidelines are met.

Appendix K–D–2. Culture fluids (except as allowed in Appendix K–D–3) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–D–3. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of culture fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–D–4. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–D–5. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–D–6. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level will be maintained at or slightly below atmospheric pressure.

Appendix K–D–7. Rotating seals and other mechanical devices directly associated with a closed system used to contain viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–D–8. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to contain operations involving viable organisms containing recombinant DNA molecules shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–D–8. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be tested for integrity of the containment features using the organisms that will serve as the host for propagating the recombinant DNA molecules. Testing shall be accomplished prior to the introduction of viable organisms containing recombinant DNA molecules, and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–D–10. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified: This identification shall be used in all records reflecting testing, operation and maintenance and in all documentation relating to the use of this equipment for research production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–D–11. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–D–12. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–D–13. Closed systems and other primary containment equipment used in handling cultures of viable organisms containing recombinant DNA molecules shall be located within a controlled area which meets the following requirements:

Appendix K–D–13–a. The controlled area shall have a separate entry area. The entry area shall be a double-doored space such as an air lock, anteroom or change room that separates the controlled area from the balance of the facility.

Appendix K–D–13–b. The surfaces of walls, ceilings, and floors in the controlled area shall be such as to permit ready cleaning and decontamination.

Appendix K–D–13–c. Penetrations into the controlled area shall be sealed to permit liquid or vapor phase space decontamination.

Appendix K–D–d. All utilities and service or process piping and wiring entering the controlled area shall be protected against contamination.

Appendix K–D–13–e. Handwashing facilities equipped with foot, elbow, or

automatically operated valves shall be located at each major work area and near each primary exit.

Appendix K–D–13–f. A shower facility shall be provided. This facility shall be located in close proximity to the controlled area.

Appendix K–D–13–g. The controlled area shall be designed to preclude release of culture fluids outside the controlled area in the event of an accidental spill or release from the closed systems or other primary containment equipment.

Appendix K–D–13–h. The controlled area shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential. If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the controlled area shall not be recirculated to other areas of the facility. The exhaust air from the controlled area may be discharge to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

Appendix K–D–14. The following personnel and operational practices shall be required:

Appendix K–D–14–a. Personnel entry into the controlled area shall be through the entry area specified in Appendix K–D–13–a.

Appendix K–D–14–b. Persons entering the controlled area shall exchange or cover their personal clothing with work garments such as jumpsuits, laboratory coats, pants and shirts, head cover, and shoes or shoe covers. On exit from the controlled area the work clothing may be stored in a locker separate from that used for personal clothing or discarded for laundering. Clothing shall be decontaminated before laundering.

Appendix K–D–14–c. Entry into the controlled area during periods when work is in progress shall be restricted to those persons required to meet program or support needs. Prior to entry all persons shall be informed of the operating practices, emergency procedures, and the nature of the work conducted.

Appendix K–D–14–d. Persons under 18 years of age shall not be permitted to enter the controlled area.

Appendix K–D–14–e. The universal biohazard sign shall be posted on entry doors to the controlled area and all internal doors when any work involving the organism is in progress. This includes periods when docontamination procedures are in progress. The sign posted on the entry doors to the controlled area shall include a statement of agents in use and personnel authorized to enter the controlled area.

Appendix K–D–14–f. The controlled area shall be kept neat and clean.

Appendix K–D–14–g. Eating, drinking, smoking, and storage of food are prohibited in the controlled area.

Appendix K–D–14–h. Animals and plants shall be excluded from the controlled area.

Appendix K–D–14–i. An effective insect and rodent control program shall be maintained.

Appendix K–D–14–j. Access doors to the controlled area shall be kept closed, except as necessary for access, while work is in progress. Serve doors leading directly outdoors shall be sealed and locked while work is in progress.

Appendix K–D–14–k. Persons shall wash their hands when leaving the controlled area.

Appendix K–D–14–l. Persons working in the controlled area shall be trained in emergency procedures.

Appendix K–D–14–m. Equipment and materials required for the management of accidents involving viable organisms containing recombinant DNA molecules shall be available in the controlled area.

Appendix K–D–14–n. The controlled area shall be decontaminated in accordance with established procedures following spills or other accidental release of viable organisms containing recombinant DNA molecules.

V. Proposed Field Testing of Genetically Engineered Plants

Cetus Madison Corporation requests permission to field test genetically engineered plants. The proposal is divided into there separate requests:

A. Field test in Wisconsin very small plots (less than 0.5 acre per experiment) of wheat, cotton, soybean, corn, tobacco, tomato and potato plants grown from seeds containing recombinant DNA. There will be "extremely close nonitoring" as defined by the submitter.

B. Field test in several southern U.S. states very small plots (less than 0.5 acre per experiment) of cotton, rice and tomato plants grown from seeds containing recombinant DNA. There will be "very close monitoring" as defined by the submitter.

C. If the above experiments succeed, aproximately fifty field plots or less than 5 acres such would be tested in many U.S. locations. There will be "close monitoring" as defined by the submitter.

VI. Request to Release Strains of Pseudomonas Syringae and Erwinia Herbicola

Drs. Nickolas Panopoulos and Steven Lindown of the University of California, Berkeley, request permission to construct and release *Pseudonomas syringae* pv. *syringae* and *Erwinia herbicola* carrying in vitro generated deletions of all or part of the genes involved in ice nucleation for purposes of biological control of frost damage in plants.

VII. Proposed Amendment of Section III–A–2 and Addition of a New Section III–B–4–c

The RAC Working Group on Revision of the Guidelines, at its January 21, 1983, meeting, recommended that guidelines for field experimentation involving plants modified by recombinant DNA techniques be developed for consideration at the April 11, 1983, RAC meeting. The following changes in the Guidelines have been proposed.

Section III–A–2 would be modified to read as follows:

III–A–2. Deliberate release into the environment of any organism containing recombinant DNA except certain plants as described in Section III–B–4–c.

A new Section, III–B–4–c, would be added as follows:

III–B–4–c. Approval may be granted by the IBC with notification to ORDA for growing plants containing recombinant DNA in the field under the following guidelines:

III–B–4–c–1. The plant species is an annual cultivated crop of a genus that has no species known to be a noxious weed.

III–B–4–c–2. The introduced DNA consists of well characterized genes containing no sequences harmful to humans, animals, or plants. Antibiotic resistance genes may be introduced as selectable marker traits if stable integration into the host DNA known to occur.

III–B–4–c–3. The vector consists of DNA from (i) exempt host-vector systems (Appendix C), (ii) plants of the same or closely related species; (iii) non-pathogenic prokaryotes or non-pathogenic lower eukaryotic plants; (iv) plant pathogens if known sequences causing disease symptoms have been deleted; or (v) DNA constructed from specific sequences of any of the above sources.

The DNA may be introduced by any suitable method but if co-infection or co-cultivation is utilized absence of the assisting organism must be demonstrated.

III–B–4–c–4. Plants are grown in control access fields under specified conditions appropriate for the plant under study in the geographical location. Such conditions should include provisions for using good cultural and pest control practices, for physical isolation

from plants of the same species outside of the experimental plot in accordance with pollination characteristics of the species, and for preventing plants containing recombinant DNA from becoming established in the environment. Review of the IBC should include an appraisal by scientists knowledgable in the crop, its production practices, and the local geographic conditions.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government program contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: February 28, 1983.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 83-5331 Filed 3-3-83; 8:45 am]

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federal register

Friday
March 4, 1983

Part IV

Department of Labor

Employment and Training Administration

Trade Adjustment Assistance for Workers; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 635

Trade Adjustment Assistance for Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to revise the regulations for implementing the program of trade adjustment assistance for workers (TAA Program) provided under Chapter 2 of Title II of the Trade Act of 1974 (Pub. L. 93–618). These proposed regulations implement the amendments to the Trade Act of 1974 made by Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). These proposed regulations also reorganize and revise the existing rules to state the rights and obligations of workers for services and allowances, and to clarify the responsibilities of the Secretary of Labor and the State agencies. The setting forth of this information in each part dealing with a separate program conforms to the more recent practice in writing regulations for unemployment compensation and related benefit programs.

DATE: Written comments on these proposed regulations must be received by the Department of Labor on or before April 4, 1983.

ADDRESS: Send comments on these proposed regulations to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213.

All comments received will be available for public inspection during normal business hours, in Room 7000 at the above address.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, N.W., Washington, D.C. 20213; telephone: (202) 376–7032 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Trade Act of 1974 made major changes in the TAA Program for workers displaced by increased imports of articles like or directly competitive with articles produced by the workers. On the filing of a petition by a group of workers or their representative, the Department of Labor conducts an investigation of adverse impact of imports, and if it is found that the workers of a firm or a subdivision of a firm have been adversely affected by import competition, a certification is issued declaring that the adversely affected workers are eligible to apply for Trade Adjustment Assistance (TAA). In Title XXV of the Omnibus Budget Reconciliation Act of 1981 further major changes were made in the TAA Program. In today's proposal, the regulations for the TAA Program are extensively revised to implement those changes and to make other improvements and clarify the regulations.

The amended TAA provisions are designed to assist adversely affected workers to return to work in equivalent or better employment as quickly as possible. The Act provides for TAA in the form of weekly trade readjustment allowances (TRA), reemployment services, training, and job search and relocation allowances.

The 1981 amendments change the TAA Program to strengthen the emphasis of getting workers reemployed as soon as possible, and to modify the TRA provisions as to the qualifying requirements, the weekly and maximum amounts of TRA payable, and the eligibility periods in which TRA is payable. Most of the 1981 amendments were effective on October 1, 1981.

Under the 1981 amendments workers who are separated from employment adversely affected by imports are eligible for reemployment services and allowances immediately after the Department of Labor issues a certification of eligibility to apply for TAA, but are not eligible for weekly TRA payments until after they have exhausted all rights to State or Federal unemployment insurance (UI).

In addition, the 1981 amendments increase the amounts of subsistence and transportation allowances payable to a worker in training approved under the Act, and the amounts of job search and relocation allowances. They also reduce the weekly and maximum amounts of TRA payments and the eligibility periods for receipt of TRA payments. The amount of the weekly TRA payment will be equal to the UI weekly benefit amount. Generally, workers are now eligible to receive a combination of UI (including Extended Benefits (EB)) and TRA not to exceed an amount derived by multiplying the TRA weekly benefit amount by 52. In addition, workers receiving TRA are required to apply for and accept offers of work and actively seek work in accordance with the work test provisions of State law which apply to EB claimants, except when the workers are engaged in tranining approved under the Act or training approved under State law.

Workers in training approved under the Act may receive up to 26 additional weeks of TRA in order to complete such training.

Additional weeks of TRA, previously payable to workers solely because they reached age 60 on or before their separation from adversely affected employment, are no longer payable for any weeks beginning after September 30, 1981.

These proposed regulations also make other changes, including technical and clarifying changes.

The significant changes proposed in this document are:

1. Section 635.11(a)(2) requires, for purposes of TRA entitlement, that a worker's first separation from adversely affected employment must occur: (a) On or after the impact date stated in the certification; (b) before the expiration of the two-year period beginning on the date of the certification; and (c) before the termination date, if any, of the certification.

"First separation" is defined as the worker's first total or partial separation from adversely affected employment on or most closely following the impact date of the certification under which the worker is covered, and which occurs before or within the worker's first UI benefit period.

The "date of separation" is defined to mean: (a) With respect to a total separation, the last day the worker worked in adversely affected employment, except that if the worker was on employer-authorized leave, it would mean the last day the worker would have worked in such employment had the worker been working; and (b) with respect to a partial separation, the last day of the week in which the partial separation occurred.

2. Section 635.11(a)(3) removes the limitation whereby only weeks of employment in the 52 weeks "immediately preceding" the worker's total or partial separation can be counted as qualifying weeks for TRA entitlement. Under the 1981 amendments, the week of employment in which the worker's separation occurs will be included as one of the weeks in the 52-week qualifying period.

In addition, § 635.11(a)(3) provides that any week a worker is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training, does not work because of a disability that is compensable under a State or Federal workers' compensation law or plan, or

has had employment interrupted in order to serve as a full-time representative of a labor organization in the firm or subdivision, shall be treated as a week of employment at wages of $30 or more. Not more than 3 weeks of such employer-authorized leave or leave to serve as a full-time union representative (or both), or not more than 7 weeks of disability covered by workers' compensation, or not more than 7 weeks total, combining weeks of disability and not more than 3 weeks of employer-authorized or union representation leave (or both), may be counted as weeks of employment for this purpose.

3. Section 635.11(a)(4) requires, for purposes of TRA entitlement, that a worker must have been entitled to UI (or would have been entitled if the worker applied therefore) for a week within the UI benefit period established after the worker's first separation, or within the UI benefit period in which such separation occurred.

"Benefit period" is defined as: (a) The benefit year and any ensuing period, as determined under State law, during which a worker is eligible for regular UI, additional UI, or EB; or (b) the equivalent of such a benefit year or ensuing period provided for under Federal UI law.

"UI" is defined as unemployment compensation payable to a worker under any State or Federal unemployment compensation law, including chapter 85, title 5, of the United States Code, and the Railroad Unemployment Insurance Act. This term includes regular UI, additional UI, and EB. (It also will include any temporary Federal supplemental compensation during periods when such compensation is payable.)

4. Section 635.11(a)(5) requires, for purposes of TRA entitlement, that a worker must have exhausted all rights to UI to which the worker was entitled under State or Federal law. Once the worker has exhausted all rights to UI, the worker will be entitled to TRA payments except for any week the worker is entitled to a payment of any further UI or waiting period credit.

"Exhaustion of UI" is defined as exhaustion of all rights to UI in a benefit period by reason of: (a) Having received all UI to which a worker was entitled under State or Federal UI law with respect to such benefit period; or (b) the expiration of such benefit period.

Under the 1981 amendments, once a worker has exhausted all rights to UI in the UI benefit period in existence or established after the worker's first separation, the worker may not be determined to have a subsequent exhaustion of rights to UI under that same certification. The purpose of this is to limit a worker to one period of entitlement to TRA under a particular certification, and to preclude establishing entitlement to a second period of TRA following a subsequent UI benefit period. However, the worker will be eligible to collect any remaining amount of the original TRA entitlement if the worker is still within the TRA eligibility period following exhaustion of UI in a subsequent UI benefit period.

5. Section 635.11(a)(6) requires workers, as a condition of eligibility for receiving TRA for any week, to apply for and accept offers of work and actively seek work in accordance with the provisions of conforming State law which apply to EB claimants. The EB work test requires that claimants, whose prospects of returning to work are not good, will be disqualified in they fail to apply for, or accept offers of, "suitable work," as defined for EB purposes, or to actively seek such work. The EB work test does not apply to workers engaged in training approved under the Act or in training approved under State law.

6. Section 653.11(b) specifies the first week a worker is eligible for a TRA payment. Such first week is the later of: (a) The first week of unemployment which begins more than 60 days after the date of filing the petition that resulted in the certification under which the worker is covered; or (b) the first week after the worker exhausts UI. The purpose of this amendment is to encourage timely petitions before exhaustion of UI, thereby reducing the frequency of retroactive lump sum TRA payments.

"Week of unemployment" is defined as a week of total, part-total, or partial unemployment, as determined under State or Federal UI law.

7. Section 635.13 provides that the TRA weekly benefit amount payable to a worker for a week of total unemployment shall be equal to the most recent UI weekly benefit amount (including dependents' allowances) payable to the worker for a week of total unemployment preceding the worker's first exhaustion of UI. In a State in which weeks of UI are paid at varying amounts, related to wages with separate employers, the TRA weekly benefit amount shall be calculated the same as the EB weekly benefit amount is calculated. In addition, if a State calculates a base amount of UI and calculates dependents' allowances on a weekly supplemental basis, TRA weekly benefit amounts will be calculated in the same manner.

The TRA weekly benefit amount is reduced by: (a) Income deductible from UI under the disqualifying income provisions of State or Federal UI law; and (b) the amount of a training allowance that is deductible under Section 232(c) (formerly 232(d)) of the Act. In addition, the TRA weekly benefit amount will be reduced by any amount deductible from UI for days of absence from training under the provisions of the State law which apply to individuals in approved training.

Prior to the 1981 amendments, the TRA weekly benefit amount was a national uniform standard equal to 70 percent of the worker's previous gross weekly wage, not to exceed the average weekly manufacturing wage, reduced by: (a) The amount of the worker's UI entitlement, if any; (b) 50 percent of any remuneration for services performed during the week; and (c) certain training allowances paid under Federal law. The TRA weekly benefit amount was also reduced for days of unexcused absence from training approved under the Act.

There is no change in section 232(b) of the Act, which provides that any adversely affected worker entitled to TRA and undergoing training approved under the Act, including on-the-job training, shall receive for each week of such training the TRA weekly benefit amount or the amount, if greater, of any weekly training allowance under any other Federal law to which the worker would be entitled. This TRA amount would be paid in lieu of any such training allowance.

8. Section 635.14 provides that the maximum amount of basic TRA payable to an adversely affected worker under a certification shall be an amount equal to 52 times the TRA weekly benefit amount, minus the total sum of UI payable to the worker in the worker's first UI benefit period.

Prior to the 1981 amendments, basic TRA was payable for up to 52 weeks of unemployment. In addition, workers who reached age 60 on or before their last separation from adversely affected employment and workers in training approved under the Act were entitled to receive up to 26 additional weeks of TRA. Workers in training approved under the Act will continue to be entitled to receive up to 26 additional weeks of TRA after October 1, 1981, but under the statutory amendments older workers will not longer be entitled to receive TRA for additional weeks.

9. Section 635.15 provides that basic TRA is payable during the 52-week eligibility period beginning with the first week following the first week in which the worker has exhausted all rights to regular UI. Additional weeks of TRA to assist a worker to complete training

approved under the Act are payable during the 26-week eligibility period following the last week of the worker's entitlement to basic TRA.

Prior to the 1981 amendments, basic TRA was payable over a 2-year benefit period following the worker's most recent separation from adversely affected employment, and additional weeks of TRA were payable over a maximum 3-year period.

10. Section 635.16 provides, for purposes of determining the applicable State law for a worker, that such law will be the State law under which the worker: (a) Is currently entitled to UI; or (b) has most recently exhausted all rights to any UI to which the worker was entitled. The State law so determined will remain applicable to a worker unless the worker becomes entitled to UI under another State law. In such case, the applicable State law will be the law of the State in which the worker is entitled to UI.

11. Section 635.20 requires, as do the present regulations, that State agencies provide, or arrange to have provided, appropriate reemployment services to workers, such as counseling, testing, placement, supportive services, job search and relocation assistance, training and other services provided for under any other Federal law.

12. Section 635.22 provides that training may be approved under the Act for a worker if specified conditions are met: (a) There is no suitable employment available for the worker; (b) the worker would benefit from the training; (c) there is a reasonable expectation of employment following completion of the training; (d) the training is available from governmental agencies or private sources; and (e) the worker is qualified to undertake and complete the training. Because training costs must be paid by the Secretary if training is approved under the Act, no training may be approved unless there are sufficient federal funds on hand to pay for the training.

"Suitable employment," for purposes of approval of training under the Act, is defined in § 635.22 as work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage. (This is a defined term in section 236 of the Act.)

13. Section 635.23 provides that, when suitable employment is not available, the State agency will explore, identify, develop and secure training opportunities and establish linkages with other public and private agencies, Private Industry Councils, employers, and CETA prime sponsors, as appropriate, so as to arrange for training and the return of adversely affected workers to employment as soon as possible.

14. Section 635.27 provides that a worker in training approved under the Act outside the commuting area shall receive subsistence payments not to exceed the lesser of the actual per diem expenses, or 50 percent of the prevailing per diem authorized under the Federal travel regulations.

"Commuting area," for purposes of eligibility for subsistence and transportation payments while in training approved under the Act, and job search and relocation allowances, is defined as the area in which an individual would be expected to travel to and from work on a daily basis as determined under the State law.

15. Section 635.28 provides that a worker in training approved under the Act outside the commuting area shall receive transportation payments not to exceed the lesser of the actual cost for travel by the least expensive means of transportation reasonably available, or the cost per mile at the prevailing mileage rate authorized under the Federal travel regulations.

16. Subpart D, *Job Search Allowances*, provides for an increase in reimbursement for job search expenses from 80 percent to 90 percent of the costs of necessary expenses, but not in excess of 90 percent of the levels of subsistence and transportation expenses authorized for workers in training approved under the Act. In addition, Subpart D provides for an increase in the maximum amount of reimbursement from $500 to $600.

To qualify for a job search allowance, the worker must: (a) Have no reasonable expectation of securing suitable employment in the commuting area; and (b) have a reasonable expectation of obtaining suitable employment outside the commuting area and in the area where the job search will be conducted. For this purpose, "suitable employment" means suitable work as defined in the applicable State law for regular UI claimants or EB claimants, whichever is applicable to the worker.

17. Subpart E, *Relocation Allowances*, provides for an increase in reimbursement for relocation expenses from 80 percent to 90 percent of the costs of necessary expenses, but not in excess of 90 percent of the levels of subsistence and transportation expenses authorized for workers in training approved under the Act. In addition, Subpart E provides for an increase in the additional lump sum payment from a $500 to $600 maximum. Eligibility for TRA is no longer a requirement for entitlement to relocation allowances after September 30, 1981.

To qualify for a relocation allowance, the worker must: (a) Have no reasonable expectation of securing suitable employment in the commuting area; and (b) have obtained suitable employment, or a bona fide offer of suitable employment, outside the commuting area and in the area of intended relocation. For this purpose, "suitable employment" means suitable work as defined in the applicable State law for regular UI claimants or EB claimants, whichever is applicable to the worker.

In accordance with the Federal travel regulations, Subpart E provides for the cost of: (a) Transportation of household goods and personal effects, not to exceed 11,000 pounds net weight for a worker with a family, and 5,000 pounds net weight for a worker without a family; and (b) temporary storage of household goods and personal effects, where necessary, for a period not to exceed 60 days.

18. Section 635.52 restates the rules of construction and other provisions governing the uniform interpretation and application of the law. In this regard, the regulation is revised to incorporate into §§ 635.52(c) (3) and (4) specific rules for assigning responsibility to the States for the payment of TAA only in accordance with the law and the regulations, and the States' responsibility for making the United States whole where they violate the law and regulations. These rules (incorporating what is sometimes referred to as the "Lopez Rule") were developed following a series of cases where a State had paid claims in flagrant disregard of the law and the regulations.

19. Section 635.55 provides that a worker receiving a TAA overpayment, whether fraudulent or otherwise, will be liable for repayment. Section 243(a)(1) of the Act provides that repayment of an overpayment "may" be waived under certain conditions in accordance with guidelines prescribed by the Secretary of Labor. Such guidelines are prescribed in these proposed regulations at § 635.55(a).

Unless a TAA overpayment is otherwise recovered, or is waived under the guidelines prescribed in these regulations, the State agency shall recover the overpayment by deductions from any sums payable to the worker under the TAA Program or under any other Federal law administered by the State agency providing payments with respect to unemployment.

No single deduction may exceed 50 percent of the amount otherwise

payable to the worker, and when a deduction is made, it shall be 50 percent of the amount actually payable.

In the case of false statement or representation, or of nondisclosure of a material fact, the worker would also be ineligible for any further TAA payments in the future.

No repayment may be required or deduction made until a determination of overpayment has been made, notice has been given to the worker of the determination, an opportunity has been given to the worker for a fair hearing, and the determination has become final. These provisions were effective on August 13, 1981, and apply to all TAA overpayments outstanding on that date or determined on or after that date.

20. Section 635.62 provides transitional procedures for administering the TAA Program for those workers who filed applications or qualified for services and allowances before and after the effective date of the 1981 amendments. This section also includes conforming amendments required to be made in existing State law, and the dates by which such amendments must be made.

21. Section 635.64 reflects the change in the termination date of the TAA Program from September 30, 1982, to September 30, 1983.

22. Other technical and clarifying changes have been made in the regulations.

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, N.W., Washington, D.C. 20213; telephone: (202) 376-7032 (this is not a toll-free number).

Classification—Executive Order 12291

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. While several of the proposed provisions may entail some costs, for example, the work test provisions, they will be more than offset by the budgetary savings that result from the lower weekly and maximum benefits and tightened eligibility requirements. In addition, any added costs, to the extent that they exist, do not represent new burdens imposed by the proposed regulations, but rather are direct statutory obligations. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that this proposed rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b), as provided in the Regulatory Flexibility act. This rule will affect those agencies in small States that administer the TAA Program. However, current TAA Program recipients are concentrated in larger industrial States, where jobs have been "hardest hit" by foreign import competition. States may find some increased administrative costs as a result of the proposed provisions to implement work tests in accordance with State provisions applicable to extended benefit claimants.

However, most of the operating mechanisms needed for the proposed TAA program are in place through the UI system, including benefit payments, appeals, work search and work test procedures and relocation and training assistance. This will assure that any additional administrative costs are minimal. Moreover, these costs will decline over time as adversely affected workers find reemployment in substantially equivalent jobs. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rule published hereinafter (20 CFR Part 635) will not have a significant economic impact on a substantial number of small entities, because this rule implements amendments that do not heavily impact agencies in small States and which, moreover, have no significant economic impacts on agencies in small States.

Dated: February 24, 1983.

Raymond J. Donovan,

Secretary.

List of Subjects in 20 CFR Part 635

Labor, Trade adjustment assistance, Job search assistance, Reemployment services, Relocation assistance, Trade readjustment allowances, Vocational education, Unemployment compensation.

Words of Issuance

For the reasons set out in the preamble, the addition of Part 635 to Title 20 of the Code of Federal Regulations is proposed as set forth below.

Signed at Washington, D.C., on February 24, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

PART 635—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

Subpart A—General

Sec.

Subpart B—Trade Readjustment Allowances (TRA)

Subpart C—Reemployment Services

Subpart D—Job Search Allowances

Subpart E—Relocation Allowances

Subpart F—Administration by Applicable State Agencies

Sec.

Authority: Sec. 248, Pub. L. 93-618, 88 Stat. 2029, 19 U.S.C. 2320; Secretary's Order No. 3-81, 46 FR 31117.

Subpart A—General

§635.1 Scope.

The regulations in this Part 635 pertain to:

(a) Adjustment assistance, such as counseling, testing, training, placement, and other supportive services for workers adversely affected under the terms of Chapter 2 of Title II of the Trade Act of 1974, as amended (hereafter referred to as the Act);

(b) Trade readjustment allowances (hereafter referred to as TRA) and other allowances such as allowances while in training, job search and relocation allowances; and

(c) Administrative requirements applicable to State agencies to which such individuals may apply.

§635.2 Purpose.

The Act created a program of trade adjustment assistance (hereafter referred to as TAA) to assist individuals, who became unemployed as a result of increased imports, return to suitable employment. The TAA Program provides for reemployment services and allowances for eligible individuals. The regulations in this Part 635 are issued to implement the Act.

§ 635.3 Definitions.

For the purposes of the Act and this Part 635:

(a) "Act" means Chapter 2 of Title II of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 1978, 2019-2030 (19 U.S.C. 2271-2322), as amended.

(b) "Adversely affected employment" means employment in a firm or appropriate subdivision of a firm if workers of such firm or appropriate subdivision are certified under the Act as eligible to apply for TAA.

(c) "Adversely affected worker" means an individual who, because of lack of work in adversely affected employment:

(1) Has been totally or partially separated from such employment; or

(2) Has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(d) "Appropriate week" means the week in which the individual's first separation occurred.

(e) "Average weekly hours" means a figure obtained by dividing:

(1) Total hours worked (excluding overtime) by a employment in the 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) preceding the individual's appropriate week by;

(2) The number of weeks in such 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) in which the individual actually worked in such employment.

(f) "Average weekly wage" means one-thirteenth of the total wages paid to an individual in the individual's high quarter. The high quarter for an individual is the quarter in which the total wages paid to the individual were highest among the first four of the last five completed calendar quarters preceding the individual's appropriate week.

(g) "Average weekly wage in adversely affected employment" means a figure obtained by dividing:

(1) Total wages earned by a partially separated individual in adversely affected employement in the 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) preceding the individual's appropriate week by;

(2) The number of weeks in such 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) in which the individual actually worked in such employment.

(h) "Benefit period" means, with respect to an individual:

(1) The benefit year and any ensuing period, as determined under the applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation; or

(2) The equivalent to such a benefit year or ensuing period provided for under the appplicable Federal unemployment insurance law.

(i) "Bona fide application for training" means an application for training filed on a form approved by the Secretary containing information which shall include the individual's name, petition number, local office number, type of training, and which is signed and dated by the individual applying for training and a State agency representative.

(j) "Certification" means a certification of eligibility to apply for TAA issued under the Act with respect to a group of workers.

(k) "commuting area" means the area in which an individual would be expected to travel to and from work on a daily basis as determined under the applicable State law.

(l) "Date of separation" means:

(1) With respect to a total separation—

(i) For an individual in employment status, the last day worked; and

(ii) For an individual on employer-authorized leave, the last day the individual would have worked had the individual been working; and

(2) With respect to a partial separation, the last day of the week in which the partial separation occurred.

(m) "Eligibility period" means, for purposes of paying TRA:

(1) *Basic weeks.* The 52-week period beginning with the first week following the week with respect to which the individual first exhausts all rights to regular compensation; and

(2) *Additional weeks.* The 26-week period immediately following the last week of entitlement to basic TRA, to assist an individual to complete training approved under Subpart C of this Part 635.

(n) "Employer" means any individual or type of organization, including the Federal government, a State goverment, a political subdivision, or an instrumentality of one or more governmental entities, which had one or more individuals performing service in employment for it within the United States.

(o) "Employment" means any service performed for an employer by an individual for wages or by an officer of a corporation.

(p) "Exhaustion of UI" means exhaustion of all rights to UI in a benefit period by reason of:

(1) Having received all UI to which an individual was entitled under the applicable State law or Federal unemployment insurance law with respect to such benefit period; or

(2) The expiration of such benefit period.

(q) "Family" means the following members of an individual's household whose principal place of abode is with the individual in a home the individual maintains or would maintain but for unemployment:

(1) A spouse;

(2) An unmarried child, including a stepchild, adopted child, or foster child, under age 21 or of any age if incapable of self-support because of mental or physical incapacity; and

(3) Any other person whom the individual would be entitled to claim as a dependent for income tax purposes under the Internal Revenue Code of 1954.

(r) "First benefit period" means, with respect to an individual, the benefit period established after the individual's first separation or in which such separation occurs.

(s) "First exhaustion of UI" means the first time in an individual's first benefit period that the individual exhausts all rights to UI, and such first exhaustion shall be deemed to be complete at the end of the week in which such exhaustion occurs.

(t) "First separation" means an individual's first total or partial separation from adversely affected employment on or most closely following the impact date of the certification under which the individual is covered, and which occurs before or within the individual's first benefit period.

(u) "Head of family" means an individual who maintains a home for a family. An individual maintains a home if over half the cost of maintenance is furnished by the individual or would be furnished but for unemployment.

(v) "Impact date" means the date stated in a certification issued under the Act on which total or partial separations began or threatened to begin in a firm or a subdivision of a firm.

(w) "Layoff" means a suspension of or separation from employment by a firm for lack of work, initiated by the employer, and expected to be for a definite or indefinite period of not less than 7 consecutive days.

(x) "Liable State" means the State against which an interstate claim is filed.

(y) "Partial separation" means that during a week ending on or after the impact date specified in the certification under which an adversely affected worker is covered, the individual had:

(1) Hours of work reduced to 80 percent or less of the individual's average weekly hours in adversely affected employment; and

(2) Wages reduced to 80 percent or less of the individual's average weekly wage in such adversely affected employment.

(z) "Regional Administrator" means the appropriate Regional Administrator of the Employment and Training Administration, United States Department of Labor (hereafter Department).

(aa) "Remuneration" means remuneration as defined in the applicable State law.

(bb) "Secretary" means the Secretary of Labor of the United States.

(cc) "Separate maintenance" means maintaining another (second) residence, in addition to the individual's regular place of residence, while attending a training facility outside the individual's commuting area.

(dd) "State" means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and the term "United States" when used in a geographical sense includes such Commonwealth.

(ee) "State agency" means the State Employment Security Agency of a State which administers the State law.

(ff) "State law" means the employment insurance law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

(gg) "Suitable work" means, with respect to an individual:

(1) Suitable work as defined in the applicable State law for claimants for regular compensation; or

(2) Suitable work as defined in the applicable State law provisions consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970; whichever is applicable, but does not in any case include self-employment or employment as an independent contractor.

(hh) "Total separation" means a layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(ii) "Trade adjustment assistance" means the services and allowances provided for achieving reemployment of adversely affected workers, including TRA, training and other reemployment services, and job search allowances and relocation allowances, and which is referred to as TAA.

(jj) "Trade readjustment allowance" means a weekly allowance payable to an adversely affected worker with respect to such worker's unemployment under Subpart B of this Part 635, and which is referred to as TRA.

(kk) "Unemployment insurance" means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85, title 5 of the United States Code, and the Railroad Unemployment Insurance Act, and which is referred to as UI. This term also includes "regular compensation," "additional compensation," and "extended compensation," defined as follows:

(1) "Regular compensation" means unemployment compensation payable to an individual under any State law, and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code, but does not include extended compensation or additional compensation;

(2) "Additional compensation" means unemployment compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code; and

(3) "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an Extended Benefit Period, under those provisions of a State law which satisify the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 and regulations with respect to the payment of extended unemployment compensation, and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code, but does not include regular compensation or additional compensation. Extended compensation is also referred to in this Part 635 as Extended Benefits or EB.

(ll) "Wages" means all compensation for employment for an employer, including commissions, bonuses, and the cash value of all compensation in a medium other than cash.

(mm) "Week" means a week as defined in the applicable State law.

(nn) "Week of unemployment" means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

Subpart B—Trade Readjustment Allowances (TRA)

§ 635.10 Applications for TRA.

(a) *Before and after certification.* An individual covered under a certification or a petition for certification may apply to a State agency for TRA. Determinations with respect to an application shall be made at any time to the extent necessary to establish or protect an individual's entitlement to TRA or other TAA, but no payment of TRA or other TAA may be made by a State agency until a certification is made and the State agency determines that the individual is covered thereunder.

(b) *Timing of applications.* An initial application for TRA may be filed at any time in order to establish individual entitlement, and may be filed late for good cause; for this purpose good cause includes, but is not limited to, an individual's lack of knowledge of a certification or misinformation supplied the individual by the State agency. However, an application for TRA for a continued claim week shall be filed in accordance with the filing requirements of the applicable State law unless good cause, as determined under the applicable State law, exists for the late filing.

(c) *Applicable procedures.* Applications shall be filed in accordance with instructions and on forms approved by the Secretary, which shall be furnished to the individual by the State agency. The procedures for reporting and filing applications for TRA shall be consistent with this Part 635 and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (*Employment Security Manual*, Part V, sections 5000 *et seq.*).

§ 635.11 Qualifying requirements for TRA.

(a) *Basic qualifying requirements for entitlement.* To qualify for TRA for any week of unemployment, an individual must meet each of the following requirements of paragraphs (a)(1) through (a)(6) of this section:

(1) *Certification.* The individual must be an adversely affected worker covered under a certification.

(2) *Separation.* The individual's first separation before application for TRA must occur:

(i) On or after the impact date;

(ii) Before the expiration of the two-year period beginning on the date of the certification; and

(iii) Before the termination date, if any, of the certification.

(3) *Wages and employment.* (i) In the 52-week period ending with the week of the individual's first separation, the individual must have had at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm. Evidence that an individual meets this requirement shall be obtained as provided in § 635.12. An individual may not combine employment and wages in adversely affected employment covered under more than one certification in order to qualify for TRA.

(ii) For purposes of this paragraph (a)(3), any week in which such individual:

(A) Is on employer-authorized leave from such adversely affected employment for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;

(B) Does not work in such adversely affected employment because of the disability that is compensable under a workers' compensation law or plan of a State or the United States; or

(C) Had employment in such adversely affected employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision; shall be treated as a week of employment at wages of $30 or more: *Provided*, That not more than the following number of weeks may be treated as such weeks of employment—

(*1*) 3 weeks if no weeks described in paragraph (a)(3)(ii)(B) of this section occurred during the 52-week period concerned; or

(*2*) 7 weeks if all are weeks described in paragraph (a)(3)(ii)(B) of this section; or

(*3*) 7 weeks in the case of weeks described in paragraphs (a)(3)(ii)(B) and (A) or (C) of this section, or both, except that not more than 3 of such weeks may be other than weeks described in paragraph (a)(3)(ii)(B) of this section.

(iii) Wages and employment creditable under paragraph (a)(3) of this section shall not include employment or wages earned or paid for employment:

(A) Which is contrary to or prohibited by any Federal law; or

(B) Which is not adversely affected employment.

(4) *Entitlement to UI.* The individual must have been entitled to (or would be entitled to if the individual applied therefor) UI for a week within the benefit period:

(i) In which the individual's first separation occurred; or

(ii) Which began (or would have begun) by reason of the filing of a claim for UI by the individual after such first separation.

(5) *Exhaustion of UI.* The individual must:

(i) Have exhausted all rights to any UI to which the individual was entitled (or would be entitled if the individual applied therefor); and

(ii) Not have an unexpired waiting period applicable to the individual for any such UI.

(6) *EB work test.* (i) The individual must:

(A) Accept any offer of suitable work, as defined in § 635.3(gg), and apply for any such suitable work to which the individual was referred by the State agency; and

(B) Actively engage in seeking work and furnish the State agency tangible evidence of such efforts each week; and

(C) Register for work and be referred by the State agency to work which is suitable work for the individual;

in accordance with the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(ii) The EB work test shall apply to an individual only with respect to weeks which begin after the date the individual files an initial application for TAA under any certification.

(b) *First week of eligibility.* The first week of eligibility for TRA shall be whichever of the following is the later:

(1) The first week beginning more than 60 days after the date of the filing of the petition which resulted in the certification under which the individual is covered; or

(2) The first week beginning after the individual's first exhaustion of UI (as provided in paragraph (a)(5) of this section) following the individual's first separation (as provided in paragraph (a)(2) of this section).

§ 635.12 Evidence of qualification.

(a) *State agency action.* When an individual applies for TRA, the State agency having jurisdiction under § 635.50(a) shall obtain information necessary to establish:

(1) Whether the individual meets the qualifying requirements in § 635.11;

(2) The individual's average weekly wage; and

(3) For an individual claiming to be partially separated, the average weekly

hours and average weekly wage in adversely affected employment.

(b) *Insufficient data.* If information specified in paragraph (a) of this section is not available from State agency records or from any employer, the State agency shall require the individual to submit a signed statement setting forth such information as may be required for the State agency to make the determinations required by paragraph (a) of this section.

(c) *Verification.* A statement made under paragraph (b) of this section shall be certified by the individual to be true to the best of the individual's knowledge and belief and shall be supported by evidence such as Forms W–2, paycheck stubs, union records, income tax returns, or statements of fellow workers, and shall be verified by the employer.

(d) *Determinations.* The State agency shall make the necessary determinations on the basis of information obtained pursuant to this section, except that if, after reviewing information obtained under paragraph (b) of this section against other available data, including agency records, it concludes that such information is not reasonably correct, it shall make appropriate adjustments and shall make the determination on the basis of the adjusted data.

§ 635.13 Weekly amounts of TRA.

(a) *Regular allowance.* The amount of TRA payable for a week of total unemployment (including a week of training approved under Subpart C of this Part 635 or under the provisions of the applicable State law) shall be an amount equal to the most recent weekly benefit amount of UI (including dependents' allowances) payable to the individual for a week of total unemployment preceding the individual's first exhaustion of UI following the individual's first separation: *Provided,* That in a State in which weeks of UI are paid in varying amounts related to wages with separate employers, the weekly amount of TRA shall be calculated as it would be to pay extended compensation: *Provided, further,* That where a State calculates a base amount of UI and calculates dependents' allowances on a weekly supplemental basis, TRA weekly benefit amounts shall be calculated in the same manner and under the same terms and conditions as apply to claimants for UI, except that the base amount shall not change.

(b) *Increased allowance.* An individual in training approved under Subpart C of this Part 635 entitled for any week to a training allowance under any Federal law for the training of workers in a greater amount than the amount provided in paragraph (a) of this section (whether or not the individual filed a claim for such training allowance) shall receive the greater amount as TRA, as provided in section 232(b) of the Act. A payment under this paragraph (b) shall be in lieu of any other training allowance to which the individual is entitled under Federal law for the training of workers.

(c) *Reduction of amount.* An amount of TRA payable under paragraph (a) or (b) of this section for any week shall be reduced (but not below zero) by:

(1) Income that is deductible from UI under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law;

(2) The amount of a training allowance (other than a training allowance referred to in paragraph (b) of this section) under any Federal law that the individual receives for such week, as provided in section 232(c) of the Act. This paragraph (c) shall apply to Veterans Education Assistance, Basic Educational Opportunity Grants, Supplemental Educational Opportunity Grants, and other training allowances under any Federal law other than for the training of workers and which are payable to the individual; and

(3) Any amount that would be deductible from UI for days of absence from training under the provisions of the applicable State law which apply to individuals in approved training.

§ 635.14 Maximum amount of TRA.

(a) *General rule.* Except as provided under paragraph (b) of this section, the maximum amount of TRA payable to an individual under a certification shall be the amount determined by:

(1) Multiplying by 52, the amount of TRA payable, as determined under § 635.13(a), to such individual for a week of total unemployment; and

(2) Subtracting from the product derived under paragraph (a)(1) of this section, the total sum of UI to which the individual was entitled (or would have been entitled if the individual had applied therefor) in the individual's first benefit period described in § 635.11(a)(4).

(b) *Exceptions.* The maximum amount of TRA payable to an individual under paragraph (a) of this section will not include:

(1) The amount of dependents' allowances paid as a supplement to the base weekly amount determined under § 635.13(a);

(2) The amount of the difference between the individual's weekly increased allowances determined under § 635.13(b) and the individual's weekly amount determined under § 635.13(a); and

(3) The amounts paid for additional weeks determined under § 635.15(b); but nothing in this paragraph (b) shall affect an individual's eligibility for such supplemental, increased or additional allowances.

(c) *Reduction for Federal training allowance.* If a training allowance under any Federal law is paid to an individual for any week of unemployment as to which the individual would be entitled, determined without regard to § 635.13(c)(2) or any disqualification under § 635.18(b)(2), to TRA, the amount of the training allowance paid for such week plus the amount of TRA otherwise payable, not to exceed an amount equal to the individual's regular weekly TRA, as determined under § 635.13(a), shall be deducted from the maximum amount of TRA payable under paragraph (a) of this section when the individual applies for and is determined to be entitled to TRA, as provided in section 232(c) of the Act.

§ 635.15 Duration of TRA.

(a) *Basic weeks.* An individual shall not be paid basic TRA for any week after the 52-week eligibility period beginning with the first week following the first week in the period covered by the certification with respect to which the individual has first exhausted (as determined under § 635.11(a)(5)) all rights to regular compensation.

(b) *Additional weeks.* (1) TRA payments may be paid for up to 26 additional weeks in the 26-week eligibility period following the last week of entitlement to basic TRA otherwise payable under this Part 635 to an individual, in order to assist the individual to complete training approved under Subpart C of this Part 635. However, TRA shall not be paid for a week under the provisions of this paragraph (b) unless the individual attends training during such week.

(2) To be eligible for TRA for additional weeks, an individual must make a bona fide application for such training:

(i) Within 210 days after the date of the first certification under which the individual is covered; or

(ii) If later, within 210 days after the date of the individual's first separation.

(3) No payment of TRA shall be made for any additional week unless the individual is actually engaged in training during the week and has not been determined under § 635.18(b)(2) to be failing to make satisfactory progress in the training.

(c) *Limit.* In no case may an individual receive TRA for any week which begins

after the 78-week period following the week with respect to which the individual has first exhausted (as determined under § 635.11(a)(5)) all rights to regular compensation.

§ 635.16 Applicable State law.

(a) *What law governs.* The applicable State law for purposes of this Subpart B is the State law under which the individual:

(1) Is currently entitled to UI (or would be entitled if the individual applied therefor); or

(2) Has most recently exhausted all rights to any UI to which the individual was entitled (or would be entitled if the individual applied therefor).

(b) *Change of Law.* (1) A State law determined under paragraph (a) of this section shall remain applicable to an individual unless the individual becomes entitled to UI (or would be entitled if the individual applied therefor) under another State law.

(2) If a State law ceases to apply to an individual, the applicable State law thereafter shall be the law of the State in which the individual became entitled to UI (or would be entitled if the individual applied therefor).

(c) *UCFE–UCX claimants.* If an individual is entitled to UI under chapter 85, title 5 of the United States Code, the applicable State law for purposes of paragraphs (a) and (b) of this section is the law of the State to which the individual's Federal service and wages were assigned or transferred under Part 609 or Part 614 of this chapter.

(d) *RRUI claimants.* If an individual is entitled to UI under the Railroad Unemployment Insurance Act, the applicable State law for purposes of paragraphs (a) and (b) of this section is the law of the State in which the individual's first separation occurs.

§ 635.17 Availability and active search for work.

An individual shall not be paid TRA for a week of unemployment in which the individual is not able to work or is unavailable for work under the applicable State law, or if the individual fails or refuses to make an active search for work or to apply for or accept work or to accept a referral to work under the applicable State law, including the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970. This section shall not apply to an individual with respect to a week in which the individual is undergoing training approved under the provisions of the applicable State law or under Subpart C of this Part 635, unless the individual is determined to be ineligible for such week under the applicable State law or § 635.18(b)(2).

§ 635.18 Disqualifications.

(a) *State law applies.* Except as stated in paragraph (b) of this section and § 635.55(b), an individual shall not be paid TRA for a week of unemployment for which the individual is or would be disqualified to receive UI under the disqualification provisions of the applicable State law, including the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(b) *Disqualification of trainees.* (1) A State law shall not be applied to disqualify an individual from receiving either UI or TRA because the individual:

(i) Is undergoing training approved under Subpart C of this Part 635; or

(ii) Refuses work to which the individual has been referred by the State agency if such work would require the individual to discontinue training or, if added to hours of training, would occupy the individual more than 8 hours a day or 40 hours a week, except that this paragraph (b)(1)(ii) does not apply to an individual who has been given notice of a determination of ineligibility under paragraph (b)(2) of this section unless and until the individual enters or resumes and makes satisfactory progress in such training; or

(iii) Quits work if the individual was employed in work which was not suitable employment, as described in §635.22(a)(1), and it reasonably was necessary for the individual to quit work to begin or continue training, except that this paragraph (b)(1)(iii) does not apply to an individual who has been given notice of a determination of ineligibility under paragraph (b)(2) of this section unless and until the individual enters or resumes and makes satisfactory progress in such training.

(2) An individual who, without good cause, refuses to accept or continue or fails to make satisfactory progress in training approved under Subpart C of this Part 635 shall not be entitled to basic or additional TRA, or any other payment under this Part 635, for the week of such occurrence and any week thereafter until the week in which the individual enters or resumes and makes satisfactory progress in such training. For purposes of this paragraph (b), good cause means such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to make satisfactory progress in or continue training.

Subpart C—Reemployment Services

§ 635.20 Responsibilities for the delivery of reemployment services.

(a) *State agency referral.* The State agency shall be responsible for referring adversely affected workers to the appropriate office for reemployment services when such individual:

(1) Expresses interest in any reemployment services while receiving UI; or

(2) Exhausts all rights to UI and becomes entitled to TRA.

(b) *State agency responsibilities.* State agency responsibilities under this Subpart C include, but are not limited to:

(1) Registering the adversely affected worker for work;

(2) Informing the adversely affected worker of the reemployment services and allowances available under the Act, the application procedures, and the filing date requirements for such reemployment services and allowances;

(3) Determining whether suitable employment, as described in § 635.22(a)(1), is available;

(4) Developing, reviewing, and updating, when necessary, a reemployment plan for the adversely affected worker;

(5) Providing counseling, testing, placement, and supportive services;

(6) Provising or procuring self-directed job search training;

(7) Provising out-of-area job search and relocation assistance;

(8) Making referrals to training;

(9) Locating, approving and procuring training;

(10) Monitoring the provisions of the approved training program;

(11) Determining which occupations and training institutions offer, in a cost effective manner, a reasonable expectation of employment following such training; and

(12) Documenting the standards and procedures used to select occupations and training institutions in which training is approved.

§ 635.21 Reemployment services and allowances.

Reemployment services and allowances under this Subpart C shall include, as appropriate, the following:

(a) *Employment registration.* To ensure, so far as practical, that individuals are placed in jobs which utilize their highest skills and that

applicants qualified for job openings are appropriately referred, applications for registration shall be taken on adversely affected workers who apply for reemployment services.

(b) *Employment counseling.* When local job opportunities are not readily available, counseling shall be used to assist individuals to gain a better understanding of themselves in relation to the labor market so that they can more realistically choose or change an occupation or make a suitable job adjustment.

(c) *Vocational testing.* Testing shall be used as a tool in helping individuals to determine which skills or potentials can be developed or to determine the appropriateness of future training.

(d) *Job development.* A State agency shall develop jobs for individuals by soliciting job interviews from public or private employers and shall work with potential employers to customize a particular job to meet an individual's needs which may involve job restructuring.

(e) *Supportive services.* Supportive services shall be provided to enable individuals to obtain or retain employment or to participate in employment and training programs leading to eventual placement in permanent employment. Such services may include work orientation, basic education, communication skills, and any other services necessary to prepare an individual for full employment in accordance with the individual's capabilities and employment opportunities.

(f) *On-the-job training (OJT).* OJT is training, in the public or private sector, and may be provided to an individual who meets the conditions for approval of training, as provided in § 635.22(a), and who has been hired by the employer, while the individual is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

(g) *Classroom training.* This training activity is any training of the type normally conducted in an institutional setting, including vocational education, and may be provided to individuals who meet the conditions for approval of training, as provided in § 635.22(a), to impart technical skills and information required to perform a specific job or group of jobs. Training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education of English-as-a-second-language, shall be considered as supportive services under paragraph (e) of this section.

(h) *Self-directed job search.* Self-directed job search programs shall be initiated to assist individuals in developing skills and techniques for finding a job. Such programs vary in design and operation and call for a carefully structured approach to individual needs. There are basic elements or activities which are common to all approaches. These include the following:

(1) *Job search workshop.* A short (1–3 days) seminar designed to provide participants with knowledge that will enable them to find jobs. Subjects are not limited to, but should include, labor market information, applicant resume writing, interviewing techniques, and finding job openings.

(2) *Job finding club.* Encompasses all elements of the Job Search Workshop plus a period (1–2 weeks) of structured, supervised application where participants attempt to obtain jobs.

(i) *Job search allowances.* The individual may be provided job search allowances under Subpart D of this Part 635 to defray the cost of seeking employment outside of the commuting area.

(j) *Relocation allowances.* The individual may be provided relocation allowances under Subpart E of this Part 635 to defray the cost of moving to a new job outside of the commuting area.

§ 635.22 Approval of training.

(a) *Conditions for approval.* Subject to the availability of funds allocated by the Department to the State to pay for the full costs of training, such training may be approved for an adversely affected worker if the State agency determines that:

(1) There is no suitable employment (which may include technical and professional employment) available for an individual. For purposes of this section, the term "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, and wages for such work at not less than 80 percent of the individual's average weekly wage;

(2) The individual would benefit from appropriate training;

(3) There is a reasonable expectation (not necessarily a prior guarantee) of employment following completion of training;

(4) Approved training is available to the individual from governmental agencies or private sources, which may include area vocational education schools (as defined in section 195(2) of the Vocational Education Act of 1963) and employers; and

(5) The individual is qualified to undertake and complete such training.

(b) *Time limits for commencing training.* An individual for whom training has been approved under paragraph (a) of this section must commence training within 60 days after the date of such approval, *except* that if the individual for good cause, as described in § 635.18(b), does not commence training within the 6-day period, such period may be extended up to a maximum of 120 days after the date of such approval.

(c) *Approval of training under State law.* Training approved by a State agency under State law is not considered to be approved training for the purposes of this Part 635. If the State agency subsequently determines that the individual and course of training meet the requirements of this Part 635 and training is approved, the State agency shall provide such training at no cost to the individual after such approval. Under no circumstances shall reimbursement be authorized for any costs incurred for any period prior to the approval of such training.

(d) *Applications.* Applications for, selection for, approval of, or referral to training shall be in accordance with instructions and on forms approved by the Secretary. Applications shall be furnished to an individual by the State agency.

(e) *Determinations.* Selection for, approval of, or referral of an individual to training under this Subpart C, or a decision with respect to any specific training or non-selection, non-approval, or non-referral for any reason shall be a determination to which §§ 635.50 and 635.51 apply.

(f) *Length of training and hours of attendance.* The State agency shall determine the appropriateness of the length of training and the hours of attendance as follows:

(1) The training shall be of suitable duration to achieve the desired skill level in the shortest possible time;

(2) No approved training program shall exceed 104 weeks; and

(3) The hours and days in a week of attendance shall be in accordance with procedures established by the State agency and with established hours and days commensurate with the course as determined by the training facility.

(g) *Training of reemployed workers.* Adversely affected workers who obtain new employment which is not suitable employment, as described in § 635.22(a)(1), and have been approved for training may elect to:

(1) Terminate their jobs; or

(2) Continue in full or part-time employment; in order to undertake such training, and shall not be subject to ineligibility or disqualification for UI or TRA as a result of such termination or reduction in employment.

(h) *Fees prohibited.* In no case shall an individual be approved for training under this Subpart C for which the individual is required to pay a fee or tuition.

§ 635.23 Selection of training methods and programs.

(a) *State agency responsibilities.* If suitable employment, as described in § 635.22(a)(1), is not otherwise available to an individual or group of individuals, it is the responsibility of the State agency to explore, identify, develop and secure training opportunities and to establish linkages with other public and private agencies, Private Industry councils, employers, and CETA prime sponsors, as appropriate, which will return adversely affected workers to employment as soon as possible.

(b) *Firm-specific retraining program.* To the extent practicable before referring an adversely affected worker to approved training, the State agency shall consult with the individual's adversely affected firm and certified or recognized union, or other authorized representative, for the purpose of developing a retraining program that meets the manpower needs of such firm and to preserve or restore the employment relationship between the individual and such firm. The fact that there is no need by other employers in the area to train individuals in a specific occupation shall not preclude the development of an individual retraining program for such occupation with the adversely affected firm.

(c) *Methods of training.* Adversely affected workers may be provided either one or a combination of the following methods of training:

(1) Insofar as possible, priority will be given to on-the-job training, which includes related education necessary to acquire skills needed for a position within a particular occupation, in the facilities of the firm or elsewhere pursuant to §§ 635.24, 635.25, and 635.26, including training for which the firm pays the costs. This is to ensure that on-the-job training does in fact provide the skills necessary for the individual to obtain employment in a particular occupation rather than a job on a particular site; and

(2) Institutional training, with priority given to providing the training in public area vocational education schools if it is determined that such schools are at least as effective and efficient as other institutional alternatives, pursuant to §§ 635.24, 635.25, and 635.26.

(d) *Standards and procedures.* The State agency shall document the standards and procedures used to select occupations and training institutions in which training is approved. Such occupations and training shall offer a reasonable expectation of employment following such training.

(1) *Standards.* The State agency shall approve training in occupations for which an identifiable demand exists either in the local labor market or in other labor markets for which relocation planning has been implemented. To the extent practicable, placement rates and employer reviews of curriculum shall be used as guides in the selection of training institutions.

(2) *Procedures.* In determining the types of training to be provided, the State agency shall consult with local employers, appropriate labor organizations, Job Service Improvement Program Committees, CETA prime sponsors, Private Industry Councils, local educational organizations, local apprenticeship programs, local advisory councils established under the Vocational Education Act of 1963, and post-secondary institutions.

(3) *Exclusions.* In determining suitable training the State agency shall exclude certain occupations, including, but not limited to, the following:

(i) Lack of employment opportunities as substantiated by job orders and other pertinent labor market data; or

(ii) Occupations which provide no reasonable expectation of permanent employment; or

(iii) Self-employment and occupations for which remuneration is wholly or primarily in the form of a commission.

§ 635.24 Preferred training.

When a State agency refers an adversely affected worker for training, the State agency shall attempt to obtain such training at no cost through:

(a) On-the-job training offered by an employer;

(b) Area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963;

(c) The Comprehensive Employment and Training Act, as amended, offered by a prime sponsor; or

(d) Any other applicable law, if preferred training under paragraph (a), (b) or (c) of this section cannot be provided within a reasonable period of time.

§ 635.25 Purchased Training.

If the State agency determines that placement of an adversely affected worker in preferred training under § 635.24 cannot be accomplished, the State agency shall attempt to make arrangements or enter into agreements to purchase training or provide for reimbursement of the cost of training through:

(a) On-the-job training offered by an employer;

(b) Area vocational education schools, as defined in section 195 (2) of the Vocational Education Act of 1963;

(c) The Comprehensive Employment and Training Act, as amended, offered by a prime sponsor; or

(d) Any other applicable law, if purchased training under paragraphs (a), (b) or (c) of this section cannot be provided within a reasonable period of time.

§ 635.26 Approval of other training, including interstate.

A State agency may approve and purchase for an adversely affected worker any other training, including on-the-job training or institutional vocational training, if:

(a) Circumstances preclude referral to training under § 635.24 or 635.25; and

(b) If institutional vocational training, the training has been approved by the State vocational education agency as meeting the standards of adequacy required by the applicable law; and

(c) The approval conditions in § 635.22 are met.

(d) The State agency performing as an agent State shall be responsible for selection and approval of training under §§ 635.22, 645.24 and 635.25. The agent State agency will pay any training related cost, including subsistence and transportation. The liable State agency is responsible for determining eligibility for FRA, and job search and relocation allowances. The agent State shall assist the individual in applying for such allowances.

§ 635.27 Subsistence payments.

(a) *Eligibility.* A trainee under this Subpart C may be afforded supplemental assistance necessary to pay costs of separate maintenance when the training facility is located outside the commuting area, but may not receive such supplemental assistance for any period for which the trainee receives such a payment under the Comprehensive Employment and Training Act, as amended, or any other law, or for any day referred to under § 635.28 (c) (3) pursuant to which a transportation allowance is payable to the individual, or to the extent the individual is entitled to be paid or reimbursed for such expenses from any other source.

(b) *Amount.* Subsistence payments shall not exceed the lesser of:

(1) The individual's actual per diem expenses for subsistence; or

(2) 50 percent of the prevailing per diem rate authorized under the Federal travel regulations for the locale of the training.

(c) *Applications.* Applications for payment of subsistence shall be in accordance with instructions and on forms approved by the Secretary and furnished to the trainee by a State agency. Such payments shall be made on completion of a week of training, except that at the beginning of a training project a State agency may advance a payment for a week if it determines that such advance is necessary to enable a trainee to accept training. An adjustment shall be made if the amount of an advance is less or more than the amount to which the trainee is entitled under paragraph (b) of this section. A determination as to an application made under this section shall be subject to §§ 635.50 and 635.51.

(d) *Unexcused absences.* No subsistence payment shall be made to an individual for any day of unexcused absence as certified by the responsible training facility.

§ 635.28 Transportation payments.

(a) *Eligibility.* A trainee under this Subpart C shall be afforded supplemental assistance necessary to pay transportation expenses if the training is outside the commuting area, but may not receive such assistance if transportation is arranged for the trainee as part of a group and paid for by the State agency or to the extent the trainee receives a payment of transportation expenses under another Federal law, or to the extent the individual is entitled to be paid or reimbursed for such expenses from any other source.

(b) *Amount.* A transportation allowance shall not exceed the lesser of:

(1) The actual cost for travel by the least expensive means of transportation reasonably available between the trainee's home and the training facility; or

(2) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations.

(c) *Travel included.* Travel for which a transportation allowance may be paid shall include travel:

(1) At the beginning and end of the training program;

(2) When the trainee fails for good cause, as described in § 635.18(b)(2), to complete the training program; and

(3) For daily commuting, in lieu of subsistence, but not exceeding the amount otherwise payable as subsistence for each day of commuting.

(d) *Applications.* Applications for transportation payments shall be made in accordance with instructions and on forms approved by the Secretary and furnished to the trainee by the State agency. Payments may be made in advance. An adjustment shall be made if the amount of an advance is less or more than the amount to which the trainee is entitled under paragraph (b) of this section. A determination as to an application made under this section shall be subject to §§ 635.50 and 635.51.

(e) *Unexcused absences.* No transportation payment shall be made to an individual for any day of unexcused absence as certified by the responsible training facility.

§ 635.29 Application of EB work test.

(a) *Registration for employment.* Adversely affected workers who have exhausted all rights to UI and who otherwise qualify for TRA under § 635.11, shall, except as provided in paragraph (b) of this section:

(1) Register for work and be referred to work by the State agency in the same manner as required for EB claimants under the applicable State law provisions which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) Be subject to the work test requirements to the same extent as EB claimants under the applicable State law provisions which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(b) *Exceptions.* Paragraph (a) of this section shall not apply to any week with respect to which an individual is training approved under this Subpart C.

Subpart D—Job Search Allowances

§ 635.30 General.

A job search allownace shall be granted an adversely affected worker to assist the individual in securing a job within the United States as provided in this Subpart D.

§ 635.31 Applications.

(a) *Forms.* An application for a job search allowance shall be made in accordance with instructions and on forms approved by the Seceretary, which shall be furnished to an individual by the State agency.

(b) *Submittal.* An application may be submitted to a State agency at any time by an individual who has been totally or partially separated regardless of whether a certification covering the individual has been made. However, an application must be submitted to a State agency before the job search begins in order for the job search allowance to be granted, and the job search may not be approved until after the individual is covered under a certification.

(c) *Time limits.* Notwithstanding paragraph (b) of this section, an application for a job search allowance may not be approved unless submitted before:

(1) The 365th day after the date of the certification under which the individual is covered, or the 365th day after the date of the individual's last total separation, whichever is later; or

(2) The 182nd day after the concluding date of training approved under Subpart C of this Part 635, or approved under the regulations superseded by this Part 635.

§ 635.32 Eligibility.

(a) *Conditions.* To be eligible for a job search allowance an individual must:

(1) File a timely application;

(2) Have been totally separated from adversely affected employment at the time the job search commences;

(3)(i) Be registered with the State agency which shall furnish the individual such reemployment services as are appropriate under Subpart C of this Part 635, and the State agency shall determine that the individual has no reasonable expectation of securing suitable employment in the commuting area, and has a reasonable expectation of obtaining suitable employment of long-term duration outside the commuting area and in the area where the job search will be conducted; and

(ii) For purposes of this section, the term "suitable employment" means suitable work as defined in § 635.3(gg)(1) or (2), whichever is applicable to individual; and

(4) Complete the job search within a reasonable period not exceeding 30 days after the day on which the job search began.

(b) *Completion of job search.* A job search is deemed completed when the individual either secures employment or has contacted each employer to whom referred by the State agency in connection with a job search.

(c) *Verification of employer contacts.* The State agency shall verify contacts with employers certified by the individual.

§ 635.33 Findings required.

Before final payment of a job search allowance may be approved, the following findings shall be made:

(a) The State agency having jurisdiction under § 635.50(a) must find

that the individual meets the requirements of § 635.32(a).

(b) The State agency of the State where the individual resides must find that:

(1) The application was submitted within the time limits stated in § 635.31(c);

(2) The individual meets the requirements of § 635.32(a)(3)(i), and such finding shall state the basis thereof; and

(3) The individual completed the job search within the time limits stated in § 635.32(a)(4).

§ 635.34 Amount.

(a) *Computation.* The amount of a job search allowance shall be 90 percent of the total costs of each of the following allowable transportation and subsistence items:

(1) *Travel.* The cost allowable for travel shall not exceed the lesser of:

(i) The actual cost of roundtrip travel by the most economical public transportation the individual reasonably can be expected to take from the individual's residence to the area of job search; or

(ii) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations for such roundtrip travel by the usual route from the individual's residence to the area of job search.

(2) *Lodging and meals.* The cost allowable for lodging and meals shall not exceed the lesser of:

(i) The actual cost to the individual of lodging and meals while engaged in the job search; or

(ii) 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations for the locality in which the job search is conducted.

(b) *Limit.* The total job search allowances paid to an individual under a certification may not exceed $600, regardless of the number of job searches undertaken by the individual. The amounts otherwise payable under paragraph (a) of this section shall be reduced by any amounts the individual is entitled to be paid or reimbursed for such expenses from any other source.

§ 635.35 Time and method of payment.

(a) *Determinations.* A State agency promptly shall make and record determinations necessary to assure entitlement of an individual to a job search allowance at any time, whether before or after a certification covering the individual is made. No job search allowance may be paid or advanced to an individual until the State agency determines that the individual is covered under a certification. If delay in payment occurs under the preceding sentence, a State agency shall make payment as promptly as possible upon determining that the individual is covered under a certification and is otherwise eligible.

(b) *Payment.* Unless paragraph (a) of this section applies, a job search allowance shall be paid promptly after an individual completes a job search and complies with paragraph (d) of this section.

(c) *Advances.* A State agency may advance an individual (except an individual not yet covered under a certification) 60 percent of the estimated amount of the job search allowance payable on completion of the job search, but not exceeding $360, within 5 days prior to commencement of a job search. Such advance shall be deducted from any payment under paragraph (b) of this section.

(d) *Worker evidence.* On completion of a job search, the individual shall certify on forms furnished by the State agency as to employer contacts made and amounts expended daily for lodging and meals. Receipts shall be required for all lodging and purchased transportation expenses incurred by the individual pursuant to the job search. An adjustment shall be made if the amount of an advance is less or more than the amount to which the individual is entitled under § 635.34.

Subpart E—Relocation Allowances

§ 635.40 General.

A relocation allowance shall be granted an adversely affected worker to assist the individual and the individual's family, if any, to relocate within the United States as stated in this Subpart E. A relocation allowance shall not be granted an individual more than once under a certification. A relocation allowance shall not be granted to more than one member of a family with respect to the same relocation. If applications for a relocation allowance are made by more than one member of a family as to the same relocation, the allowance shall be paid to the head of the family if otherwise eligible.

§ 635.41 Applications.

(a) *Forms.* An application for a relocation allowance shall be made in accordance with instructions and on forms approved by the Secretary which shall be furnished to an individual by the State agency.

(b) *Submittal.* An application may be submitted to the State agency at any time by an individual who has been totally or partially separated regardless of whether a certification covering the individual has been made. However, an application must be submitted to a State agency before the relocation begins in order for the relocation allowance to be granted, and the relocation may not be approved until after the individual is covered under a certification.

(c) *Time limits.* Notwithstanding paragraph (b) of this section, an application for a relocation allowance may not be approved unless submitted before:

(1) The 425th day after the date of the certification under which the individual is covered, or the 425th day after the date of the individual's last total separation, whichever is later; or

(2) The 182nd day after the concluding date or training approved under Subpart C of this Part 635, or approved under the regulations superseded by this Part 635.

§ 635.42 Eligibility.

(a) *Conditions.* To be eligible for a relocation allowance an individual must:

(1) File a timely application;

(2) Have been totally separated from adversely affected employment at the time relocation commences;

(3) Have not previously received a relocation allowance under the same certification;

(4) Relocate within the United States and outside the individual's present commuting area;

(5)(i) Be registered with the State agency which shall furnish the individual such reemployment services as are appropriate under Subpart C of this Part 635, and the State agency shall determine that the individual has no reasonable expectation of securing suitable employment in the commuting area, and has obtained suitable employment affording a reasonable expectation of employment of long-term duration, or a bona fide offer of such suitable employment, outside the commuting area and in the area of intended relocation; and

(ii) For purposes of this section, the term "suitable employment" means suitable work as defined in § 635.3(gg) (1) or (2), whichever is applicable to the individual; and

(6) Relocate within a reasonable period, as determined under § 635.43(b), and complete such relocation within a reasonable period of time as determined in accordance with Federal travel regulations and § 635.43(a).

(b) *Job search.* Applications for a relocation allowance and a job search allowance may not be approved concurrently, but the prior payment of a job search allowance shall not

otherwise preclude the payment of a relocation allowance.

§ 635.43 Time of relocation.

(a) *Applicable considerations.* In determining whether an individual's relocation is completed in a reasonable period of time, a State agency, among other factors, shall consider whether:

(1) Suitable housing is available in the area of relocation;

(2) The individual can dispose of the individual's residence;

(3) The individual or a family member is ill; and

(4) A member of the individual's family is attending school and when the member can best be transferred to a school in the area of relocation.

(b) *Time limits.* The reasonable period for actually beginning a relocation move under § 635.42(a)(6) shall expire 182 days after the date of application for a relocation allowance, or 182 days after the conclusion of training approved under Subpart C of this Part 635, or approved under the regulations superseded by thie Part 635.

§ 635.44 Findings required.

The following findings shall be made before final payment of a relocation allowance may be approved:

(a) *Intrastate relocations.* If the area of relocation is in the State where the individual resides, the State agency of that State must make all determinations under this Subpart E.

(b) *Interstate relocations.* If the area of relocation is not in the State where the individual resides:

(1) The State agency of the State where the individual resides must make the determinations under this Subpart E, except as provided in paragraph (b)(2) of this section; and

(2) The State agency of the State of intended relocation must make the determination that the individual has obtained suitable employment affording a reasonable expectation of employment of long-term duration, or a bona fide offer of such suitable employment, in the area of intended relocation, in accordance with § 635.42(a)(5)(i).

§ 635.45 Amount.

(a) *Items allowable.* The amount payable as a relocation allowance shall include the following items:

(1) 90 percent of the travel expenses for the individual and family, if any, from the individual's place of residence to the area of relocation, as determined under § 635.46;

(2) 90 percent of the expense of moving household goods and personal effects of the individual and family, if any, not to exceed 11,000 pounds net weight for an individual with a family, and 5,000 pounds net weight for an individual without a family, between such locations, as determined under § 635.47; and

(3) A lump sum payment, equal to 3 times the individual's average weekly wage, not to exceed $600.

(b) *Reduction.* The amount otherwise payable under paragraphs (a)(1) and (a)(2) of this section shall be reduced by any amount the individual is entitled to be paid or reimbursed for such expenses from any other source.

§ 635.46 Travel allowance.

(a) *Computation.* The amount of travel allowance (including lodging and meals) payable under § 635.45(a)(1) shall be 90 percent of the total costs of each of the following allowable transportation and subsistence items:

(1) *Transportation.* The cost allowable for transportation shall not exceed the lesser of:

(i) The actual cost of transportation for the individual and family, if any, by the most economical public transportation the individual and family reasonably can be expected to take from the individual's old residence to the individual's new residence in the area of relocation; or

(ii) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations for the usually traveled route from the individual's old residence to the individual's new residence in the area of relocation. No additional mileage shall be payable for family members traveling on the same trip in the same vehicle.

(2) *Lodging and meals.* The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the lesser of:

(i) The actual cost to the individual for lodging and meals while in travel status; or

(ii) 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations for the locality to which the relocation is made.

(b) *Separate travel.* If, for good cause, a member or members of an individual's family must travel separately to the individual's new residence, 90 percent of the total costs of such separate travel, computed in accordance with paragraph (a) of this section, shall be included in calculating the total amount the individual is entitled to be paid under this Subpart E. For purposes of this paragraph (b), good cause means such reasons as would justify the family member's inability to relocate with the other members of the individual's family, including but not limited to reasons related to the family member's health, schooling or economic circumstances.

(c) *Limitation.* In no case may the individual be paid a travel allowance for the individual or a member of the individual's family more than once in connection with a single relocation.

§ 635.47 Moving allowance.

(a) *Computation.* The amount of a moving allowance payable under § 635.45(a)(2) shall be 90 percent of the total of the allowable costs under (1), (2), or (3), and 90 percent of the total allowable costs under (4):

(1) *Commercial carrier.* Allowable costs for moving household goods and personal effects of an individual and family, if any, shall not exceed 11,000 pounds net weight for an individual with a family, and 5,000 pounds net weight for an individual without a family, by commercial carrier from the individual's old residence to the individual's new residence in the area of relocation, including reasonable and necessary accessorial charges, by the most economical commercial carrier the individual reasonably can be expected to use. Before undertaking such move, the individual must submit to the State agency an estimate from a commercial carrier as to the cost thereof. Accessorial charges shall include the cost of insuring such goods and effects for their actual value or $10,000, whichever is least, against loss or damage in transit, if a bid from a licensed insurer is obtained by the individual and approved by the State agency before departure. If a State agency finds it is more economical to pay a carrier an extra charge to assume the responsibility of a common carrier for such goods and effects, 90 percent of such extra charge, but not exceeding $50, shall be paid in lieu of the cost of insurance.

(2) *Trailer or rental truck.* (i) *Trailer.* If household goods and personal effects are moved by trailer, the allowable costs shall be:

(A) If the trailer is hauled by private vehicle, the cost per mile for the use of the private vehicle at the prevailing mileage rate authorized under the Federal travel regulations for the usually traveled route from the individual's old residence to the individual's new residence in the area of relocation; and

(B) If the trailer is rented, and of the type customarily used for moving household goods and personal effects, the rental fee for each day reasonably required to complete the move; or

(C) The actual charge if hauling is by commercial carrier.

(ii) *Rental truck.* If household goods and personal effects are moved by rental truck of the type customarily used for moving household goods and personal effects, the allowable costs shall be:

(A) The rental fee for each day reasonably required to complete the move; and

(B) The necessary fuel for such rental truck which is paid by the individual.

(3) *House trailer.* If a house trailer or mobile home was used as the individual's place of residence in the old area and will be so used in the new area, the allowable costs of moving such house trailer or mobile home shall be:

(i) The commercial carrier's charges for moving the house trailer or mobile home;

(ii) Charges for unblocking and reblocking;

(iii) Ferry charges, bridge, road, and tunnel tolls, taxes, fees fixed by a State or local authority for permits to transport the unit in or through its jurisdiction, and retention of necessary flagmen;

(iv) The cost of insuring the house trailer or mobile home, and the personal effects of the individual and family, against loss or damage in transit, in accordance with the provisions in paragraph (a)(1) of this section; and

(v) The cost of disconnecting and connecting utilities limited to normal hookup of gas, electricity and water.

(4) *Temporary storage.* If temporary storage of household goods and personal effects is necessary, the cost of such temporary storage for a period not to exceed 60 days.

(b) *Travel.* Payments under this section shall be in addition to payments for travel expenses for the individual and family, if any, under § 635.45(a)(1), except that the allowable cost for a private vehicle used to haul a trailer may not be paid under this section if any cost with respect to such private vehicle is payable under any other provision of this Subpart E.

§ 635.48 Time and method of payment.

(a) *Determinations.* A State agency promptly shall make and record determinations necessary to assure an individual's entitlement to a relocation allowance at any time, whether before or after a certification covering the individual is made. No relocation allowance may be paid or advanced to an individual until the State agency determines that the individual is covered under a certification. If delay in payment occurs under the preceding sentence, a State agency shall make payment as promptly as possible upon determining that the individual is covered under a certification and is otherwise eligible.

(b) *Travel and moving allowances.* Allowances computed under §§ 635.46 and 635.47 shall be paid as follows:

(1) *Travel.* (i) *Transportation and subsistence.* The amounts estimated under § 635.46 at 90 percent of the lowest allowable costs shall be paid in advance at the time an individual departs from the individual's residence to begin relocation or within 10 days prior thereto. An amount payable for a family member approved for separate travel shall be paid to the individual at the time of such family member's departure or within 10 days prior thereto.

(ii) *Worker evidence.* On completion of a relocation, the individual shall certify on forms furnished by the State agency as to the amount expended daily for lodging and meals. Receipts shall be required for all lodging and purchased transportation expenses incurred by the individual and family, if any, pursuant to the relocation. An adjustment shall be made if the amount of an advance is less or more than the amount to which the individual is entitled under § 635.46.

(2) *Moving.* The amount estimated under § 635.47 at 90 percent of the lowest allowable costs shall be paid:

(i) *Commercial carrier.* (A) If household goods and personal effects are moved by commercial carrier, 90 percent of the amount of the estimate submitted by the individual under § 635.47(a)(1) and approved by the State agency for covering the cost of such move, and 90 percent of the other charges approved by the State agency under § 635.47(a)(1), shall be advanced by check or checks payable to the carrier and insurer, and delivered to the individual at the time of the scheduled shipment or within 10 days prior thereto. On completion of the move, the individual shall promptly submit to the State agency a copy of the bill of lading prepared by the carrier, including a receipt evidencing payment of moving costs. The individual shall with such submittal reimburse the State agency the amount, if any, by which the advance made under this paragraph (b)(2)(i) exceeds 90 percent of the actual moving costs approved by the State agency. The individual shall be paid the difference if the amount advanced was less than 90 percent of the actual moving costs approved by the State agency.

(B) If more economical, a State agency may make direct arrangements for moving and insuring an individual's household goods and personal effects with a carrier and insurer selected by the individual and may make payment of 90 percent of moving and insurance costs directly to the carrier and insurer. No such arrangement shall release a carrier from liability otherwise provided by law or contract for loss or damage to the individual's goods and effects, but the United States shall not be or become liable to either party under any circumstances.

(ii) *Trailer or rental truck.* (A) *Private vehicle with trailer.* If the move is by private vehicle and trailer, the allowable cost for the use of the private vehicle shall be made at the time payment is made under paragraph (b)(1) of this section.

(B) *Rental trailer or rental truck.* If the move is by rental trailer or rental truck:

(*1*) The individual shall submit an estimate of the rental cost from the rental agency; and

(*2*) 90 percent of such estimated rental cost may be advanced by check payable to the order of the individual and the rental agency at the time payment is made under paragraph (b)(1) of this section; and

(*3*) On completion of the move the individual shall submit promptly to the State agency a receipted bill itemizing and evidencing payment of the rental charges for the trailer or truck and fuel costs, and shall reimburse the State agency for the amount, if any, by which the advance made for the trailer or truck exceeds 90 percent of the rental charges approved by the State agency. If the amount of the advance was less than 90 percent of the rental charges, the individual shall be paid the difference.

(iii) *House trailer.* If a house trailer or mobile home is moved by commercial carrier, the individual shall submit to the State agency an estimate of the cost of the move by the commercial carrier. A check for 90 percent of the amount of the estimate, if approved, payable to the individual and the carrier, may be delivered to the individual at the time of the scheduled move or within 10 days prior thereto.

(c) *Lump sum allowance.* The lump sum allowance provided in § 635.45(a)(3) shall be paid when arrangements are completed for relocation of the individual and family, if any, but not more than 10 days before the anticipated date of shipment of the individual's household goods and personal effects.

(d) *Relocation completed.* A relocation is completed when an individual and family, if any, and their household goods and personal effects arrive at the individual's residence in the area of relocation. If no household goods and personal effects are moved, a relocation is completed when the individual and family, if any, arrive in

the area of relocation and establish a residence in the new area. The later arrival of a family member approved for separate travel shall not alter the date a relocation was completed.

Subpart F—Administration by Applicable State Agencies

§ 635.50 Determinations of entitlement; notices to individual.

(a) *Determinations of initial applications for TRA or other TAA.* The State agency whose State law is the applicable State law under § 635.16, or the State agency as provided in § 635.26(d), shall promptly upon the filing of an initial application for TRA or other TAA, determine the individual's entitlement to such TRA, or other TAA under this Part 635, and may accept for such purpose information and findings supplied by another State agency under this Part 635.

(b) *Determinations of subsequent applications for TRA or other TAA.* The State agency promptly shall, upon the filing of an application for payment of TRA or subsistence and transportation under §§ 635.27 and 635.28, with respect to a week, determine whether the individual is eligible for a payment of TRA, or subsistence and transportation, with respect to such week, and, if eligible, the amount of TRA, or subsistence and transportation, for which the individual is eligible. In addition, the State agency promptly shall, upon the filing of a subsequent application for job search allowances (where the total of previous job search allowances paid the individual was less than $600), determine whether the individual is eligible for job search allowances, and, if eligible, the amount of job search allowances for which the individual is eligible.

(c) *Redeterminations.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to a claim for UI under the applicable State law shall apply to determinations pertaining to all forms of TAA under this Part 635.

(d) *Use of State law.* In making determinations or redeterminations under this section, or in reviewing such determinations or redeterminations under § 635.51, a State agency, a hearing officer, or a court shall apply the regulations in this Part 635 and the substantive provisions of the Act. As to matters committed by the Act and this Part 635 to the applicable State law, a State agency, a hearing officer, or a court shall apply the applicable State law and regulations thereunder, including procedural requirements of such State law or regulations, except so far as such State law or regulations are inconsistent with the Act or this Part 635 or the purpose of the Act or this Part 635.

(e) *Notices to individual.* The State agency shall notify the individual in writing of any determination or redetermination as to entitlement to TAA. Each determination or redetermination shall inform the individual of the reason for the determination or redetermination and of the right to reconsideration or appeal in the same manner as determinations of entitlement to UI are subject to redetermination or apppeal under the applicable State law.

(f) *Promptness.* Full payment of TAA when due shall be made with the greatest promptness that is administratively feasible.

(g) *Procedure.* Except where otherwise required by the Act or this Part 635, the procedures for making and furnishing determinations and written notices of determinations to individuals, shall be consistent with the Secretary's "Standard for Claim Determinations-Separation Information" (*Employment Security Manual*, Part V, sections 6010 *et seq.*)

§ 635.51 Appeals and hearings.

(a) *Applicable State law.* A determination or redetermination under this Part 635 shall be subject to review in the same manner and to the same extent as determinations and redeterminations under the applicable State law, and only in that manner and to that extent. Proceedings for review of a determination or redetermination may be consolidated or joined with proceedings for review of a determination or redetermination under the State law where convenient or necessary. Procedures as to the right of appeal and opportunity for fair hearing shall be consistent with sections 303(a)(1) and (3) of the Social Security Act (42 U.S.C. 503(a)(1) and (3)).

(b) *Appeals promptness.* Appeals under paragraph (a) of this section shall be decided with a degree of promptness meeting the Secretary's "Standard on Appeals Promptness-Unemployment Compensation" (Part 650 of this chapter). Any provisions of the applicable State law for advancement or priority of UI cases on judicial calendars, or otherwise intended to provide for prompt payment of UI when due, shall apply to proceedings involving entitlement to TAA under this Part 635.

§ 635.52 Uniform interpretation and application.

(a) *First rule of construction.* The Act and the implementing regulations in this Part 635 shall be construed liberally so as to carry out the purpose of the Act.

(b) *Second rule of construction.* The Act and the implementing regulations in this Part 635 shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act and this Part 635 throughout the United States.

(c) *Effectuating purpose and rules of construction.* (1) In order to effectuate the purpose of the Act and this Part 635 and to assure uniform interpretation and application of the Act and this Part 635 throughout the United States, a State agency shall forward, not later than 10 days after issuance, to the Department a copy of any judicial or administrative decision ruling on an individual's entitlement to TAA under this Part 635. On request of the Department, a State agency shalll agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to TAA under this Part 635.

(2) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this Part 635, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this Part 635, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies TAA to an individual, the steps outlined in paragraph (c)(2) of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards TAA to an individual, the benefits are "due" within

the meaning of section 303(a)(1) of the Social Security Act, 42 U.S.C. § 503(a)(1), and therefore must be paid promptly to the individual. However, the State agency shall take the steps outlined in paragraph (c)(2) of this section, and payments to the individual may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the individual; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of TAA and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding TAA or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

(4)(i) If any determination, redetermination, or decision, referred to in paragraph (c)(2) or paragraph (c)(3) of this section, is treated as a precedent for any future application for TAA, the Secretary will decide whether the Agreement with the State entered into under the Act and this Part 635 shall be terminated and § 635.59(f) applied.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this Part 635, including any determination, redetermination, or decision referred to in paragraph (c)(1) or paragraph (c)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and § 635.59(f) applied and whether other action shall be taken to recover such sums for the United States.

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (c)(2) or paragraph (c)(3) of this section, and shall be given an opportunity to present views and arguments if desired.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

§ 635.53 Subpoenas.

A State agency may issue subpoenas for attendance of witnesses and production of records on the same terms and conditions as under the State law. Compliance may be enforced on the same terms and conditions as under the State law, or if a State court declines to enforce a subpoena issued under this section, the State agency may petition for an order requiring compliance with such subpoena to the United States District Court within the jurisdiction of which the relevant proceeding under this Part 635 is conducted.

§ 635.54 State agency rulemaking.

A State agency may establish supplemental procedures not inconsistent with the Act or this Part 635 or procedures prescribed by the Department to further effective administration of this Part 635. The exact text of such supplemental procedure or procedures, certified as accurate by a responsible official, employee, or counsel of the State agency, shall be submitted to the Department, on a form supplied by the Department. No supplemental procedure shall be effective unless and until approved by the Department. Approval may be granted on a temporary basis, not to exceed 90 days, in cases of administrative necessity. On reasonable notice to a State agency, approval of a supplemental procedure may be withdrawn at any time. If public notice and opportunity for hearing would be required under a State law for adoption of a similar or analogous procedure involving UI, such public notice and opportunity for hearing shall be afforded by the State agency as to the supplemental procedure.

§ 635.55 Overpayments; penalties for fraud.

(a) *Determination and repayment.* (1) If a State agency or a court of competent jurisdiction determines that any individual has received any payment under the Act and this Part 635 to which the individual was not entitled, including a payment referred to in paragraph (b) or paragraph (c) of this section, such individual shall be liable to repay such amount to the State agency, and the State agency shall recover any such overpayment in accordance with the provisions of this Part 635; except that the State agency may waive the recovery of any such overpayment if the State agency determines, in accordance with the guidelines prescribed in paragraph (a)(2) of this section, that:

(i) The payment was made without fault on the part of such individual; and

(ii) Requiring such repayment would be contrary to equity and good conscience.

(2)(i)(A) In determining whether fault exists for the purposes of paragraph (a)(1)(i) of this section, the following factors shall be considered:

(*1*) Whether a statement or representation of a material nature was made by the individual in connection with the application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

(*2*) Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.

(*3*) Whether the individual knew or could have been expected to know that the individual was not entitled to the TAA payment.

(*4*) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any action or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(*5*) Whether there has been a determination of fraud under paragraph (b) of this section or section 243 of the Act.

(B) In the event of an affirmative finding on any of the foregoing factors, recovery of the overpayment shall not be waived.

(ii)(A) In determining whether equity and good conscience exists for purposes of paragraph (a)(1)(ii) of this section, the following factors shall be considered:

(*1*) Whether the overpayment was the result of a decision on appeal, whether the State agency had given notice to the individual that the case has been appealed further and that the individual may be required to repay the overpayment in the event of a reversal of the appeal decision, and whether recovery of the overpayment will not cause extraordinary and lasting financial hardship to the individual.

(*2*) Whether recovery of the overpayment will not cause extraordinary financial hardship to the individual, and there has been no affirmative finding under paragraph (a)(2)(ii)(A) of this section with respect to such individual and such overpayment.

(B) In the event of an affirmative finding on either of the foregoing factors, recovery of the overpayment shall not be waived. For this purpose, an extraordinary financial hardship shall exist if recovery of the overpayment would result directly in the individual's loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial period of time; and an extraordinary and lasting financial hardship shall be extraordinary as described above and may be expected to endure for the foreseeable future.

(C) In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 30 days, and the foreseeable future shall be at least three months. In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future shall be the longest potential period of benefit entitlement as seen at the time of the request for a waiver determination. In making financial hardship determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available or potentially available to the individual and the individual's family in the time period being considered.

(3) Determinations granting or denying waivers of overpayments shall be made only on request for a waiver determination. Such request shall be made on a form approved by the Secretary, which shall be furnished to the individual by the State agency. Notices of determination of overpayments shall include information concerning the waiver provisions of this section.

(4)(1) Unless an overpayment is otherwise recovered, or is waived under paragraph (a) of this section, the State agency shall recover the overpayment by deductions from any sums payable to such individual under:

(A) The Act and this Part 635;

(B) Any Federal unemployment compensation law administered by the State agency; or

(C) Any other Federal law administered by the State agency which provides for the payment of assistance or an allowance with respect to unemployment.

(ii) No single deduction under this paragraph (a)(4) shall exceed 50 percent of the amount otherwise payable to the individual, and when a deduction is made it shall be 50 percent of the amount actually payable.

(b) *Fraud.* If a State agency or a court of competent jurisdiction finds that an individual:

(1) Knowingly has made, or caused another to make, a false statement or representation of a material fact; or

(2) Knowingly has failed, or caused another to fail, to disclose a material fact; and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under the Act and this Part 635 to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under the Act and this Part 635.

(c) *Job search and relocation allowances.* (1) If an individual fails, with good cause, to complete a job search or relocation, any payment or portion of a payment made under the Act and Subpart D or Subpart E of this Part 635 to such individual, that is not properly and necessarily expended in attempting to complete such job search or relocation, shall constitute an overpayment.

(2) If an individual fails, without good cause, to complete a job search or relocation, any payment made under the Act and Subpart D or Subpart E of this Part 635 to such individual shall constitute an overpayment.

(3) Such overpayments shall be recovered or waived as provided in paragraph (a) of this section.

(d) *Final determination.* Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under paragraph (a) of this section by the State agency has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

(e) *Deposit.* Any amount repaid to a State agency under this section shall be deposited ino the fund from which payment was made.

(f) *Procedural requirements.* (1) The provisions of paragraphs (c), (e), and (g) of § 635.50 shall apply to determinations and redeterminations made pursuant to this section.

(2) *The provisions of § 635.51 shall apply to determinations and redeterminations made pursuant to this section.*

(g) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of TAA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to State unemployment compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual,* Part V, sections 7510 *et seq.*).

(h) *Debts due the United States.* Notwithstanding any provision of this Part 635, TAA payable to an individual under the Act and this Part 635 shall be applied by the State agency for the recovery by offset of any debt due the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person except as provided in paragraph (i) of this section.

(i) *Child support and alimony.* TRA payable to an individual shall be payable to someone other than the individual if required by State law and Federal law to satisfy the individual's obligations for child support or alimony.

§ 635.56 Inviolate rights to TAA.

Except as specifically provided in this Part 635, the rights of individuals to TAA shall be protected in the same manner and to the same extent as the rights of persons to UI are protected under the applicable State law. Such measures shall include protection of applicants for TAA from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to TAA, except as provided in § 635.55. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to TAA.

§ 635.57 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination and audit by such Federal officials as the Secretary may designate or as may be required by law.

(b) *Disclosure of Information.* Information in records maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to UI and the entitlement of individuals thereto may be disclosed under the applicable State law. Such information shall not, however, be

disclosed to an employer or any other person except to the extent necessary to obtain information from the employer or other person for the purposes of this Part 635. This provision on the confidentiality of information maintained in the administration of the Act shall not apply, however, to the Department or for the purposes of § 635.55 or paragraph (a) of this section, or in the case of information, reports and studies required pursuant to § 635.61, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. § 552), the Privacy Act of 1974 (5 U.S.C. § 552a), or regulations of the Department promulgated thereunder.

§ 635.58 UI.

UI payable to an adversely affected worker shall not be denied or reduced for any week by reason of any right to a payment of TAA under the Act and this Part 635.

§ 635.59 Agreements with State agencies.

(a) *Authority.* Before performing any function or exercising any jurisdiction under the Act and this Part 635, a State or a State agency shall execute an Agreement with the Secretary meeting the requirements of the Act.

(b) *Execution.* An Agreement under paragraph (a) of this section shall be signed on behalf of a State by an authorized official of the State and the signature shall be dated. The authority of the official shall be certified by the Attorney General of the State or counsel for the State agency, unless the Agreement is signed by the Governor of the State. An Agreement will be executed on behalf of the United States by the Secretary.

(c) *Public access to Agreements.* The State agency will make available to any individual or organization a true copy of the Agreement with the agency for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

(d) *Amended Agreement.* A State or State agency shall execute an amended Agreement with the Secretary prior to administering any amendments to the TAA provisions of the Trade Act of 1974.

(e) *Agent of United States.* In making determinations, redeterminations, and in connection with proceedings for review thereof, a State or State agency which has executed an Agreement as provided in this section shall be an agent of the United States and shall carry out fully the purposes of the Act and this Part 635.

(f) *Breach.* If the Secretary finds that a State or State agency has not fulfilled its commitments under its Agreement under this section, section 3302(c)(3) of the Internal Revenue Code of 1954 shall apply. A State or State agency shall receive reasonable notice and opportunity for hearing before a finding is made under section 3302(c)(3) whether there has been a failure to fulfill the commitments under the Agreement.

(g) *Secretary's review of State agency compliance.* The appropriate Regional Administrator shall be initially responsible for the periodic monitoring and reviewing of State and State agency compliance with the Agreement entered into under this section.

635.60 Administration absent State agreement.

In any State in which no Agreement under § 635.59 is in force, the Secretary shall administer the Act and this Part 635 and pay TAA hereunder through appropriate arrangements made by the Department, and for this purpose the Secretary or the Department shall be substituted for the State agency wherever appropriate in this Part 635. Such arrangements shall include the requirement that TAA be administered in accordance with the Act and this Part 635, and the provisions of the appropriate State law except to the extent that such State law is inconsistent with any provision of the Act or this Part 635 or section 303 of the Social Security Act (42 U.S.C. 503) or section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), and shall also include provision for a fair hearing for any individual whose application for TAA is denied. A final determination under this section as to entitlement to TAA shall be subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. § 405(g)).

§ 635.61 Information, reports, and studies.

A State agency shall furnish to the Secretary such information and reports and conduct such studies as the Secretary determines are necessasry or appropriate for carrying out the purposes of the Act and this Part 635.

§ 635.62 Transitional procedures.

The procedures for administering the Trade Act of 1974 before and after the amendments made by the Omnibus Budget Reconciliation Act of 1981 are as follows:

(a) *TRA.* The provisions contained in Subpart B of this Part 635 shall apply with respect to the qualifying requirements for TRA to adversely affected workers who are separated on or after October 1, 1981, and were not entitled to receive TRA for any week of unemployment beginning before October 1, 1981. In addition, such provisions shall apply with respect to TRA payable for weeks of unemployment which begin after September 30, 1981, to adversely affected workers who were separated before October 1, 1981. Any adversely affected worker who is receiving or is entitled to receive TRA for any week of unemployment beginning before October 1, 1981, shall be entitled to receive TRA as follows:

(1) *Weeks before October 1, 1981.* With respect to weeks of unemployment beginning before October 1, 1981, eligibility for TRA shall be determined in accordance with the provisions of the law and regulations in effect before the amendments made by the Omnibus Budget Reconciliation Act of 1981.

(2) *Weeks after September 30, 1981.* (i) *Basic weeks (UI exhaustion).* With respect to any week of unemployment beginning after September 30, 1981, for an individual who has exhausted all rights to UI prior to such week, eligibility for TRA shall be determined under Subpart B of this Part 635, except that the maximum amount of basic TRA payable to the individual for any such week of unemployment shall be an amount equal to the product of the amount of TRA payable to the individual for a week of total unemployment (as determined under § 635.13(a)) multiplied by a factor determined by subtracting from fifty-two the sum of:

(A) The number of weeks preceding the first week which begins after September 30, 1981, including all weeks in the individual's first benefit period, and which are within the period covered by the same certification as such week of unemployment, for which the individual was entitled to a payment of TRA or UI (or would have been entitled to a payment of TRA or UI if the individual had applied therefor); and

(B) The number of weeks preceding such first week that are deductible under section 232(d) of the Trade Act of 1974 in effect before the amendments made by the Omnibus Budget Reconciliation Act of 1981.

The amount of TRA payable to an individual under this paragraph (a)(2)(i) shall be subject to adjustment on a week-to-week basis as may be required by § 635.13(b).

(ii) *Basic weeks (UI entitlement).* With respect to any week of unemployment beginning after September 30, 1981, for an individual who still has entitlement

to UI, payment of TRA shall be discontinued until the individual exhausts all rights to UI as provided in § 635.11(a)(5). After exhaustion of all rights to UI, payment of TRA shall be determined under Subpart B of this Part 635, except that the maximum amount of basic TRA payable to the individual for ensuing weeks of unemployment shall be an amount equal to:

(A) the maximum amount of basic TRA as computed under paragraph (a)(2)(i) of this section, *minus*

(B) The total sum of UI to which the individual was entitled (or would have been entitled if the individual had applied therefor) for weeks beginning after September 30, 1981.

(iii) *Additional weeks.* With respect to any week of unemployment beginning after September 30, 1981, for an individual who is in training approved under section 236 of the Trade Act of 1974, and who was receiving TRA for basic or additional weeks beginning before October 1, 1981, the weekly amount of TRA for any additional weeks beginning after September 30, 1981, shall be determined under Subpart B of this Part 635.

(3) *Transitional eligibility period.* (i) *Basic weeks.* Any individual who was eligible for a basic TRA payment for any week beginning before October 1, 1981, shall not be eligible for a basic TRA payment for any week beginning after September 30, 1981, for any week which begins more than 52 weeks after the individual has exhausted all rights to regular compensation in the first benefit period (as provided in § 635.15(a)).

(ii) *Additional weeks.* Any individual who was eligible for a TRA payment for an additional week beginning before October 1, 1981, shall not be eligible for a TRA payment for any additional week beginning after September 30, 1981, unless such additional week begins within:

(A) 26 weeks after the last week of the individual's entitlement to basic TRA, or

(B) 78 weeks after the individual exhausted regular compensation in the first benefit period, whichever occurs first (as provided in § 635.15).

(b) *Training, other reemployment services, and allowances.* (1) With respect to applications for training filed before September 30 1981, the provisions contained in Subpart C of this Part 635 shall apply to determinations regarding the approval of such training made after September 30, 1981.

(2) With respect to applications for transportation and subsistence payments while in training, and job search and relocation allowances, the provisions contained in Subparts C, D and E of this Part 635 shall apply to such applications that are filed after September 30, 1981.

(3) Individuals who have had self-financed training approved prior to October 1, 1981, shall not be reimbursed for training and related expenses incurred while in such training, unless such training is approved under the amended law and this Part 635.

(c) *Fraud and recovery of overpayments.* The provisions contained in this Subpart F with respect to fraud and recovery of overpayments shall take effect on August 13, 1981, and shall apply to all overpayments outstanding on that date or determined on or after that date.

(d) *Required amendments to State law.* Except as provided in this paragraph (d)(2), the provisions of section 2514(a)(2)(D) of the Omnibus Budget Reconciliation Act of 1981 requiring amendment to State laws shall apply to State laws for the purposes of certifications under section 3304(c) of the Internal Revenue Code of 1954 on October 31 of any taxable year after 1981; except that, in any State in which the legislature of that State—

(1) Does not meet in a session which begins after August 13, 1981, and before September 1, 1982, and

(2) If in session on August 13, 1981, and does not remain in session for at least 25 calendar days thereafter, the date of "1981" in this paragraph (d) shall be deemed to be "1982."

§ 635.63 Savings clause.

The amendments made by the Omnibus Budget Reconciliation Act of 1981 shall not abate or otherwise affect entitlement to TAA under the Trade Act of 1974 or any appeal which was pending on October 1, 1981, or on the date of enactment of any such amendment, as applicable, or prevent any appeal from any determination thereunder which did not become final prior to such applicable date if appeal or petition is filed within the time allowed for appeal or petition.

§ 635.64 Termination date.

The Act shall terminate on September 30, 1983, as follows:

(a) No application for TRA, or transportation or subsistence payment while in training approved under Subpart C of this Part 635, shall be approved, and no payment of TRA, or transportation or subsistence, shall be made, for any week which begins after September 30, 1983.

(b) No payment of job search or relocation allowances shall be made after September 30, 1983, unless an application for such allowances was approved, and such job search or relocation was completed, on or before September 30, 1983.

(c) No training under Subpart C of this Part 635 shall be approved unless a determination regarding the approval of such training was made, and such training commenced, on or before September 30, 1983. No payment shall ba authorized for any training costs incurred after September 30, 1983.

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Friday
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Part V

Federal Emergency Management Agency

National Federal Plan for Response to a Catastrophic Earthquake

FEDERAL EMERGENCY MANAGEMENT AGENCY

Preparation of the National Federal Plan for Response to a Catastrophic Earthquake

AGENCY: Federal Emergency Management Agency.

ACTION: Publication of the notice initiating national Federal planning for response to a catastrophic earthquake.

SUMMARY: This notice is intended to initiated planning for National Federal response to a catastrophic earthquake in any part of the country. Focus of the planning is on providing State and local governments with the supplemental support needed to save and protect lives and meet basic human needs during the immediate emergency period following the event. Support available from the Federal Government will be as authorized by individual agency authorities and those programs authorized by the Disaster Relief Act of 1974, Pub. L. 93–288. This planning will not encompass individual Federal agency responsibilities for protecting their own resources and facilities.

All Federal departments and agencies are requested to participate as outlined in this notice, or as their appropriate roles and responsibilities are identified during the planning effort. Until a national Federal plan for response is developed, this notice shall serve as the interim operative plan for response in support of State and local governments affected by a catastrophic earthquake.

DATES: Comments on the notice for planning are encouraged. Such comments will be considered in revision to the planning requirements and in the planning which is undertaken according to this notice. Comments are due within thirty days from date of this notice.

ADDRESS: Send comments to Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Ed Sergent, Program Officer, Division of Response Planning and Coordination, Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street, SW, Room 713, Washington, D.C. 20472, telephone (202) 287–0560.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) has responsibility as the lead agency for managing and coordinating the National Earthquake Hazards Reduction Program (NEHRP), as required under the Earthquake Hazards Reduction Act of 1977. A requirement of the NEHRP is to improve the capability of all levels of government to respond to the effects of a catastrophic earthquake in such a way as to reduce the loss of life and property. In addition, FEMA is responsible for implementation of programs and assistance under the Disaster Relief Act of 1974.

After the destruction caused by the eruption of Mt. St. Helens in May 1980, an ad hoc committee of the National Security Council was formed to conduct a government review of the consequences of and preparation for a similar event of low probability but high damage potential. The probability of various earthquake scenarios in California was reviewed and reported in FEMA Publication M&R–2, January 1981, "An Assessment of the Consequences and Preparations for a Catastrophic California Earthquake Findings and Actions Taken." The overall assessment resulting from this review was that the Nation is essentially unprepared for the catastrophic earthquake that must be expected in California in the next three decades. Current response plans and preparedness measures may be adequate for a "normal" earthquake, but preparations are "woefully inadequate to cope with the damage and casualties from a catastropic earthquake, and with the disruptions in communications, social fabric, and governmental structure that may follow."

The state-of-the-art is such that scientists predict a 2–5% chance per year of an 8.3 Richter magnitude earthquake on the Southern San Andreas Fault (Los Angeles metropolitan area). This fact has become the focus of renewed Congressional concern and intent that a comprehensive national emergency response plan be developed. In addition to the more immediate threat of a catastrophic earthquake event in California, the potential exists for a major catastrophic earthquake in other high-risk, high-population areas of the United States.

In addition to FEMA's responsibilities under the NEHRP, the National Plan of Action for Emergency Mobilization (developed through the efforts of the Emergency Mobilization Preparedness Board Working Group on Earthquakes) assigns responsibility to FEMA for coordinating the development of a Federal plan for response to a catastrophic earthquake in California and its subsequent testing and exercising. While it is important to use California as the basis for the development of the Federal response plan, the plan as described in this notice will be generic and have application to all high-risk, high-population areas of the country.

The framework of the planning has been developed through the efforts of the Subcommittee on Federal Earthquake Response Planning. The Subcommittee was formed under the auspices of the Interagency Coordination Committee of the National Earthquake Hazards Reduction Program. FEMA, as lead agency for managing and coordinating the NEHRP, chairs the Subcommittee. Membership of the Subcommittee includes representatives from: Departments of Defense, Transportation, Agriculture, Interior, Energy, Treasury, Labor, and Health and Human Services, the Veterans Administration, General Services Administration, National Communications System, and the American Red Cross.

The Subcommittee will continue as the coordinating body of the planning effort, and will meet as necessary to resolve issues and provide guidance to the Federal agencies tasked to participate in development of a Federal plan for response to a catastrophic earthquake.

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I. Purpose and Scope

The purpose of this notice is to initiate Federal action to develop a comprehensive plan that will insure an effective and coordinated Federal response to support State and local governments affected by a catastrophic earthquake. It establishes a framework for a systematic planning approach in that it (1) sets forth the policies and planning assumptions to be used as the basis of the planning effort; (2) describes the concept of operations in general terms; (3) identifies specific emergency support functions required to support State and local response operations; and (4) assigns specific responsibilities to

appropriate Federal agencies for development of functional annexes—for each emergency support function—in support of a basic plan.

The development of the comprehensive Federal plan for response to a catastrophic earthquake will be in two parts. Part I will be a basic plan which consists of the essential portions of the plan, and an executive summary of each functional annex.

Part II of the plan will consist of the basic plan and the complete text of each of the emergency support functional annexes.

Emergency support functional annexes describe the function, responsibilities of the primary and support agencies, concept of operations, coordination and interfaces between agencies, and resource requirements and identification.

The overall basic plan and the executive summaries of each functional annex will be developed by FEMA. The emergency support functional annexes will be developed under the leadership of the Federal agency given primary responsibility for the planning and accomplishment of the assigned emergency function. The primary agency will be supported by other Federal agencies who have the capability to perform some aspect of the function.

II. Federal Government Policies and Planning Assumptions

The national Federal response plan is concerned with supplementing State and local government response to a catastrophic earthquake in any high-risk, high-population area of the country. Other than creating an awareness of the need for planning for the potential impact of a catastrophic earthquake, planning is not intended to encompass Federal agency responsibility for protecting their own resources and facilities.

Over the past ten years vulnerability assessments have been conducted in some of the high-risk, high-population areas. Studies have been completed or are ongoing in Honolulu, Los Angeles, San Francisco, Puget Sound, Anchorage, Salt Lake City, Central U.S., and Boston. These studies identify in broad terms the estimated loss of life and injuries, damage to critical facilities (such as schools and hospitals), and damage to lifelines (such as pipelines, utilities, and communications networks) that can be expected in various projections of magnitude, time of day and year, and intensities of earthquakes. In California, the State Geologist is developing capabilities that identify specific areas where soil conditions may affect existing structures.

The vulnerability assessments will continue to provide State and local planners with important information needed to develop site-specific preparedness and emergency response plans. The fact that these studies have not been completd in all high seismic risk areas should not delay or prevent the development of a Federal response plan to catastrophic earthquakes. Rather, the knowledge and experience gained through efforts such as those ongoing in California will help identify the appropriate requirements for Federal support in any geographic area.

A. Policies

The following Federal Government-wide policies are an initial listing to be modified as necessary during the development of a Federal plan. They will serve as a basis for the development of the basic plan and emergency support functional annexes.

1. The focus of planning will be on providing lifesaving and life-protecting assistance and support to State and local governments during immediate emergency response operations. This planning will set the framework for subsequent planning for other response phases.

2. Federal planning will be predicated on State/local governments being in charge of emergency operations, with Federal assistance as supplemental to State efforts.

3. Certain emergency operations required on Federally-owned property remain the responsibility of the Federal Government and will be carried out in accordance with individual Federal agency plans.

4. Federal agencies will respond under their own authorities and/or mechanisms authorized by Pub. L. 93-288. Upon Presidential declaration of a major disaster, Federal agencies may be reimbursed for functions performed at the direction of FEMA from the fund authorized for such purposes under Pub. L. 93-288. Planning will include establishing funding mechanisms in accordance with the reimbursement procedures spelled out in the Federal Disaster Assistance Regulations (44 CFR Part 205, Subpart I—Reimbursement of Other Federal Agencies). Specific issues will be resolved in the planning process.

5. The coordination of the Federal response to State and local government requests will be under the leadership of a Federal Coordinating Officer (FCO) appointed by the President. The Governor(s) of the affected State(s) will be advised of the designation of the FCO and will be asked to designate a State Coordinating Officer (SCO) as a principal point of contact for the FCO. The FCO and SCO will assure effective and coordinated operating relationships between Federal, State, local, volunteer, and private agencies.

6. This document will serve as an interim operative plan for response by Federal agencies until Part I (the basic plan and executive summaries of the emergency support functional annexes) of the comprehensive Federal emergency response plan is developed.

7. Specific functional assignments will be determined at the National level, with flexibility for differences in assignments contained in existing site-specific plans or in capabilities of agencies in specific areas.

B. Planning Assumptions

The following assumptions are an initial listing to be modified during the evolution of the planning process. They will serve as a framework for the development of the basic plan and emergency support functional annexes.

1. A catastrophic earthquake is a seismic event or series of seismic events that will result in large numbers of deaths and injuries; total destruction of a large percentage of facilities that provide and sustain human needs; overwhelming demand on State and local response resources and mechanisms; severe impact on national security facilities and infrastructures that sustain them; severe long term effect on general economic activity; and severe effect on State, local, and private sector initiatives to begin and sustain initial recovery activities.

2. The earthquake(s) will occur without warning and at a time of day that will produce the maximum number of casualties. Access to and from the damaged areas may be severely restricted for hours and perhaps days. Land line communication and life support systems will be severely disrupted or destroyed, and the maximum possible non-resident (work force and tourist) population will be present in the affected areas.

3. The earthquake(s) will trigger secondary events and effects such as fires, tsunami, landslides, flooding, and release of hazardous materials. Dam failure and aftershocks are also likely to occur following a catastrophic earthquake(s).

4. A catastrophic earthquake will result in an immediate Presidential disaster declaration under the provisions of Pub. L. 93-288 so that Federal involvement in the life-saving and emergency response operations can begin during the first 24 hours after

occurrence. A national emergency would not be declared during the immediate response phase.

5. State and local resources will be inadequate to respond to the effects of a catastrophic earthquake. The Federal Government will respond from both the local geographic area and the entire Nation to save lives and provide basic human needs. Since the entire Federal Government is not normally involved in the immediate response operations, mechanisms and plans for providing necessary lifesaving and life-protecting support are inadequate.

III. Concept of Operations

This section describes the phases of operations that would occur in response to a catastrophic earthquake. As stated previously the primary objective of this planning effort is the development of a Federal plan for the immediate emergency response phase to support State and local governments. The other three phases are also discussed to provide an overview of the total potential Federal involvement in such a disaster, and to illustrate where overlaps in operations and planning may occur. After the immediate emergency response phase plan is completed and tested, the remaining phases could become the objective of future planning requirements.

Also included in this section are discussions on the Federal, State, and local government roles in execution of response, responsibilities for coordination of the Federal response, and notification and activation procedures.

A. Phases of Operations Related to a Catastrophic Earthquake

1. *Immediate Emergency Response.* Period from the onset of the seismic event(s) to approximately 30 days afterward. Typical functions to be performed are generally associated with saving and protecting lives and meeting basic human needs. Functions include but are not limited to: search and rescue; damage reconnaissance and assessment; wildland fire suppression; emergency medical care; mass care; emergency transportation; emergency debris clearance/temporary restoration of essential public facilities and services; communications; emergency repair of critical facilities; distribution of food; public health; logistical support; mortuary services; identification of the dead; technical assistance; welfare inquires; and coordination of the Federal response.

2. *Prediction Response.* Period that would occur 48 or 96 hours before the seismic event(s) and would consist of a series of preparatory actions taken by Federal, State, and local governments that would protect life, minimize effects of the potential event on response personnel and equipment, and facilitate the deployment of resources necessary for immediate emergency response and initial recovery operations.

3. *Initial Recovery.* Period traditionally associated with the Federal response for providing disaster recovery upon Presidential declaration. Usually overlaps the immediate emergency response period beginning several days after the onset of the event and could last up to two years. Typical functions to be performed are associated with the establishment of the Federal mechanism for delivery of disaster assistance provided in Pub. L. 93–288 (public assistance and individual assistance), staffing of Disaster Assistance Centers, and the use of Federal, State, and disaster reservist staff to perform damage survey work.

4. *Long Term Restoration/Recovery.* Period from one to five years after onset of the event, during which time the affected areas would be restored to their normal or an improved state. Federal role in the process would be generally in policy development, through the authority associated with provision of Federal funds and assistance. Federal plans are not in existence except some post-nuclear attack recovery plans that may have partial application.

B. Federal, State, and Local Government Roles

1. The primary responsibility for responding to the immediate emergency needs of the local communities resides with State and local government.

2. Federal response under Pub. L. 93–288 will occur upon a Presidential declaration and be supportive of and not a substitute for State and local government actions. Federal support is provided only when the capacity of the State and local governments has been exceeded.

3. In addition to the Federal assistance provided under Pub. L. 93–288, Federal departments and agencies are responsible for providing direct disaster assistance or support in accordance with their own statutory authority, functions, resources, and capabilities. Federal agencies should consider the potential impact of a catastrophic earthquake on their ability to perform their responsibilities.

4. Immediate Federal response will be focused on the emergency application of resources to prevent or minimize loss of life, alleviate suffering, provide for public health and welfare, and to conduct damage reconnaissance activities that support the early Federal delivery of appropriate assistance and restore damaged life support systems.

C. Coordination of the Federal Response

1. FEMA's primary responsibility in the Federal response is to notify participating Federal agencies of the occurrence of the earthquake, help activate the Federal Government response, deploy and support the FCO, and establish the necessary liaison with the Governor and SCO.

2. The primary responsibility of each Federal agency is to respond to the notification according to the basic plan and implementation of supporting annexes of the comprehensive Federal emergency response plan to a catastrophic earthquake.

3. The FCO role in a disaster is mandated by law as defined in Sections 303 and 304 of the Disaster Relief Act of 1974 (Pub. L. 93–288). These sections require the appointment of an FCO upon declaration of a major disaster and call for the constitution and deployment of emergency support teams to assist the FCO. Authority to appoint the FCO was delegated by the President to the Director of FEMA in Executive Order 12148.

The functions of the FCO are legislatively mandated. The FCO is required to:

—Make an initial appraisal of the types of relief most urgently needed;
—Establish such field offices as the FCO deems necessary;
—Coordinate the administration of relief, including activities of State and local governments and private relief organizations; and
—Take other necessary action to assist local citizens and public officials in promptly obtaining assistance.

4. To accomplish the mandated functions, the FCO and staff will perform or cause to be performed the following functions of coordination:

Situation Assessment. A comprehensive assessment of the disaster to include the magnitude and severity of impact, the capabilities of State and local governments and private agencies to deal with the situation, the types of Federal assistance which may be made available, and the impact on the affected area if Federal assistance is either limited or unavailable.

Communications. Assure that adequate facilities exist to permit effective communication among responding Federal agencies, between Federal and State representatives, and between the FCO and FEMA's Emergency Information and

Coordination Center (EICC) in Washington, D.C.

Program Coordination. Oversee the operation of all Federal, State, and local activities in the affected area and provide one, visible focal point for coordinated response and recovery activities. Assure that assistance is being provided in a timely, efficient, and effective manner, without duplicative or wasteful effort. Make such recommendations as deemed necessary to Federal and State officials in the affected area and, through the Associate Director, State and Local Programs and Support (SLPS), FEMA, to the heads of responding agencies. Establish and maintain close working relationships with the SCO and with private relief and other organizations to assure a comprehensive and coordinated approach in providing assistance to the affected area.

Information. Assure that all releases to, and contacts with, the news media are coordinated. This coordination will not be to censor or otherwise transgress upon agency relationships with the media; but to provide a recognized single, central source of information and to assure that the response and recovery effort is described comprehensively, consistently, and accurately.

Outreach. Work closely with the SCO to assure effective two-way information exchange between the response and recovery effort and the affected public citizens, special interest groups, and community and civic organizations.

Liaison With Elected Officials. Assure that elected officials who represent the citizens in the impacted area are well-informed about the progress of the reponse and recovery effort. The FCO also will provide a central point of contact for questions from elected officials.

Reports. Develop and implement a reporting system to provide a periodic comprehensive overview of response and recovery activities and to display progress toward meeting established goals. Reports will include significant activities of State, local, and private organizations, and will be transmitted to the Associate Director, SLPS, FEMA through the EICC.

After-action Report. Review and report on the coordination of response and recovery effort in the affected area. The report will provide information on the strengths and weaknesses of the response and recovery effort. The report may contain recommendations for changes in legislation, delegations of authority, and procedures, or may simply provide information regarding coordination aspects of the specific incident. The report will be submitted to the Associate Director, SLPS, FEMA for such further action as deemed necessary.

5. For the FCO to coordinate the emergency response actions among Federal agencies and determine if the assigned functions are being accomplished, the Federal agencies will have to supply current information to the FCO on the status of the response effort. Each emergency support functional annex should therefore include procedures and mechanisms to provide this information to the FCO once the Federal response effort begins. In addition, a liaison officer will need to be provided to serve as the representative from the emergency support function to the FCO. This concept will also be followed at the national headquarters level in Washington, D.C.

D. Notification and Activation

A general scheme to be followed in officially notifying appropriate agencies and activating the Federal response will be developed during the planning process and will be outlined in the appropriate sections of the basic plan and functional annexes.

IV. Roles and Reponsibilities

To accomplish the development and performance of the Federal response to a catastrophic earthquake, Federal agencies are assigned primary and/or support roles for the development of necessary planning and participation in accomplishment of the function.

A. Responsibilities

Primary responsibility means that an agency will manage the development of a specific functional annex and the performance of the function. The agency will also serve as the principal point of contact with FEMA concerning the development of the annex, and will assist FEMA in the overall coordination of the complete comprehensive National Federal emergency response plan. Support responsibility means that an agency will assist the primary agency in accomplishment of the planning effort. The primary responsibility has been assigned to the agency with the greatest overall capability, responsibility, or experience in the particular functional area. This is in no way intended to diminish the role or responsibility of agencies assigned in a support capacity. Rather, all agencies must work together, with the primary agency acting as the catalyst, to plan and coordinate the appropriate delivery of support to State and local governments requiring Federal response to a catastrophic earthquake.

Recognizing that agencies may have more than one primary or support role to perform, FEMA will act as a catalyst in the identification of planning priorities and commonalities and assist in resolving problems that could affect the timeliness and quality of the final products.

Completed draft annexes will be submitted to FEMA for review. Based upon this review the primary agency responsible for the function will make any necessary revision to the annexes. FEMA will not assess the annexes on the basis of their technical or operational feasibility but will assure that the responsibilities and interfaces have been coordinated. Because most support activities will be performed under the the authorities and expenditures provided for in Pub. L. 93–288, FEMA has a managerial and oversight role to review annexes in light of the whole planning effort.

In addition to the agencies specifically assigned primary or support roles, all Federal agencies are expected to support the planning effort as required by the primary agency or FEMA. Requirements from other agencies may range from identification of resources and staff support to developing internal procedures for providing such support during the response effort.

B. Emergency Support Functional Assignments

The Emergency Support Functions (ESF) identified below are those where it is expected that Federal support to supplement State and local government response will be required. The functions described are not intended to be all inclusive and will require refinement as the planning process evolves. Other functions may also have to be added as necessary when identified during the planning process. Further, ESF descriptions that appear to overlap or duplicate another function will be resolved to clarify the purpose and intent of the ESF.

During deliberations of the Subcommittee on Federal Earthquake Response Planning, the decision was made to develop functional annexes to a basic plan. This functional approach, in lieu of individual agency planning, was viewed as the means through which the most effective, coordinated Federal response plan could be developed. Consequently, each functional area will involve a number of agencies with resources and capabilities to contribute to the overall planning and implementation effort.

Accordingly, the following ESF assignments shall be used to initiate Federal planning:

1. Damage Reconnaissance and Assessment (ESF 1):

A. Assignments

Primary: Federal Emergency Management Agency.

Support: Department of Agriculture, Department of Defense, Department of Education, Department of Energy, Department of Interior, Department of Transportation, Corps of Engineers, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Veterans' Administration.

B. Description of Function

—Initial estimation of the location and extent of damage and preparation of damage assessment reports.
—Determination of the magnitude and severity of impact on transportation systems, utilities, critical facilities and other community infrastructures necessary for sustaining the population.
—Identification of severely damaged building that have a high potential of trapped/injured victims. (Generally, high rise office buildings as well as large multiple residences. These structures tend to experience more structural damage than single story, single-family residences.)

2. Communications (ESF 2):

A. Assignments

Primary: National Communications System.

Support: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of the Interior, Department of Transportation, Federal Communications Commission, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration.

B. Description of Function

—Establish temporary communications in the disaster area(s) to support the response activities of FEMA and other Federal agencies.
—Provide communication support to State and local government officials.
—Establish communications links from the disaster area(s) to Federal regional and headquarters agencies.
—Use Federally owned and operated assets where commercial services and facilities are inadequate or inoperable.
—Coordinate restoration of private telephone service to highest priority areas.

3. Emergency Medical Care (ESF 3):

A. Assignments

Primary: Department of Health and Human Services.

Support: Department of Defense, American Red Cross, Federal Emergency Management Agency, General Services Administration, Veterans Administration.

B. Description of Function

—Provide medical teams to States to assist them in assessment of the medical situation.
—Casualty collection and triage.
—Emergency treatment of casualties pending evacuation to hospitals.
—Treatment of casualties at Federal hospitals to supplement State, local and private hospital resources.
—Establish communications area to support operations.
—Distribution of Federal medical stocks/other medical and nursing supplies and equipment to supplement State, local government, and private sector medical response operations.
—Provide blood supplies.
—Provide first aid support to mass care shelters.
—Provide temporary morgue capability for accepting severely injured who will or may have expired.
—Create a system for accomplishing the above medical care functions.

4. Search and Rescue (ESF 4):

A. Assignments

Primary: Department of Defense.

Support: Department of Agriculture, Department of the Interior, Department of Transportation, Federal Emergency Management Agency.

B. Description of Function

—Supply aircraft, ships, specialized rescue teams and equipment to supplement State and local efforts to search for and rescue persons in distress on land or at sea.
—Support State and local efforts to evacuate people from hazardous areas and situations.
—Assist State and local efforts to locate and evacuate people isolated because of road closures, or other secondary effects of the disaster, and to rescue trapped persons when resource priorities permit.

5. Wildland Fire Suppression (ESF 5):

A. Assignments

Primary: Department of Agriculture.

Support: Department of Defense, Department of the Interior, Department of Transportation, Federal Emergency Management Agency.

B. Description of Function

—Support State and local wildland fire suppression operations with technical assistance, equipment, supplies, and personnel.
—If available after completion of primary task also support State and local governments in fighting small structural fires.

6. Mass Care (ESF 6):

A. Assignments

Primary: American Red Cross.

Support: Department of Agriculture, Department of Defense, Department of Education, Department of Health and Human Services, Department of the Interior, Federal Emergency Management Agency, General Services Administration, Interstate Commerce Commission, U.S. Postal Service, Veterans Administration.

B. Description of Function

—Management, staffing, and supply of facilities and resources used to shelter, feed, clothe, and provide first aid for individuals and families unable to live in their residences.
—Control of disaster victims living in the facilities

7. Public Health (ESF 7):

A. Assignments

Primary: Department of Health and Human Services.

Support: Department of Agriculture, Department of Transportation, American Red Cross, Federal Emergency Management Agency, General Services Administration, Veterans Administration.

B. Description of Function

Support State and local health officials in the:

Identification and elimination of health hazards.

Prevention of epidemics.

Vector control.

Testing of food and water supplies for contamination or spoilage.

8. Emergency Debris Clearance/ Temporary Restoration of Essential Public Facilities and Services (ESF 8):

A. Assignments

Primary: Corps of Engineers.

Support: Department of Agriculture, Department of Defense, Department of Education, Department of Energy, Department of the Interior, Department of Labor, Department of Transportation, Environmental Protection Agency, Federal Emergency Management

Agency, General Services Administration.

B. Description of Function

Provide technical assistance, personnel, equipment, and contracting services to support State and local governments in performing emergency work essential for the preservation of life and property. Activities include:

Removal of debris from public and private land.

Assessment of and temporary restoration of essential public facilities and services.

Inspection of damaged buildings, roads, bridges, and airfields essential for use in Federal, State, and local government response efforts.

Demolition of damaged structures.

9. Emergency Transportation (Surface, Water, Air) (ESF 9):

A. Assignments

Primary: Department of Transportation.

Support: Department of Agriculture, Department of Defense, Department of the Interior, Federal Emergency Management Agency, General Services Administration, Interstate Commerce Commission, U.S. Postal Service.

B. Description of Function

—Arrange or assist in arranging for the provision of supplemental transportation for use of personnel in damage assessment activities.

—Arrange of assist in arranging for the provision of available Federal transportation for personnel, equipment, and material resources required for conduct of life-saving activities.

—Determine the proper apportionment of available civil transportation and its priority utilization for all categories of available civil transportation and such Federal agency transportation resources as may be available for the several agencies.

—Assessment of the overall operational status of the civil transportation networks including the Federal highway system in, to, and from the disaster area(s).

—Provide the necessary services including personnel and equipment necessary to the control of air and sea traffic in, to, and from the disaster area(s).

—Determine transportation networks best suited for bringing in materials and services.

—Arrange or assist in arranging for the provision of technical support and equipment that could be utilized in emergency repair of critical transportation networks.

—Arrange or assist in arranging for the provision of available civil transportation resources as may be required for prompt and effective response including those services necessary to accomplish the evacuation of elderly, infirmed, injured, or others requiring special transportation considerations.

—Provide Federal transportation community response coordination.

10. Emergency Distribution of Food (ESF 10):

A. Assignments

Primary: Department of Agriculture.

Support: Department of Defense, American Red Cross, Federal Emergency Management Agency, General Services Administration, Veterans Administration.

B. Description of Function

—Secure Federal food stocks and other food resources and transport to mass care facilities to be used to support feeding operations.

11. Logistical Support (ESF 11):

A. Assignments

Primary: General Services Administration.

Support: Department of Agriculture, Department of Defense, Department of Health and Human Services, Department of Interior, Department of Labor, Federal Emergency Management Agency, U.S. Postal Service, Veterans Administration.

B. Description of Function

—Identify existing Federal resources, equipment, and facilities that could be used to supplement State and local resources used in emergency response operations.

—Procurement and allocation of material resources, physical facilities, transportation equipment and maintenance, communication resources, and living facilities/food for Federal response workers and personnel needed to support the emergency response operations of the Federal Government.

—Provide contracting services for use of other Federal agency response organizations performing functions that require contracting out.

—Establish Federal staging area for receipt of Federal response workers, supplies, and equipment.

12. Mortuary Services and Identification of the Dead (ESF 12):

A. Assignments

Primary: Department of Health and Human Services.

Support: Department of Defense, Department of Justice, Federal Emergency Management Agency, General Services Adminstration, Veterans Administration.

B. Description of Function

—Transporatation, embalming, and temporary storage of human remains recovered during search and rescue efforts and emergency medical care.

—Support to State and local authorities in identification of the dead.

—Support of State and local authorities in general recovery of human remains.

13. Welfare Inquiries (ESF 13):

A. Assignments

Primary: American Red Cross.

Support: Department of Commerce, Department of Health and Human Services, Department of Justice, Federal Emergency Management Agency, General Services Administration, U.S. Postal Service.

B. Description of Function

—Process inquiries from relatives and others concerning health and welfare of disaster victims.

14. Technical Assistance (ESF 14):

A. Assignments

Primary: Federal Emergency Management Agency.

Support: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Interior, Department of Labor, Department of Transportation, Corps of Engineers, Environmental Protection Agency, National Communications System, Nuclear Regulatory Commission, Veterans Administration.

B. Description of Function

Serve as a point of contact for the Federal, State and local governments to receive technical assistance and operational support in the:

Identification, cleanup, and disposal of hazardous materials.

Identification of secondary hazards such as dam failure and other effects that threaten health and safety, and recommend actions to cancel the threat.

Disposal of spoiled food stuffs.

Provision of information on possible frequency, severity, and effects of aftershocks.

Identification of ground failures and evaluation of potential hazards from additional ground failures.

Provision of technical assistance to all of the emergency support functional areas during the Federal response to the event.

15. Coordination of Federal Response (ESF 15):

A. Assignments

Primary: Federal Emergency Management Agency.

Support: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of the Interior, Department of Justice, Department of Labor, Department of Transportation, American Red Cross, Corps of Engineers, Environmental Protection Agency, Federal Communications Commission, General Services Administration, Interstate Commerce Commission, National Aeronautics and Space Administration, National Communications System, Nuclear Regulatory Commission, U.S. Postal Service, Veterans Administration.

B. Description of Function

—Initial appraisal of the types of Federal assistance needed. Complete overall damage assessment report.
—Plans and procedures for the management of the systems needed to facilitate the coordination of Federal assistance including establishment of field office(s) at the disaster site.
—Coordination of Federal agency emergency relief efforts with those of the State and affected local governments.
—Coordination of national volunteer agency disaster relief activities.
—Provide emergency information to decisionmakers responsible for the management of the Federal response.
—Establish emergency support teams to be deployed to the disaster site.
—Coordination of Federal public information to assure that the response and recovery effort is described comprehensively, consistently, and accurately.
—Coordination of requirements of special interest groups, such as congressional staffs and scientific research teams.
—Input to release of information by State and local officials advising the public of actions to take to insure their safety.

V. Relationship of Planning Effort to Site-Specific Regional Plans

This national planning effort is intended to establish the policies and procedures that should be applied throughout the Federal establishment in development of a national Federal emergency response plan to a catastrophic earthquake. At present, there have been developed three site-specific plans under the leadership of FEMA Regions VIII, IX, and X. Other Federal agencies have been involved to one degree or another in these ongoing efforts. In some cases, functional assignments and other relationships may differ from the assignments and relationships addressed in this notice. This should be recognized as the planning process continues and flexibility allowed to recognize constraints that are unique to a particular geographic risk area. These situations will be handled on a case-by-case basis with the goal of keeping the national plan as uniform as possible.

Planning and related issues, concerns, and problems that have been identified in the development of the existing site-specific plans should now become not only the responsibility of the FEMA regional staffs, and other Federal regional or field offices, but also the concerns of the headquarters level in such respective Federal agency.

VI. Schedule for Plan Development and Exercises

Realizing that extensive effort will be required to develop a plan to provide support for life-saving, life-protecting functions, the following schedule for plan development and testing has been established based on realistic expectations. The schedule covers a two-year timeframe which projects initiation of the planning in March 1983—upon notification of the requirement in the **Federal Register**—and continues through full-scale exercise of the plan in April 1985. The schedule as established will also satisfy the requirements of the assignments in the National Plan of Action for Emergency Mobilization, which requires development and exercise of a national response plan.

Other Federal government planning and exercising requirements have been taken into consideration as known at the time the schedule was developed. Although there may be adjustments necessary in the schedule to accomplish a well developed and coordinated plan, it should serve as a guide for accomplishments. The Subcommittee on Federal Earthquake Response Planning will consider adjustments and resolve conflicts with other priority requirements as they occur.

SCHEDULE FOR PLANS DEVELOPMENT AND EXERCISES

Responsible	Product/activity	Timeframe
FEMA, all Agencies.	Begin preparation of draft emergency support functional annexes.	Mar. 1983.
FEMA, all Agencies.	Complete first draft of emergency support functional annexes.	Oct. 1983.
FEMA, Subcommittee.	Complete review of 1st draft basic plan/functional annexes for coverage of responsibilities/interfaces.	Nov. 1983.
FEMA, Subcommittee.	Initiate development of headquarters feasibility exercise.	Nov. 1983.
FEMA, Subcommittee.	Complete revised, final draft of basic plan and functional annexes.	Jan. 1984.
FEMA, Subcommittee.	Draft executive summaries of emergency support functional annexes.	Feb. 1984.
FEMA	Incorporate planning guidance, basic plan, functional annex executive summaries into Part I of comprehensive Federal emergency response plan.	Feb. 1984.
FEMA	Incorporate basic plan and complete version of supporting annexes into Part II of comprehensive National Federal emergency response plan.	Mar. 1984.
FEMA, all Agencies.	Conduct headquarters feasibility exercise.	May 1984.
FEMA	Complete after-action report	June 1984.
FEMA, all Agencies.	Revise Parts I & II of Comprehensive plan to incorporate improvements identified by exercise.	Aug. 1984.
FEMA, Subcommittee.	Initiate development of headquarters/field feasibility exercise of comprehensive plan and California site-specific plan.	Aug. 1984.
FEMA, all Agencies.	Conduct headquarters/field feasibility exercise.	Apr. 1985.

VII. General and Administrative Guidance

Through the efforts of the Subcommittee on Federal Earthquake Response Planning, a planning guide was developed from which this notice has been extracted. FEMA intends to publish and maintain the planning guide for plan development. It will be provided to the agencies involved in the planning process and will be changed and updated as necessary to insure that the most complete and current information is available to those involved in development of Federal plans.

Included in the planning guide will be a proposed format for the national Federal plan and the supporting functional annexes. As developed, guidance will also be provided on the administrative processes involved in the planning, mechanisms established for liaison between agencies, administrative support and information requirements, and guidelines for plan accomplishment, revisions, and review.

Approved for the Federal Emergency Management Agency.

Dated: February 25, 1983.

Lee M. Thomas,

Executive Deputy Director.

[FR Doc. 83-5538 Filed 3-3-83; 8:45 am]

BILLING CODE 6718-01-M

federal register

Friday
March 4, 1983

Part VI

Department of Labor

Mine Safety and Health Administration

Alternate Product Approval Procedure; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 37

Alternate Product Approval Procedure

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability of preproposal draft.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of a new Part 37, Alternate Product Approval Procedure. The proposal would provide an expedited application procedure for manufacturers of mining equipment which have certain design characteristics and features. MSHA seeks comments on the preproposal draft from all interested parties. Copies of the draft may be obtained by contacting the Agency.

DATES: Comments must be received by May 3, 1983.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances, MSHA, Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, MSHA (703) 235–1910.

SUPPLEMENTARY INFORMATION: Under the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173 as amended by Pub. L. 95–164), MSHA is required to approve certain products for use in underground mines. MSHA's current regulations in 30 CFR Parts 15 through 36 govern the process through which manufacturers may obtain MSHA approval of a product for use underground. The alternate procedure contained in the preproposal draft would permit applicants to certify that the technical requirements specified for the product by MSHA have been met. This procedure would permit applicants or independent laboratories to conduct the necessary testing. Applicants' use of the proposed procedure would also involve testing the product according to test procedures specified by MSHA, implementing a quality control procedure accepted by MSHA, consent to MSHA quality control audits at the factory, and random "off the shelf" product examinations conducted by MSHA. This new procedure would be an alternative to the existing application procedures, which manufacturers could continue to use if they so choose.

To implement the alternate procedure, MSHA, would develop appendices to Part 37 for products which require MSHA approval. These appendices would specify the design characteristics and features a product would be required to have in order to be considered under the proposed alternate procedure. Concurrent with the development of this proposal, MSHA has developed a draft appendix consistent with Part 22 for portable, battery-powered, intrinsically safe methane-indicating detectors. The draft appendix is included with the preproposal draft of Part 37 so that commenters may see the relationship of proposed Part 37 and an appendix. The draft appendix, however, is not the subject of this rulemaking.

Copies of the preproposal draft of Part 37 and the draft appendix have been mailed to persons and organizations who have expressed an interest in this rulemaking. All other interested persons and organizations may obtain copies of the documents by submitting a request to the address provided above.

Dated: March 1, 1983.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-5574 Filed 3-3-83; 8:45 am]

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federal register

Friday
March 4, 1983

Part VII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Experimental Practices; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Experimental Practices

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

ACTION: Final rule.

SUMMARY: The final rule adopted by the Office of Surface Mining Reclamation and Enforcement (OSM) for experimental practices will provide that an operator may obtain a variance from the environmental protection performance standards of Subchapter K of the permanent program regulations for an experimental practice after submitting an application which contains the information asked for by the rule, complying with the public notice requirements of Subchapter G of the permanent program regulations and receiving approval from the regulatory authority based on certain findings set out in the rule and concurrence from the Director of OSM.

Section 711 of the Surface Mining Control and Reclamation Act of 1977 (Act), provides authorization for variances in individual cases on an experimental basis from the environmental protection performance standards promulgated under Sections 515 and 516 of the Act. The objective of such departures, as authorized by the regulatory authority with the concurrence of the Director, is to encourage advances in mining and reclamation practices or to allow alternative postmining land uses.

EFFECTIVE DATE: April 4, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5245.

SUPPLEMENTARY INFORMATION:

I. Background

Section 711 of the Surface Mining Control and Reclamation Act of 1977 (Act), 30 U.S.C. 1201 *et seq.*, provides authorization for variances in individual cases on an experimental basis from the environmental protection performance standards promulgated under Sections 515 and 516 of the Act. The objective of such departures, as authorized by the regulatory authority with the concurrence of the Director, is to encourage advances in mining and reclamation practices or to allow alternative postmining land uses.

OSM encourages industry and State regulatory authority participation in the experimental practices program. OSM is willing to work with industry and State regulatory authorities to develop innovative and beneficial experimental practice proposals.

On March 19, 1982 (47 FR 12082), OSM proposed to amend 30 CFR 785.13 of the permanent program regulations in order to clarify certain subsections and to eliminate unnecessary requirements for operators. The proposal also called for consultation with the U.S. Department of Agriculture prior to approval of an experimental practice on prime farmlands in accordance with Section 510(d) of the Act and for simple notification of the regulatory authority by an operator prior to the implementation of minor revisions to an experimental practices permit. A public hearing was held on April 9, 1982. However, the proceeding was adjourned because no member of the public appeared to give oral testimony. The comment period remained open until August 25, 1982 and later was reopened from September 7, 1982 through September 10, 1982.

During the comment period, OSM received comments from 40 sources representing industry, trade associations, environmental groups, and Federal and State agencies. After analyzing the recommendations made by the various commenters, OSM has decided to adopt the rule as proposed with certain modifications which are set out below.

II. Discussion of Comments and Rule Adopted

A. Section 785.13(a) General Requirements

In response to comments, this paragraph has been revised by including language to clarify that an experimental practice variance is part of an approved surface coal mining and reclamation operation permit or permit revision and that it may be for experimental or research purposes, or to allow an alternative postmining land use. In addition, language has been inserted stating that the approved permit or permit revision must meet the requirements of Subchapter G of 30 CFR Chapter VII. In the proposal this reference appeared in § 785.13(b) which deals with the special information operators must provide in their applications for an experimental practice variance. However, the processing and application requirements of Subchapter G apply to the entire section and therefore reference to them has been placed in the more appropriate provision.

Several commenters expressed concern that issuance of an experimental practice permit would only be possible during the initial application process for a surface mining and reclamation operation permit. OSM believes that an application for an experimental practice may be submitted at any time during the life of a mining operation. The experimental practice application may be made when submitting the original permit application or, at a later time, as a permit revision application.

A commenter felt that the proposed rule was not consistent with the Congressional intent for Section 711 of the Act and that OSM was mistaken if it assumed that the goal of the provision was to obtain economic advantages for operators. Instead, the commenter saw the goal of Section 711 as improving environmental protection over the standards of Sections 515 and 516.

The language of the provision clearly states that the variances are to be approved in order to encourage advances in technology or to allow alternative postmining land uses. However, such approvals may not be given unless certain conditions are met. Therefore, while an experimental practice could lead to improvements in environmental protection, it could also result in a technological improvement. In both cases, in order to be approved, the experimental practice must be potentially more or at least as environmentally protective as the environmental protection performance standards which were promulgated pursuant to Sections 515 and 516 of the Act and from which a variance is being sought.

Several commenters objected to language in the proposal which suggested that the variances would be from performance standards of the Act. OSM has rejected this comment. The performance standards of Subchapter K of 30 CFR Chapter VII are merely an extension of the standards of Sections 515 and 516 of the Act. Thus, to provide a variance from these standards it is also necessary to recognize that the variance could also be to the standards of the Act. The legislative history of this provision demonstrates that Congress contemplated that the experimental practices section would be used in just such a manner. The revised rule does not change the meaning of the

regulations, but merely clarifies it. (See 44 FR 15080, March 13, 1979.) Section 711 of the Act provides for departures from any of the environmental protection performance standards "promulgated under" Sections 515 and 516 of the Act. The departures, thus, may be granted to any rules that are published pursuant to the authorities of Sections 515 and 516 and which include the requirements set out in those sections.

One commenter suggested that experimental practices should be separated from "regulatory variances" because they imply the use of unproven techniques which involve a degree of risk and significant returns if successful. OSM recognizes that frequently cost savings and other benefits can be realized by new practices without obtaining a variance from the performance standards as provided in the experimental practice rule. It is only when a variance from the regulatory standards is necessary that the special approval granted under this rule is required.

B. *Section 785.13(b) Application Requirements*

Section 785.13(b) sets forth information that shall be provided by an operator in a permit application for an experimental practice. Among other things, this information shall include a description of the variances from performance standards that are being requested, show how use of the practice will encourage advances in mining or reclamation technology or allow alternative postmining land uses on an experimental basis, provide assurances that the practice is potentially more or at least as environmentally protective as required under Subchapter K and set out the monitoring efforts which the operator shall undertake. In the case of the monitoring efforts, the data collected shall be reliable and sufficient to enable the regulatory authority and OSM to evaluate the effectiveness of the experimental practice and to identify at the earliest possible time potential risk to the environment and public health and safety which may be caused by the experimental practice.

One commenter recommended retaining § 785.13(b) of the previous rule as being the only language seeking to encourage the use of experimental practices. OSM has not included this paragraph in the final rule because it is unnecessary. However, § 785.13(a) has been revised to state the purposes of experimental practices.

Two commenters believed that any provisions in the rule which went beyond the requirements of Section 711 of the Act should be deleted. These comments are rejected. Section 201(c)(2) of the Act provides the Secretary with authority to promulgate such rules and regulations as may be necessary to carry out its purpose. 30 U.S.C. 1211(c)(2). As the District Court found in *In re: Permanent Surface Mining Reclamation Litigation*, Civ. No. 79–1144, Slip op. at 5–8 (D.D.C. February 26, 1980), "An agency's regulations may cover items not specifically delineated in a statute so long as the regulations conform to an Act's purposes and policies." In promulgating this rule, OSM believes that the requirements of § 785.13 are appropriate to carry out the purposes of Section 711 specifically, and the Act in general.

Several commenters were confused as to whether the rule would require a separate experimental practice permit application or whether the request would be part of the surface mining operation permit application. OSM believes that the information required for approval of an experimental practice is in addition to that required for a surface coal mining and reclamation operation permit application. This information can be submitted with the general permit application or separately as a revision to the permit. OSM considers that the language changes which were made to § 785.13(a), and discussed above, are sufficient to clarify the relationship of an experimental practice variance to the general permit for the operation.

Several commenters stated that under the Act both the permit applicant and regulatory authority have the responsibility to assure that an approved practice is not larger or more numerous than necessary to determine its effectiveness and economic feasibility. The commenter disagreed with OSM's proposal not to require an operator to demonstrate in its permit application that the proposed variances are not larger or more numerous than necessary to determine its effectiveness and economic feasibility. The commenter believed that it was incumbent upon the operator, who had the data and self-interest in expanding the scope or duration of the variance, to establish the need for the magnitude and scope of the proposal. The commenter also believed that there must come a point when the regulatory authority would conclude that sufficient experimentation had taken place on a new technology or alternative postmining land use so that additional experimentation would not be permissible under the Act. By contrast, another commenter recommended deleting as redundant the proposed § 785.13(d)(3) finding by the regulatory authority concerning the size and number of the experimental practices.

OSM rejects both of these recommendations. OSM believes the Act requires the regulatory authority to make a specific finding as to the size and number of the experimental practice to determine its effectiveness and economic feasibility. Under this final rule, the regulatory authority and the Director must evaluate the proposed experimental practice to make the necessary findings. Information necessary to determine that the experimental practice is not larger or more numerous than necessary will generally be readily available to the regulatory authority.

One commenter endorsed the elaboration of information to be provided by the applicant concerning the nature of the proposed experimental practice. The commenter recommended revising proposed § 785.13(b)(1) to read "a description of the performance standards for which variances are requested." This change has been adopted.

One commenter was concerned that OSM's reference in § 785.13(b)(2) and (d)(1) in the proposal to "postmining land use" as a possible experimental practice could be interpreted to mean that whenever an operator proposed an alternative postmining land use in its surface mining permit application, such would have to be couched as an experimental practice. The commenter's fear is unfounded. An operator need apply for an experimental practice only when it is necessary to obtain a variance from the environmental protection performance standards.

Two commenters objected to the deletion of an application requirement showing the necessity for obtaining a variance from the performance standards. According to one of the commenters, without such a showing experimental practices could become a way to circumvent the requirements of not only Sections 515(b)(2) and 515(c) of the Act, but also those of Section 511 relating to procedures for surface mining permit revisions.

For two reasons OSM has not required information as to whether the ends sought through the experimental practice could not be otherwise attained under the regulatory program. First, OSM believes that the intent of Section 711 is to encourage advances in technology and alternative postmining land uses. Thus, even if an end product could be obtained through the existing regulatory program, improved procedures for attaining that goal could possibly also be developed through the

experimental practices program. Second, OSM is of the opinion that during review by the regulatory authorities and the Director, those experimental practices which should not be approved because they are larger or more numerous than necessary or do not meet the other criteria will be identified. Finally, OSM considers that the language of the final rule makes it clear that the permit revision requirements of Section 511 of the Act and Subchapter G of 30 CFR Chapter VII apply to experimental practices.

Two commenters recommended including "economic advantage" among the purposes for conducting experimental practices noted in § 785.13(b)(2) and (d)(1). In support of their recommendation, the commenters cited language from the preamble of the proposed rule which said that experimental practices could lead to economic benefits.

OSM has not adopted this suggestion because the two advantages listed in the rule are in keeping with those provided for in Section 711 of the Act. However, OSM believes to the extent such information aids in showing that the proposed practice encourages technological advances in mining, an operator may supplement his permit application with information demonstrating the economic benefits of the proposal.

One commenter objected to the monitoring requirement which would enable the regulatory authority and the Director to evaluate the effectiveness of the practice. The commenter believed that this was not required by the Act, that it would be extremely expensive and that the same purpose could be accomplished by other monitoring requirements. The recommendation to delete this requirement is rejected because OSM thinks that such data will enable the regulatory authority and the Director to evaluate the effectiveness of an experimental practice for purposes of allowing further experimental practices and possibly changing existing regulatory standards and is also needed to identify potential risks to the environment. Furthermore, the monitoring requirements provided under other rules may not be sufficient for activities covered by this rule. Since an experimental practice is conducted pursuant to a variance from promulgated performance standards, it must be more closely observed than standard mining practices. As for any additional expenses incurred due to monitoring, OSM believes that these may well be offset by economic advantages obtained as a result of successful experimental practices. Finally, OSM considers it has sufficient authority under the Act to require the monitoring data.

Two commenters recommended deleting language in proposed § 785.13(b)(4) referring to monitoring "during and after the operation involved." Instead, they thought that the regulatory authority should set the monitoring requirement in the experimental practice permit. The commenters wished to do away with open-ended monitoring requirements after the experimental practice was completed.

OSM rejects this suggestion in part because the degree of monitoring being specified follows the Act which provides for the experimental practice potentially to be "more or at least as environmentally protective, *during and after* mining operations" [emphasis added] as the promulgated performance standards. In order to ensure that this mandate is followed, a monitoring program both before and after the operation may be necessary. However, OSM agrees that the extent and scope of required monitoring should be determined and established in the experimental practices permit. For this reason the language has been revised by not adopting the proposed phrase "during and after the operation involved" in the first sentence of § 785.13(b)(4). Instead, the phrase "during and after mining" has been added to § 785.13(b)(4)(ii). This will assure that postmining monitoring need only be conducted if necessary to identify the risk to the environment and public health and safety during and after mining. Whether monitoring after mining may be required to meet this objective can be determined within the context of the individual experimental practices permit.

One commenter thought that the proposed language in § 785.13(b)(4)(i) would create a major loophole to compliance with the performance standards by deleting the previous requirement for a monitoring program to evaluate and compare experimental practices. Another commenter believed the proposal was in direct conflict with the Section 711 limitation on experimental practices to be "not larger or more numerous than necessary" to determine their effectiveness and economic feasibility. According to that commenter, unless the monitoring data were given in a form to enable comparison with other experimental practices, the regulatory authority or Director might approve practices more numerous than necessary or approve one already shown to be ineffective or infeasible.

OSM rejects these comments because the regulatory authority and the Director will have sufficient information from the experimental practice permit application to evaluate a given experimental practice on its own merit as well as in comparison with other similar experiments. Under this provision, reviewers are provided with data as to the effectiveness of the practice. Likewise, under § 785.13(b)(1), all performance standards for which variances are requested are identified, thus providing reviewers with a basis for comparison if and when necessary.

Several commenters opposed the proposed rule's requirement for operators to provide information in the permit application concerning the mitigative measures which would be taken in the event the experimental practice failed to meet its objectives. This was unacceptable to the commenters because they believed that experimental practices must be limited to situations where the worst case situation will not fall below the Subchapter K standards in environmental and public health and safety protection.

OSM has reviewed the legislative history for Section 711 and does not agree that experimental practices need be evaluated based upon the worst case possible if the practices were to fail. OSM believes the commenter's position is internally inconsistent. On the one hand it asserts that mitigative measures are inappropriate because the Subchapter K performance standards are minimum criteria which the operation must meet even under the worst possible circumstances if the experimental practice fails. On the other hand, the commenter recognizes that, in fact, an experimental practice may carry with it a risk of failure in which the Subchapter K performance standards cannot be met. In such a situation, the commenter urges that mitigative measures are insufficient because affirmative remedial measures are required. OSM is of the opinion that an experimental practice is exactly that, "experimental," and carries with it a certain level of uncertainty of success. However, OSM agrees with the commenters that, if additional measures are required to make the findings under § 785.13(d) (2) and (4) that the experimental practice is potentially more or at least as environmentally protective as the standards of Subchapter K and that equivalent protection is afforded the public health and safety, then the regulatory authority

and the Director have the responsibility to require under § 785.13(f), that such measures be incorporated in the experimental practice. Accordingly, the proposed requirement to specifically identify mitigative measures in the experimental practice application has not been adopted in the final rule.

C. *Section 785.13(c) Public Notice*

Under this paragraph an operator and the regulatory authority shall comply with the public notice requirements of proposed 30 CFR 773.13, as set forth in Volume III of OSM's "Final Environmental Impact Statement OSM–EIS–1: Supplement." (The use of proposed sections is discussed under "Procedural Matters.") This means that specific reference to a proposed experimental practice shall appear in the newspaper advertisement and in the notificaion to Federal, State and local government agencies with jurisdiction over or an interest in the proposed operation that are required by proposed § 773.13.

One commenter questioned requiring a newspaper advertisement in all cases when experimental practices permit applications are made. The commenter believed there were times when the proposed experimental practice would not change the surface mining permit at all. OSM rejects this comment because, at a minimum, an experimental practice will result in a variance from the applicable performance standards.

Another commenter was concerned that, as proposed, § 785.13(c) applied only to initial permit applications, and, therefore, permit revisions would not be subject to the same degree of public notice and participation. The commenter thought that the requirements of 30 CFR 786.11 applied only to initial permit applications.

The commenter is referred to 30 CFR 788.12(b)(2) which stated that *significant* alterations to a permit had to meet the same notice requirements as the initial application. Under the preferred alternative in Volume III of "Final Environmental Impact Statement OSM EIS–1: Supplement" for permit revisions, OSM would retain this requirement. See proposed 30 CFR 774.13 as set forth in OSM EIS–1: Supplement.

D. *Section 785.13(d) Approval Requirements*

Section 785.13(d) requires the regulatory authority to find in writing that the proposed experimental practice will encourage advances in technology or allow an alternative postmining land use; is potentially more or at least as environmentally protective during and after mining operations as the promulgated standards of Subchapter K; is not larger or its operations more numerous than necessary to determine its effectiveness and economic feasibility; and does not reduce the protection afforded public health and safety below that provided by standards promulgated under Subchapter K. Once the regulatory authority has made its findings, the Director will review them along with the permit application to reach a decision on concurrence.

Several commenters were concerned that there would be delays in the issuance of approvals for experimental practices due to confusion over the order of review between the regulatory authority and the Director. Others wanted it clear that the State regulatory authorities had the lead in initially reviewing and determining the merits of a proposal. In order to lessen the possibility of delay in approvals or confusion about the order of review, OSM has written the final rule so that it is clear that the Director will not concur in an application until after the regulatory authority has made its specific findings.

One commenter recommended that the rule should provide explicit recognition that the statutory principle of "* * * better than or equivalent environmental protection * * *" contemplates a balancing of various environmental effects and standards with emphasis on the final product. OSM believes that no revision to the rule is necessary. The level of environmental protection provided by each experimental practice must be compared to the minimum level of environmental protection provided under the regulatory standards of Subchapter K. No change is necessary to provide emphasis in the final product.

One commenter objected to the deletion in the proposed rule of the requirement conditioning approval of an experimental practice upon the imposition of enforceable alternative environmental protection performance standards in the event the specific variance is departed from or the experiment fails. The same commenter, however, objected to the provision requiring the operator to include potential mitigative measures in the permit application for the experimental practice. As indicated above, OSM has deleted both provisions from the final rule. As revised, the standard for approval of the experimental practice will be the statutory standard. Potential mitigative measures may be included in the experimental practice approval as appropriate and considered by the regulatory authority and the Director in evaluating whether the statutory standard is met. Regardless of whether mitigative measures are prescribed in advance, if a failure of the experimental practice leads to a degradation of the environment, the Director and the regulatory authority will have the responsibility to order measures to ensure protection of the environment and public health and safety.

The same commenter thought that the revised language in § 785.13(d)(4) was vague regarding the "promulgated standards" below which the experimental practice could not fall with respect to health, safety and environmental protection.

The commenter believed that specific references to standards required by Subchapter K and the regulatory authority's program should be included. OSM has accepted the commenter's suggestion with respect to Subchapter K and has revised paragraph (d)(4) accordingly. OSM has not, however, included reference to the standards of the regulatory program, since a State, under Section 505 of the Act, may include standards more stringent than the standards of Subchapter K. Departures from such requirements only require an experimental practice permit when they would also result in a variance to the Subchapter K standards.

E. Section 785.13(e) Consultation With USDA

Section 785.13(e) requires consultation with the U.S. Department of Agriculture, Soil Conservation Service (SCS), prior to granting variances from the special environmental performance standards for prime farmlands in keeping with the provisions of Section 510(d)(1) of the Act. Under 30 CFR 785.17, the Secretary of Agriculture has assigned these responsibilities to the SCS.

One commenter endorsed this provision provided that no deviation from the prime farmlands productivity requirements would be allowed. OSM agrees that Section 711 of the Act allows variances only from the environmental protection performance standards established by Sections 515 and 516 of the Act. Thus an experimental practice can be approved which provides a variance from the prime farmland soil reconstruction standards of Section 515(b)(7) of the Act. However, variances are not allowed from the productivity standards established separately under Sections 510(d) and 519(c)(2) of the Act. A conforming reference to Sections 515 and 516 of the Act has been included in § 785.13(e).

Another commenter recommended deleting the new requirement as duplicative of requirements found at 30

CFR 785.17 for prime farmlands. This comment is rejected. Section 785.17 deals with permit requirements for prime farmlands and does not cover the variances from performance standards allowed by Section 711 of the Act.

F. Section 785.13(f) Monitoring/ Additional Requirements

Section 785.13(f) will require that anyone undertaking an approved experimental practice shall conduct the periodic monitoring, recording and reporting program set forth in the application as well as fulfill any additional steps the regulatory authority or the Director may require to ensure protection of the public health and safety and the environment.

One commenter recommended deleting proposed § 785.13(f) as being redundant with the monitoring requirements of paragraph 785.13(b)(4). OSM has rejected this suggestion because new § 785.13(f) serves a different purpose than the referenced paragraph. Section 785.13(b)(4) concerns information which an operation must provide in an application for an experimental practice. On the other hand, § 785.13(f) indicates that the operator shall perform monitoring activities as well as any other requirements the regulatory authority or the Director may specify. OSM has adopted the word change recommended by another commenter in order to make it clear that the paragraph involves two distinct requirements.

G. Section 785.13 (g) and (h) Permit Review/Revision Requirements

Proposed §§ 785.13 (g)(1) and (g)(2) are adopted as new §§ 785.13 (g) and (h). Section 785.13(g) will require each experimental practice to be reviewed by the regulatory authority at a frequency set forth in the approved permit, but no less than every two and a half years. Two and a half years will generally correspond to the midterm of the permit. After any such review, the regulatory authority may require modifications of the practice which are necessary to ensure that the operation fully protects the environment and public health and safety. OSM has made clear that the administrative and judicial review provisions attendant to permits also apply to modifications of experimental practices. Under § 785.13(h), in the event an operator wishes to revise an approved experimental practice, it will be necessary first to submit an application for a permit revision subject to the requirements of Subchapter G.

One commenter argued that there was no statutory authority justifying the proposed yearly review of experimental practices. While OSM has modified its review proposal as described above, it rejects the general assertion that establishing a review procedure is somehow outside the scope of its authority. The Act provides OSM with ample authority to promulgate those rules it believes are necessary to carry out the purposes of the Act.

Several commenters objected to the proposed annual review of each experimental practice. Some felt that the data accumulated from one year could be inadequate to determine the effectiveness of the practice. Also, they thought that the frequent review with possibilities for unlimited modification by the regulatory authority could act as a disincentive to participation in the program and could be unnecessarily burdensome to the regulatory authority as well. The commenters recommended having the review period determined by the regulatory authority on a case-by-case basis so as to take into account the specific nature and location of the practice and the parties involved. Some commenters thought it was better not to have the review set by an arbitrary schedule. They believed that State regulatory authorities wishing to have more frequent reviews would be able to establish this in their State programs. OSM agrees with the thrust of these comments and has written the final rule so that the review period shall be set by the regulatory authority in the approved permit, but shall be no less frequent than every two and one half years. OSM believes this provision will give the regulatory authorities sufficient flexibility to establish an appropriate review process without creating unnecessary burden.

Another commenter objected to the proposed rule because he felt the review should be of the entire permit and not just the experimental "practice." The commenter was also concerned that citizen participation was being deleted. OSM considers § 785.13(g) to include review of the experimental practices and any directly related provisions of the permit. The regulatory authority need not review unrelated aspects of the permit at the same time. Review of other aspects of the entire permit is governed by 30 CFR 788.11. (See also proposed 30 CFR 774.11 as set forth in OSM EIS–1: Supplement.) OSM has also revised paragraph 785.13(g) to assure public participation when modifications occur in accordance with the administrative and judicial review provisions of proposed 30 CFR Part 775, as set forth in OSM EIS–1: Supplement.

One State commenter found the language of proposed § 785.13(g) (1) and (2) to be inconsistent. The commenter thought it was necessary to have language in each paragraph making it clear that it is necessary to obtain the approval of the regulatory authority for any permit modifications. OSM agrees with the observation of the commenter and has rewritten both paragraphs accordingly.

In the proposed rule, OSM distinguished between major and minor revisions to the experimental practice approval. Under proposed § 785.13(g)(2), prior to the implementation of a minor revision, an operator would have only needed to provide the regulatory authority with written notice. In the case of a major revision, approval by the regulatory authority and the Director would have been necessary before implementation. Much discussion with respect to the major/minor dichotomy and who should retain responsibility for approval was generated as a result of OSM's proposal.

Two commenters wanted the term "major" and "minor" revisions to be defined. Others thought that simple notice to the regulatory authority in all cases was sufficient. A third commenter believed that while the regulatory authority should retain control over major revisions, the full permitting process should not be necessary. One State commenter preferred to see the regulatory authority provide written approval. Another State commenter wanted the role of the Director to be limited in the approval process. A different State wished to require regulatory authority approval in all instances. Two commenters thought there should be a deadline within which a regulatory authority must act or be deemed to have approved the revision. Another commenter made the point that any revision to an experimental practice may be significant and, therefore, there was no basis for distinctions concerning the significance of revisions.

OSM has decided not to adopt the major/minor distinction. Instead the final rule, in § 785.13(h), requires processing and approval by the regulatory authority consistent with the provisions of the proposed new rule for permit revisions, § 774.13, as set forth in OSM EIS–1: Supplement. Revisions that propose significant alterations to the experimental practice must also be subject to notice, hearing and public participation requirements and concurrence by the Director. OSM believes this comports with Section 511(a)(2) of the Act requiring that revisions which propose significant alterations in the permit be subject to notice and hearing requirements. Non-significant revisions may be handled

more expeditiously. Under Subchapter G, such applications must be processed within a reasonable time. However, no specific time limit has been included in the final rule.

H. Miscellaneous Recommendations

One commenter recommended several new provisions. One of these would require a regulatory authority to designate contact persons on its technical staff for monitoring experimental practices who would be immediately notified by an operator in the event problems developed in the course of an experiment. The proposed provision would also authorize the issuance of a notice of violation only if an experimental practice plan were not followed or if appropriate action as required by the regulatory authority were not taken.

OSM believes that regulatory authorities will set up appropriate contact arrangements and therefore specific directions to this effect are not warranted in this rulemaking. With respect to the issuance of notices of violation, the experimental practice variance becomes part of the surface mining permit and, if followed, would not lead to the issuance of a notice of violation or a cessation order with regard to those standards from which a variance was granted.

The same commenter proposed including provisions which would identify what constitutes a successful experimental practice; would require a regulatory authority to notify all operators in the State of a practice that was deemed successful; would permit the practice's use on a case-by-case basis; and would require the Director to circulate to the State regulatory authorities technical memoranda informing them of practices deemed to be successful.

OSM has not adopted any of these suggestions in this rulemaking, because it believes that whether an experimental practice is completely or partially successful will be apparent. As for how dissemination of the new information will be accomplished within a State, OSM believes that those decisions are within the prerogative of the regulatory authority. Since an experimental practice permit is issued to allow a variance from performance standards, it will be necessary to revise regulations before widespread use of a successful practice can occur. Merely circulating notices or technical memoranda would not be sufficient.

Several commenters raised questions about the bonding requirements that apply to experimental practices. One believed that small and medium sized operations had little inducement to provide an investigator with areas for experimental research, if those locations might not qualify for bond release as quickly as conventionally reclaimed areas. Moreover, the commenter felt that operators could not be required to rework failed experimental plots at added cost. To counter these perceived problems, the commenter suggested lessening the performance bond requirements for areas where experimentation was taking place and having the organization sponsoring the research assume some or all of the liability of any performance bond. A Federal agency suggested, as a way of promoting cooperation between research organizations and mine operators, providing early release from reclamation bonds for specific areas dedicated to reclamation research and demonstration of reclamation technology. The commenter thought that research areas would seldom encompass an entire permitted area, and therefore the incremental release could occur provided the area otherwise qualified for such status. At the recent oversight hearings of the House Subcommittee on Energy and the Environment, a mining industry spokesman testified that under the proposed rule there was at least one issue which remained an obstacle to enhancing reclamation technology. The witness said there was no statutory provision for establishing designated postmining land use research and demonstration areas on bonded surface mining lands. According to the spokesman, Section 711 was seen by the regulatory authorities as applying to alternative design work and engineering practices. Therefore, research groups (universities and government agencies) had to assume responsibility for the long term performance bonds. The witness recommended that Section 711 be expanded or a new provision enacted to encourage research groups and operators to participate in revegetation research.

Bonding amounts and length of liability are governed by Sections 509 and 519 of the Act and 30 CFR Parts 800–809. No provision is included in the Act for waiver of bonding requirements for experimental or research requirements. However, the bond amount can include consideration of the provisions of the experimental practice. As for whether Section 711 of the Act can be expanded to cover revegetation research not considered an experimental practice, such action is outside the scope of this rulemaking.

One commenter thought that simply preparing an environmental assessment on the experimental practice rulemaking did not meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 *et seq.*, or Section 702(d) of the Act.

The Office has prepared an environmental impact statement which analyzes the impacts on the quality of the human environment resulting from changes to the permanent program regulations.

III. Procedural Matters

For convenience, certain references in the final rule are to proposed section numbers that have not been finalized. If such sections are not adopted as proposed, conforming technical amendments will be issued.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the final Environmental Impact Statement OSM EIS–1: Supplement according to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mailing a request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, DC 20240. This preamble serves as the record of decision under NEPA. This final rule adopts the preferred alternative published in Volume III of the EIS which is analyzed in the EIS, with minor editorial changes.

Paperwork Reduction Act

The information collection requirements contained in § 785.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0040. The information is being collected by the regulatory authority in determining whether the applicant meets the applicable performance standards for experimental practices mining activities. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed

operation during the permanent regulatory program. The obligation to respond is mandatory.

List of Subjects in 30 CFR Part 785

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

For the reasons set forth in the preamble, Part 785 of Chapter VII, Title 30, of the Code of Federal Regulations is amended as set forth herein.

Dated: February 28, 1983.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

1. Section 785.13 is revised to read as follows:

§ 785.13 Experimental practices mining.

(a) Experimental practices provide a variance from environmental protection performance standards of the Act, of Subchapter K of this chapter, and the regulatory program for experimental or research purposes, or to allow an alternative postmining land use, and may be undertaken if they are approved by the regulatory authority and the Director and if they are incorporated in a permit or permit revision issued in accordance with the requirements of Subchapter G of this chapter.

(b) An application for an experimental practice shall contain descriptions, maps, plans, and data which show—

(1) The nature of the experimental practice, including a description of the performance standards for which variances are requested, the duration of the experimental practice, and any special monitoring which will be conducted;

(2) How use of the experimental practice encourages advances in mining and reclamation technology or allows a postmining land use for industrial, commercial, residential, or public use (including recreation facilities) on an experimental basis;

(3) That the experimental practice—

(i) Is potentially more, or at least as, environmentally protective, during and after mining operations, as would otherwise be required by standards promulgated under Subchapter K of this chapter; and

(ii) Will not reduce the protection afforded public health and safety below that provided by the requirements of Subchapter K of this chapter; and

(4) That the applicant will conduct monitoring of the effects of the experimental practice. The monitoring program shall ensure the collection, analysis, and reporting of reliable data that are sufficient to enable the regulatory authority and the Director to—

(i) Evaluate the effectiveness of the experimental practice; and

(ii) Identify, at the earliest possible time, potential risk to the environment and public health and safety which may be caused by the experimental practice during and after mining.

(c) Applications for experimental practices shall comply with the public notice requirements of § 773.13 of this chapter.

(d) No application for an experimental practice under this section shall be approved until the regulatory authority first finds in writing and the Director then concurs that—

(1) The experimental practice encourages advances in mining and reclamation technology or allows a postmining land use for industrial, commercial, residential, or public use (including recreational facilities) on an experimental basis;

(2) The experimental practice is potentially more, or at least as, environmentally protective, during and after mining operations, as would otherwise be required by standards promulgated under Subchapter K of this chapter;

(3) The mining operations approved for a particular land-use or other purpose are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practice; and

(4) The experimental practice does not reduce the protection afforded public health and safety below that provided by standards promulgated under Subchapter K of this chapter.

(e) Experimental practices granting variances from the special environmental protection performance standards of Sections 515 and 516 of the Act applicable to prime farmlands shall be approved only after consultation with the U.S. Department of Agriculture, Soil Conservation Service.

(f) Each person undertaking an experimental practice shall conduct the periodic monitoring, recording and reporting program set forth in the application, and shall satisfy such additional requirements as the regulatory authority or the Director may impose to ensure protection of the public health and safety and the environment.

(g) Each experimental practice shall be reviewed by the regulatory authority at a frequeny set forth in the approved permit, but no less frequently than every 2½ years. After review, the regulatory authority may require such reasonable modifications of the experimental practice as are necessary to ensure that the activities fully protect the environment and the public health and safety. Copies of the decision of the regulatory authority shall be sent to the permittee and shall be subject to the provisions for administrative and judicial review of Part 775 of this chapter.

(h) Revisions or modifications to an experimental practice shall be processed in accordance with the requirements of § 774.13 of this chapter and approved by the regulatory authority. Any revisions which propose significant alterations in the experimental practice shall, at a minimum, be subject to notice, hearing, and public participation requirements of § 773.13 of this chapter and concurrence by the Director.

Revisions that do not propose significant alterations in the experimental practice shall not require concurrence by the Director.

(30 U.S.C. 1201 *et seq.*)

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Part VIII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Training, Examination, and Certification of Blasters; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816, 817, and 850

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Training, Examination, and Certification of Blasters

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is issuing final rules that delegate responsibility for the development and implementation of blaster certification programs to regulatory authorities with permanent regulatory programs. This is being done to accommodate the States' desire to develop and implement their own blaster certification programs. Additional amendments have been adopted to ensure that blasts are conducted only by certified blasters.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Anderson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240; 202–343–5954.

SUPPLEMENTARY INFORMATION:

I. Background

Section 515(b)(15)(D) of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, 30 U.S.C. 1201 *et seq.* (the Act), requires that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority. Section 719 of the Act directs that regulations be promulgated which require "the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations." Section 719 also states that such regulations may be promulgated by the "Secretary of the Interior (or the approved State regulatory authority as provided for in Section 503 of the Act)." Final regulations to implement those sections were published at 45 FR 82084–82100 (December 12, 1980). Previous proposals were published at 43 FR 41834 (September 18, 1978) and at 44 FR 36318 (June 29, 1979).

In the December 12, 1980, rules adopting the old blaster certification program OSM interpreted Section 719 of the Act as providing statutory authority to promulgate rules for a comprehensive national program to train, examine, and certify "blasters-in-charge," a regulatory term not found in the Act (45 FR 82092–94). Section 719 of the Act also allows approved State regulatory authorities to develop and implement blaster certification programs.

On January 29, 1981, the Secretary of the Interior ordered that all regulations which were excessive, burdensome, or counterproductive be identified and asked States and industry to recommend sections to be revised. OSM, in compliance with the administrative mandate to simplify and remove excessive regulatory burdens, reproposed rules governing training, examination, and certification of blasters in surface operations of coal mines. The reproposed rules were published on March 24, 1982 (47 FR 12779).

II. Rules Adopted and Responses to Public Comments on Proposed Rules

OSM today is issuing final rules within which a State with an approved State regulatory program can implement and design its own blaster certification program.

The rules adopted today require regulatory authorities to ensure that all blasting operations are conducted by qualified and trained blasters. Under the rules adopted today each State must choose and develop the method of training, examining, and certifying blasters which best meets local needs within the regulatory framework adopted herein. In States with Federal programs, OSM must assume the responsibility to develop such programs.

In the rules adopted today, the training of blasters is mandatory. A State may mandate blaster training at specified schools, conduct courses based on curriculum developed under its guidance, or choose to require all applicants to demonstrate and/or document that they have received training in some other way prior to examination or certification. The State may impose retraining or choose to find another method to ensure continued blaster competence. Initial evaluation of competence by written exam is mandated by these rules and must reflect certain subject areas. It will, however, be left to the State to develop and implement the exam. The State regulatory authority must also review and verify the practical field experience of persons seeking blaster certification. Each State may build additional procedures, conditions and criteria into its program as long as the program satisfies the basic requirements cited.

OSM received comments from industry, citizens and State regulatory authorities discussing the proposed amendments. Many commenters agreed with the concept of State responsibility for blaster training, examination and certification in lieu of the national program previously proposed. All comments received have been considered and incorporated into the rules as indicated.

General Comments on Part 850

OSM had specifically solicited comments on whether it could promulgate National standards for blaster certification. Some commenters believed that OSM had correctly proposed to allow exclusive State jurisdiction over blaster training examinations and certification. One noted "that States are capable of formulating effective and appropriate state blaster certification programs." Other commenters believed it is beyond the authority of OSM to issue any regulations governing blaster certification and that each State must be responsible for developing provisions implementing a blaster certification program in its State program.

OSM believes that the provisions of a training, examination and certification program can best be developed at the State level based on a general National programmatic rule.

OSM's authority to issue regulations establishing the framework for State blaster certification is incident to Sections 503(a)(1), 515(b)(15)(d), and 719 of the Act, among other sections. States will have responsibility to develop specific provisions. Subchapter M will ensure consistency and provide a yardstick by which OSM can approve State programs and conduct oversight.

A commenter objected to OSM's interpretation of Section 719 of the Act, which allows each State to develop its own program and procedures governing blaster training, examination and certification. This commenter preferred a standardized, nationally uniform program. The commenter pointed out that in the initial years since the statute has been passed, no State has implemented an acceptable blaster certification program.

OSM believes that Section 719 of the Act, especially when read in conjunction with Section 102 of the Act provides ample authority for these regulations. In considering whether to develop a national exam and training program, OSM requested comments from the coal-producing States who would otherwise bear the burden of this task. Most States preferred to take the initiative in this area. Some States raised concerns over funding, but nevertheless preferred to be given the opportunity to take control

over this aspect of the progam. This concept will allow training to be adapted to local blasting techniques. Practices used in local mines and under particular local geologic conditions may be designed to emphasize local and regional characteristics. Moreover, since the publication of the December 12, 1980, final rule, at least one State (West Virginia) has developed blaster certification exams, and other States in cooperation with West Virginia have given consideration to training programs and facilities. States such as Alabama, Pennsylvania, Oklahoma and Kentucky already have programs which, with certain modification to course content and/or procedures, could be used to implement the blaster certification concept.

A commenter asserted that proposed §§ 850.13, 850.14, and 850.15 exceed OSM's authority because they set work practice standards and procedures better left to the State's discretion. OSM believes that the criteria established in §§ 850.13, 850.14 and 850.15 serve to standardize subject areas and program procedures, allow the industry to more easily tailor design courses to this purpose and enhance the likelihood of reciprocity between States. These are not work practice standards. Based on these reasons, OSM has chosen to retain the minimum criteria, with minor changes as noted elsewhere.

Section 850.1 Scope.

New § 850.1 specified that 30 CFR Part 850 sets requirements and procedures applicable to the development of regulatory programs for the training, examination, and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

Section 850.5 Definition.

OSM has adopted a definition of "blaster" similar to the one proposed. "Blaster" is defined as a person certified to be directly responsible for the use of explosives in surface coal mining operations. The proposed words "for blasting" which would have modified the words "use of explosives" have not been adopted. The words could have created the misimpression that handling of explosives in surface coal mining operations for non-blasting purposes need not be supervised by a certified blaster. Non-blasting aspects of explosives use such as transportation and storage are to be conducted under the supervision of a blaster.

Commenters were concerned that OSM's proposal would have required that all persons "engaging in" blasting be trained and certified in all topics of blasting. These commenters felt it was unnecessary for all individuals who are involved with explosives such as those receiving explosives or drilling holes, to be certified. They pointed out that "the man who loads the holes most often is not the man who designs the holes." The commenter recommended a two part certification: (1) Office personnel, and (2) field personnel.

In the rules adopted today OSM has clarified its intent. Surface mining operations using explosives must be conducted under the direction of a "certified blaster." The rule does not mandate that all personnel "engaging in" blasting operations be certified as blasters. The blasting crew member or members responsible solely for receiving, drilling, loading, or transporting explosives would report to and be controlled and trained by the "certified blaster." Only individuals responsible for the conduct of blasting operations must be certified. Section 850.13(a)(2) specifically refers to and requires training for non-certified employees working in a blasting crew. It requires that these persons work under and receive direction and training from the certified person. OSM has not accepted the commenter's suggestion that certification be divided because a responsible blaster needs to know both office and field blasting operations to ensure the successful achievement of the requirements of the Act.

A commenter suggested that the proposed definition of blaster might conflict with the present United Mine Workers of America definition of a "supervisor." The commenter believed that the phrase "engaging in" put the blasters into the category of "classified work" which would prevent supervisors from serving as "blasters." The comment proposed the alternative of "direct responsibility for" rather than "engaging in" the work of blasting.

OSM has adopted the recommendation as proposed. In proposing the definition OSM did not intend to include or exclude anyone from union coverage, not to alter employee-union relations. For each mine, however, at least one person must be directly responsible for the use of explosives at any time. That person must be a certified blaster and must be present at each blast. Such a person may engage in, as well as be directly responsible for, the use of explosives. Persons who merely "engage in" the use of explosives without the responsibility for their use need not be certified. Similarly, some supervisory personnel may not be *directly* responsible for the use of explosives, even though some of the people they supervise may engage in blasting operations. These persons need not be certified either. But all persons who are directly responsible for the use of explosives must be certified. At some operations the person who is directly responsible may design as well as drill and load or perform other functions. These persons are required to be certified.

Corresponding changes have been made to §§ 850.12(b) and 850.13(b) to include the phrase "responsible for" the use of explosives rather than "engaging in."

Section 850.11 Applicability.

As proposed, the applicability section would have specified that part 850 applies to regulatory authorities responsible for enforcing a permanent surface coal mining regulatory program. OSM believes this section is redundant and has not adopted it.

Section 850.12 Responsibility.

Section 850.12(a) requires regulatory authorities to promulgate rules governing the training, examination, and certification of blasters in surface coal mining operations. States are to submit rules governing blaster certification to OSM for approval as a State program provisions under 30 CFR Parts 731 and 732.

Section 850.12(b) requires each regulatory authority with an approved regulatory program to submit a program for the examination and certification of persons responsible for the use of explosives in surface coal mining operations within 12 months of State program approval or implementation of a Federal program or within 12 months after the effective date of these rules, whichever is later.

A State regulatory authority objected to OSM's delegation of the responsibility for blaster training, examination and certification to the States because of the financial and programmatic burden this places on the State regulatory authority. This State criticized the existing funding levels as inadequate to produce a training and certification program. The commenter did not object to taking program responsibility, but objected to lack of specific programmatic guidance and funding.

OSM proposed to change its earlier emphasis on a national training program and exam, based on comments from the majority of coal-producing States which preferred to take responsibility for the program. OSM expects to work with the States to provide grant assistance and technical assistance to States in developing or reviewing blaster

certification methods and examinations. Although this final rule mandates that applicants for certification be experienced and trained, it does not necessarily require States to establish training facilities and courses as was required under the previous rule. Rather it allows the use of other courses covering the topics required by the rule.

In the proposed rules, OSM had requested comments regarding the time frame for implementing blaster certification programs. Commenters objected to the proposal that all blasters in a State be certified within six months after a blaster certification program is adopted for the State. A State regulatory authority recommended 24 months rather than 12 months for program development. OSM has decided to adopt the 12 month period in § 850.12(b) for program development and a further 12-month period for the certification of all blasters. OSM believes that 12 months to obtain program approval is adequate for program development. Program approval will have to include a valid exam as well as all of the other program elements. However, the new rule contains a provision under which OSM may approve an extension of the 12-month period if a State demonstrates good cause. An extension is not considered appropriate to delay implementation of a program, but will be approved only where unforeseen complications or other circumstances warrant.

OSM concurs with the recommendation of several commenters that a longer period for certification be allowed. Accordingly a twelve month period has been adopted. However, because the requirement is a condition on blasting, it is properly imposed on operators and is incorporated as a performance standard into Subchapter K, as §§ 816.61(c) and 817.61(c), described below.

An operator suggested that OSM require that State regulatory personnel administrating the blaster certification program be certified.

OSM is placing the responsibility on the regulatory authority to determine qualifications of the personnel responsible for implementing the certification program and does not believe it necessary to prescribe the manner in which this is to be done.

OSM had solicited comments on the issue of whether a State blaster certification program should be applied on Federal lands in a State. One State regulatory authority commented that it should apply its approved certification program only to lands under its area of jurisdiction, and leave the applicability of the certification program on Federal lands to the Secretary's discretion.

OSM believes that in a State with a cooperative agreement an approved State certification program should apply to blasting on Federal lands within the State. Because many mining operations may involve coal both on non-Federal and Federal lands, and because other State regulations apply on Federal lands it is appropriate to require the certification of blasters only by one regulatory authority. This, however, will be pursued on a case-by-case basis under specific cooperative agreements. OSM will promulgate rules at a later date governing certification of blasters for operations on Federal lands in States without cooperative agreements. At a minimum, OSM will recognize certificates issued under an approved State program for operations on Federal lands within the particular State.

Commenters further endorsed reciprocity among States in order to facilitate blasters working in more than one State.

OSM endorses the concept of State reciprocity. This should be facilitated by the State program review and approval process, under which all States with approved programs must conform with the rules adopted today and the Act. It is expected that the individual States will work out the details of mutual acceptance under licensing procedures.

Section 850.13 Training.

Section 850.13 (a) requires the regulatory authority to adopt procedures to ensure that prospective blasters receive training, including but not limited to technical aspects of blasting operations and the requirements of State and Federal laws governing the storage, transportation and use of explosives. The rule also requires that all uncertified persons in blasting crews receive direction and on-the-job training from those certified as blasters. This ensures that workers involved in the use of explosives receive direction from trained persons who are knowledgeable in the proper use and handling of explosives.

OSM's proposed rule would have required that "blasters" receive training. A commenter suggested adding the word "certified" to modify "blaster" in the requirement for blasters to receive training. The commenter noted that under the definition a blaster must be certified. In proposing the rule, OSM did not intend to require those already certified to be trained. Rather, the intent was that the requirement apply to those who seek to become certified.

OSM has amended § 850.13 (a) (1) to require training by those who seek to become certified. As suggested by other commenters a further provision has been added at § 850.15 (c) (1) which allows a regulatory authority to require retraining for continued licensing. This is discussed below.

A commenter recommended deletion of "storage and transportation of explosives" from the training requirements of § 850.13 and the exam requirements of § 850.14. The commenter asserted that this requirement was not authorized by the Act.

The Act requires that the use of explosives be under the direction of a certified blaster. OSM interprets "use of" to include transportation and storage. Since the blaster directs the receipt, storage and movement of explosives it is essential that he must be trained in the proper methods of storage and transportation.

OSM does not intend to govern the facets of explosives use regulated by other Federal or State agencies, but rather to ensure that as a condition of certification a blaster is knowledgeable of all these aspects. Accordingly, the rule governing storage and transportation of explosives has been adopted without change.

A commenter objected to the proposed requirement of "on-the-job training" in § 850.13 (a) (2) because it appeared to duplicate MSHA's requirement with respect to health and safety.

OSM recognizes that MSHA, as well as OSM, requires on-the-job training of those involved in the use of explosives in underground mines. MSHA's requirements for non-certified persons assisting blasters will also include health and safety matters. OSM's on-the-job training requirements include technical aspects of the use of explosives that are not necessarily covered by MSHA's rules.

Section 850.13 (b) requires training courses to be available and sets forth specific subjects to be included in training courses. Rather than have a separate list of subjects for training in § 850.13 and another list of subjects to be included in an exam in § 850.14 as was proposed, OSM has consolidated them into one list of subjects for both purposes. These subjects include:

—Explosives, including—
  —Selection of the type of explosives to be used;
  —Determination of the properties of explosives which will produce desired results at an acceptable level of risk; and
  —Handling, transportation, and storage.

- Blast designs, including—
  —Geologic and topographic considerations;
  —Design of a blast hole, with critical dimensions;
  —Pattern design, field layout, and timing of blast holes; and
  —Field applications.
- Loading blastholes, including priming and boostering.
- Initiation systems and blasting machines.
- Blasting vibrations, airblast, and flyrock, including—
  —Monitoring techniques, and
  —Methods to control adverse affects.
- Secondary blasting applications.
- Current Federal and State rules applicable to the use of explosives.
- Blast records.
- Schedules.
- Preblasting surveys, including—
  —Availability,
  —Coverage, and
  —Use of in-blast design.
- Blast-plan requirements.
- Certification and training.
- Signs, warning signals, and site control.
- Unpredictable hazards, including—
  —Lighting.
  —Stray currents, and
  —Radio waves.

Commenters supported the list of topics included in § 850.13(b), and recommended including some additional topics as a refinement to the list. The proposed additions are discussed as follows:

Powder factor. OSM recognizes powder factor as a significant component of blast design. However, this calculation is only one facet of blast design and not an aspect requiring extra emphasis. The study of powder factors will be included in topics such as the properties of explosives, geology and the intensity of ground movement required. Those factors vary from site to site.

Misfires. The training and testing for subjects such as blast design, initiation systems, and loading techniques will cover prevention of misfires from such occurrences as cutoffs and improper priming. The methods for handling misfires after they occur has been added to the list of unpredictable hazards and has been included in the list of required topics.

Delay systems. The commenter suggested added emphasis on "delay systems" in the requirement for initiation systems. Concepts such as blast patterns, blasting machines, initiation systems and ground vibration mitigation include application of delay blasting techniques. OSM believes that singling out delay systems for additional emphasis is not necessary since blasting delay techniques will certainly be included in any course on these topics.

Preblast surveys, signs, warnings and site control. The commenter suggested that these items be included on the list of topics to be studied. OSM accepts this comment and has included these items on the list.

Commenters recommended deleting the requirement in proposed § 850.13(b)(9) to train blasters in the "chemical and physical properties of explosives," stating that only the basic properties have to be known. OSM agrees that a detailed knowledge of the chemical properties is unnecessary and in the corresponding provision of the final rule, § 850.13(b)(1) includes training in the selection of explosives and a knowledge of the relevant properties of explosives to produce desired results at an acceptable level of risk. This would require a general knowledge of the properties of most explosive materials such as specific gravity, water resistance and detonating velocity, as well as the hazard and dangers associated with specific types of explosive materials.

A commenter suggested separating unpredictable hazards from effects of blasting such as flyrock and ground vibration, in the list of training subjects. The commenter also recommended use of the term "nonpredictable" rather than "unanticipated" hazards, since they are in fact, anticipated hazards, which cannot always be predicted. OSM has separated these topics, and they are included in §§ 850.13 (b)(5) and (b)(14). The term "unpredictable" has been adopted.

Commenters believed that the language of § 850.13(b) would allow the use of self-study programs or slide shows without instructors familiar with the subject manner. These commenters were concerned that the subject matter could not adequately be taught without the use of instructors and the ability to obtain answers to questions or exchange ideas.

OSM agrees with the commenter that instructors probably provide a more adequate educational approach than do packaged materials. However, OSM also believes that some of the required subjects might be covered through these materials and therefore believes that the regulatory authorities should be allowed to determine the training method for each subject. No program will be approved until OSM is satisfied that the requirements of these rules will be met.

A commenter noted the apparent overlap between OSM and the Mine Safety and Health Administration (MSHA) training programs. MSHA training may serve to fulfill some of the requirements for blaster training under § 850.13 and contribute to the overall certification process. MSHA training also applies to underground miners and underground blasting operations not covered by OSM's rules. The commenter encouraged future cooperative efforts between OSM and MSHA in training matters. OSM will explore this possibility.

Commenters were concerned that the rule requiring training placed the burden on regulatory authorities and relieved OSM and operators of any such responsibility.

OSM does not intend for the regulatory authority to be solely responsible for training. The rule requires that regulatory authorities ensure that "blasters receive training." The regulatory authority may choose to accept outside courses, require combinations of MSHA and industry courses or provide its own training. The object is that persons are trained before they become certified; the methods and degree of regulatory authority involvement will vary from State to State.

Section 850.14 Examinations.

Section 850.14 requires the regulatory authority to examine candidates for blaster certification. Regulatory authorities must verify the competence of persons responsible for the use of explosives in surface coal mining operations using written examinations covering technical aspects of blasting, State and Federal laws governing the storage, use and transportation of explosives. The regulatory authority must also verify practical field experience of the candidates. The level of field experience must demonstrate that the candidate possesses practical knowledge of blasting techniques, understands the hazards involved in the use of explosives and has otherwise exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations.

Furthermore, the rule requires regulatory authorities to examine prospective blasters in the subjects listed in § 850.13(b).

Commenters requested that OSM allow the demonstration of competence to be accomplished by methods other than written examination. They observed "there are very competent miners that can barely write their own name."

Preparation of blasting designs, understanding of explosives specifications, the use of safety

brochures and the submission of records require the ability to read, write and perform basic mathematic functions. OSM therefore believes that the blaster, as a person responsible for complying with laws, designs and records, and for controlling the adverse effects of blasting, must demonstrate a written ability to communicate in the subject area. In previous rules OSM had also adopted the requirement of a written exam in order to evaluate the blasters' ability to use explosives as well as in order to ensure at least a minimal readying ability

Commenters suggested adjusting the emphasis on blaster certification to allow more credit for work experience or perhaps "grandfathering" blasters with more than five years of experience. The rules adopted today require a written exam, coupled with practical field experience. The amount of emphasis or weighting placed on either part is not specified. There is, however, no provision for "grandfathering" or exemption from the written exam. Regulatory authorities may find it useful to augment the written exam with oral or practical exams for specific topics. OSM believes, however, that a written exam represents the minimum allowable demonstration of ability.

A commenter suggested that OSM emphasize the concept of practical field experience, and recommended that a provision be added requiring 2 years of field experience as part of the qualifications. Other commenters believed that the requirement for practical field experience was not necessary to be a trained and competent blaster, rather that competence should be based solely upon tests. OSM recognizes the value of practical field experience and has adopted it as part of the qualifications for candidates, in § 850.14(a)(2). OSM intends that States include minimum experience criteria in their acceptance of candidates for certification. OSM has reconsidered this requirement and believes that adequate latitude is provided to State regulatory authorities to emphasize or deemphasize practical experience within limits. In some blasting operations practical work experience may be more important than the ability to provide textbook solutions. Those States which already have blaster certification programs have generally required established minimum experience levels. OSM supports the evaluation of experience as part of a blaster certification program.

Section 850.15 Certification requirements.

Section 850.15(a) requires the regulatory authority to certify, for fixed periods, candidates who are found to be competent and to have the necessary experience to accept responsibility for blasting operations in surface coal mining operations.

Section 850.15(b) provides procedures for suspension and revocation of blasters' certifications. Suspension or revocation may and, upon a finding of willful conduct, must occur when, after notice and hearing, certain conditions are found to exist. Notice and hearing may be provided after suspension only if it would not be practicable to provide it before. The conditions are:

(i) Noncompliance with any order of the regulatory authority.

(ii) Unlawful use in the work place of, or current addiction to, alcohol, narcotics, or other dangerous drugs.

(iii) Violation of any provision of the State or Federal explosives laws or regulations.

(iv) Providing false information or a misrepresentation to obtain certification.

Section 850.15(c) allows the regulatory authority to impose additional educational or other requirements for the maintenance of certification. Section 850.15(d) requires the regulatory authority to adopt regulations which require blasters to take precautions to protect their certificates from loss, theft, or unauthorized duplication, and to require immediate reporting of any loss, theft or duplication.

Section 850.15(e) requires regulatory authorities to impose certain conditions for maintaining certificates. Three minimum conditions are stated: (1) That blasters immediately exhibit certificates to authorized representatives of OSM or the regulatory authority on request; (2) blaster certificates are not transferrable or assignable; and (3) blasters cannot delegate their responsibility to anyone who is not a certified blaster.

OSM had proposed to require that certification be for a fixed period. A commenter did not like the concept of a "fixed period" and noted that other certified persons such as doctors and lawyers have licenses which remain valid indefinitely. Other commenters felt that OSM's proposal did not go far enough; they suggested a mandatory retraining requirement as well.

In some professions licensing is conducted on a recurring basis (often yearly) and other professions require extensive retraining or continuing education to continue practice. Renewal provisions vary, but they are generally less stringent than initial certification. OSM believes that a one time certification would simplify the process, but in so doing would miss the important opportunity to weed out those who are unable to continue to conduct blasts effectively and safely. Therefore OSM has retained the concept of certificates lasting "for a fixed period," and endorses the concept of periodic retraining and/or continuing education in order to assure continuing compliance with competence requirements. OSM has not, however, adopted mandatory retraining requirements.

A commenter suggested that a provision be added for recertification after revocation in § 850.15. Such a provision is not necessary. An individual is not precluded from applying anew to be certified under § 850.15(a) even after his or her certificate is revoked. However, the reasons for the earlier revocation could act as a bar to future certification.

A commenter recommended deletion of proposed § 850.15(b)(1)(v) that would have allowed prevention or suspension of a certification for "other good cause." The commenter asserted that the provision did not add beneficial details to the reasons for suspension and revocation of a blaster's certification and was ambiguous. OSM concurs with this recommendation and has not adopted proposed § 850.15(b)(1)(v). It is believed that remaining §§ 850.15(b)(1)(i)–(iv), especially paragraph (i) allowing suspension for noncompliance with orders of the regulatory authority, provide adequate grounds for action.

A commenter described the provisions for suspension and revocation of certificates under § 850.15 as not rigorous enough, explaining that infractions of the laws governing the use of explosives are very serious and warrant specified action. The commenter suggested changing the discretion afforded in § 850.15(b) in suspending or revoking a blaster's certificate to mandatory action. Other commenters believed that sanctions should be placed on basic qualifying criteria and that certain actions be consistent with Section 518 of the Act with respect to penalties, opting for terms such as "willful" and "flagrant" violation rather then minor or unknown occurrences. OSM believes that suspension or revocation is appropriate if a violation is willful, but does not believe that suspension should be mandatory in all cases. OSM has accepted this suggestion in part, and has adopted stronger language in this provision.

Another commenter requested addition of a provision which would mandate suspension at the request of an operator. The concept of an operator

causing the suspension of the certificate of one of its employees has not been incorporated because the actual decision to suspend should be retained by regulatory authority; employer-employee differences should be resolved in other forums.

Sections 816.61 and 817.61 (Proposed § 850.16).

OSM had proposed in § 850.16 to require regulatory programs to ensure that: (1) The blast is to be fired only under the direction of a certified blaster; (2) no person is to be permitted to detonate explosives unless another person is present; and (3) persons responsible for blasting operations at a blasting site are to be familiar with the blasting plan and site-specific performance standards to be attained. While OSM has decided to adopt variants of these requirements, they have been adopted in §§ 816.61(c) and 817.61(c) because they pertain to conduct at the blasting site and are not components of a certification program.

A commenter suggested deletion of proposed § 850.16 because it was viewed as redundant with the requirements of §§ 816.61 through 816.68. These requirements add specifics not included in the performance standards set forth in §§ 816.61 through 816.68 and 817.61 through 817.68 and therefore are not redundant.

New §§ 816.61(c)(1) and 817.61(c)(1) requires that no later than 12 months after a blaster certification program for a State has been approved by OSM, all blasting operations in that State must be conducted under the direction of a certified blaster. The time frame was inserted for two reasons. First OSM recognizes that it will take time for blaster certification programs to be approved. Second, even after the approval of the blaster certification program, a reasonable time has to be provided for blasters to get certified. Twelve additional months is considered sufficient. Prior to the time a blaster certification program for a State has been approved under 30 CFR Chapter VII, Subchapter, C, OSM is requiring that all blasting operations have to be conducted by competent experienced persons who understand the hazards involved. This is a continuation of previous §§ 816.61(c) and 817.61(c).

A commenter recommended inserting "personal" in proposed § 850.16(a) to modify the word "direction." This would require the physical presence of the certified blaster to give the direction to the shot firer. OSM has adopted the substance of this suggestion in §§ 816.61(c)(3) and 817.61(c)(3) to require the presence of the certified blaster when the blast is detonated.

A commenter recommended that the provision in proposed § 850.15(c)(1) requiring a blaster to carry a valid certificate be reconsidered to allow that such certificates be on file in the mine office. OSM concurs with this recommendation, and has adopted language such that the certificate need not be carried by the blaster. However, proof of credentials should be readily available. Therefore, new §§816.61(c)(2) and 817.61(c)(2) require the blaster to either carry a valid certificate or have a copy of his or her certificate on file at the permit site.

Commenters objected to the provisions of proposed § 850.16(b), because the presence of more than one person would be dangerous. The commenters stated that only one person is necessary to detonate explosives. OSM disagrees. OSM's performance standards require (1) access control within the blast area, (2) blast recordkeeping, (3) warning and all clear signals and (4) assessing the blast site after the blast for hazards. OSM believes that all of these duties cannot be adequately performed by one person. Also, in the event one person is required to leave the site or is incapacitated, another person should be available to ensure that the proper procedures are followed. The intent of the rule is not to crowd the blast area with onlookers, but to protect the blaster and other people entering the mine site, and to ensure compliance with other performance standards as listed above. Therefore, a provision has been incorporated into §§ 816.61(c)(3) and 817.61(c)(3) which requires the presence of a blaster and at least one other person at the firing of each blast. OSM believes that the rule as written provides necessary backup responsibility and safety precautions.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that this is not a major rule and does not require a regulatory impact analysis because it will impose only minor costs on the coal industry and coal consumers.

OSM received one comment from a State regulatory authority questioning how it could conclude that only minor costs will be imposed by the blaster certification program without soliciting the opinion of industry on the costs. OSM must consider the incremental impact of adopting the proposal or allowing the previous final rule to remain in effect. Under Executive Order 12291 (February 17, 1981), OSM is required to assess the costs imposed by a proposed rule and to determine whether a regulatory impact analysis is required. After its own examination OSM has determined that this rule does not meet the criteria of a major rule.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have significant economic impacts on a substantial number of small entities.

One commenter noted that OSM's proposed rule would require blaster certification, which had not been effectively required before, and questioned how that could "ease the regulatory burden on small coal operations in Appalachia." Under the rules in effect on the date of proposal all blasters would have eventually been required to obtain a certificate under a national testing program. Under the rules adopted today, State certificates, based on a State's specific requirements will be accepted. Because the requirements will be more localized, OSM expects that small entities, especially those in Appalachia, will be able to acquire certified blasters at less cost. In any case OSM believes it has properly concluded that the impacts of the proposal on small operations will not be "significant."

Paperwork Reduction Act

The information collection requirement contained in 30 CFR Part 850 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0080. This approval is being codified under § 850.10.

The information required by 30 CFR Part 850 will be used by the regulatory authority in monitoring the implementation of the blaster certification programs.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the Final Environmental Impact Statement OSM EIS–1: Supplement according to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department

of the Interior, Washington, DC 20240. This preamble serves as the record of decision under NEPA. This rule adopts the preferred alternative published in Volume III of the EIS which is analyzed in the EIS.

Agency Approval

Section 516(a) requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

30 CFR Part 850

Explosives, Mining, Safety, Surface mining, Training program.

For the reasons stated above, 30 CFR Parts 816, 817 and 850 are amended as follows:

Dated: February 28, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. Paragraph (c) of § 816.61 is revised to read as follows:

§ 816.61 Use of explosives: General requirements.

* * * * *

(c) *Blasters.* (1) No later than 12 months after the blaster certification program for a State required by Part 850 of this chapter has been approved under the procedures of Subchapter C of this chapter, all blasting operations in that State shall be conducted under the direction of a certified blaster. Before that time, all such blasting operations in that State shall be conducted by competent, experienced persons who understand the hazards involved.

(2) Certificates of blaster certification shall be carried by blasters or shall be on file at the permit area during blasting operations.

(3) A blaster and at least one other person shall be present at the firing of a blast.

(4) Persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

2. Paragraph (c) of § 817.61 is revised to read as follows:

§ 817.61 Use of explosives: General requirements.

* * * * *

(c) *Blasters.* (1) No later than 12 months after the blaster certification program for a State required by Part 850 of this chapter has been approved under the procedures of Subchapter C of this chapter, all surface blasting operations incident to underground mining in that State shall be conducted under the direction of a certified blaster. Before that time, all such blasting operations in that State shall be conducted by competent, experienced persons who understand the hazards involved.

(2) Certificates of blaster certification shall be carried by blasters or shall be on file at the permit area during blasting operations.

(3) A blaster and at least one other person shall be present at the firing of a blast.

(4) Persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

* * * * *

3. Subchapter M is revised to read as follows:

SUBCHAPTER M—TRAINING, EXAMINATION, AND CERTIFICATION OF BLASTERS

PART 850—PERMANENT REGULATORY PROGRAM REQUIREMENTS

Sec.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 850.1 Scope.

This part establishes the requirements and the procedures applicable to the development of regulatory programs for training, examination, and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

§ 850.5 Definition.

As used in this part—

Blaster means a person directly responsible for the use of explosives in surface coal mining operations who is certified under this part.

§ 850.10 Information collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0080. The information is being collected to meet the requirements of Sections 503, 515, and 719 of Pub. L. 95-87. This information will be used by the regulatory authority to assist in implementing the blaster certification program. The obligation to respond is mandatory.

§ 850.12 Responsibility.

(a) The regulatory authority is responsible for promulgating rules governing the training, examination, certification and enforcement of a blaster certification program for surface coal mining operations. When the regulatory authority is a State, the State shall submit these rules to the for approval under Parts 731 and 732 of this chapter.

(b) The regulatory authority shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or implementation of a Federal program or within 12 months after the publication date of this rule, whichever is later. The Director may approve an extension of the 12-month period upon a demonstration of good cause.

§ 850.13 Training.

(a) The regulatory authority shall establish procedures which require that—

(1) Persons seeking to become certified as blasters receive training including, but not limited to, the technical aspects of blasting operations and State and Federal laws governing the storage, transportation, and use of explosives; and

(2) Persons who are not certified and who are assigned to a blasting crew or assist in the use of explosives receive direction and on-the-job training from a blaster.

(b) The regulatory authority shall ensure that courses are available to train persons responsible for the use of

explosives in surface coal mining operations. The courses shall provide training and discuss practical applications of—

(1) Explosives, including—

(i) Selection of the type of explosive to be used;

(ii) Determination of the properties of explosives which will produce desired results at an acceptable level of risk; and

(iii) Handling, transportation, and storage;

(2) Blast designs, including—

(i) Geologic and topographic considerations;

(ii) Design of a blast hole, with critical dimensions;

(iii) Pattern design, field layout, and timing of blast holes; and

(iv) Field applications;

(3) Loading blastholes, including priming and boostering;

(4) Initiation systems and blasting machines;

(5) Blasting vibrations, airblast, and flyrock, including—

(i) Monitoring techniques, and

(ii) Methods to control adverse affects;

(6) Secondary blasting applications;

(7) Current Federal and State rules applicable to the use of explosives;

(8) Blast records;

(9) Schedules;

(10) Preblasting surveys, including—

(i) Availability,

(ii) Coverage, and

(iii) Use of in-blast design;

(11) Blast-plan requirements;

(12) Certification and training;

(13) Signs, warning signals, and site control;

(14) Unpredictable hazards, including—

(i) Lightning,

(ii) Stray currents,

(iii) Radio waves, and

(iv) Misfires.

§ 850.14 Examination.

(a) The regulatory authority shall ensure that candidates for blaster certification are examined by reviewing and verifying the—

(1) Competence of persons directly responsible for the use of explosives in surface coal mining operations through a written examination in technical aspects of blasting and State and Federal laws governing the storage, use, and transportation of explosives; and

(2) Practical field experience of the candidates as necessary to qualify a person to accept the responsibility for blasting operations in surface coal mining operations. Such experience shall demonstrate that the candidate possesses practical knowledge of blasting techniques, understands the hazards involved in the use of explosives, and otherwise has exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations.

(b) Applicants for blaster certification shall be examined, at a minimum, in the topics set forth in § 850.13(b).

§ 850.15 Certification.

(a) *Issuance of certification.* The regulatory authority shall certify for a fixed period those candidates examined and found to be competent and to have the necessary experience to accept responsibility for blasting operations in surface coal mining operations.

(b) *Suspension and revocation.* (1) The regulatory authority, when practicable, following written notice and opportunity for a hearing, may, and upon a finding of willful conduct, shall suspend or revoke the certification of a blaster during the term of the certification or take other necessary action for any of the following reasons:

(i) Noncompliance with any order of the regulatory authority.

(ii) Unlawful use in the work place of, or current addiction to, alcohol, narcotics, or other dangerous drugs.

(iii) Violation of any provision of the State or Federal explosives laws or regulations.

(iv) Providing false information or a misrepresentation to obtain certification.

(2) If advance notice and opportunity for hearing cannot be provided, an opportunity for a hearing shall be provided as soon as practical following the suspension, revocation, or other adverse action.

(3) Upon notice of a revocation, the blaster shall immediately surrender to the regulatory authority the revoked certificate.

(c) *Recertification.* The regulatory authority may require the periodic reexamination, training, or other demonstration of continued blaster competency.

(d) *Protection of Certification.* Certified blasters shall take every reasonable precaution to protect their certificates from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to the certifying authority.

(e) *Conditions.* The regulatory authority shall specify conditions for maintaining certification which shall include the following:

(1) A blaster shall immediately exhibit his or her certificate to any authorized representative of the regulatory authority or the Office upon request.

(2) Blasters' certifications shall not be assigned or transferred.

(3) Blasters shall not delegate their responsibility to any individual who is not a certified blaster.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

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federal register

Friday
March 4, 1983

Part IX

Tennessee Valley Authority

Intergovernmental Review of Tennessee Valley Authority Programs and Activities; Proposed Regulation

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1311

Intergovernmental Review of Tennessee Valley Authority; Programs and Activities

AGENCY: Tennessee Valley Authority.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would implement Executive Order No. 12372 ("Intergovernmental Review of Federal Progams") and the Intergovernmental Cooperation Act of 1968 and would assist TVA in carrying out its responsibilities under the TVA Act. They apply to Federal financial assistance and direct Federal development programs and activities of TVA. Executive Order No. 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A-95.

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

ADDRESS: Interested persons should submit comments to: Richard L. Morgan, Manager, Economic and Community Development, Tennessee Valley Authority, 201 Summer Place Building, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Richard Ginn, 615-632-6605.

SUPPLEMENTARY INFORMATION: .

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. The A-95 system required State and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular State and local governments. The system also required review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. TVA used this system to supplement the many other opportunities TVA provides for involvement in TVA decisionmaking and thought that it strengthened TVA's relationship with the States of the Tennessee Valley region.

These regulations and the order's coordination process are not intended to displace the many other ways TVA coordinates its activities. TVA makes a concerted effort to ensure that its activities are coordinated with and reviewed by the citizens and State and local officials of the Tennessee Valley region.

The meetings of TVA's Board of Directors are open to the public, and the public, including any State or local officials present, is encouraged to discuss matters of interest with the Board. In addition to the 22 regularly scheduled Board meetings held at different locations throughout the Tennessee Valley, the Board held 6 townhall-type listening sessions in the Valley during 1982. TVA also conducts public meetings on matters of general interest. In 1982, 76 such meetings were held in the Valley. The TVA region is divided into districts and an administrator appointed for each district whose job it is to act as TVA's local liaison with State and local officials and the pubic. TVA also has toll-free "Citizen Action Lines" to take questions from and provide answers to callers. Last Year, TVA responded to 60,666 calls.

In addition to these opportunities for providing comments on TVA programs and activities, all of TVA's major activities which have a significant impact on the quality of the human environment are coordinated under TVA's procedures implementing the National Environmental Policy Act. NEPA coordination includes a specific request for comments from State and local officials whose jurisdictions are affected by the proposal. For example, all of TVA's major construction projects, whether funded with appropriations or by the TVA power program, are reviewed under the NEPA process.

On July 14, 1982, President Reagan signed Executive Order No. 12372, "Intergovermental Review of Federal Programs." The Executive order is reproduced as Attachment A to the OMB notice published in the January 24 **Federal Register** (48 FR 3075-76 (1983)). The order directs the revocation of circular A-95, and provides for a new intergovernmental consultation system that is consistent with the President's policies concerning federalism and regulatory relief. Under the order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the order and the Intergovernmental Cooperation Act, which Federal programs and activities to review and the procedures by which the review will take place.

When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than circular A-95 did and is consistent with TVA's existing policy of close cooperation and consultation with State and local officials.

As to some Federal agencies, the federally required procedures for consultation under circular A-95 created a substantial regulatory burden. The Executive order's system of consultation will significantly reduce that burden. In contrast to the A-95 system, which relied heavily on Clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the order, consistent with the President's federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the order, OMB wrote to each State concerning the establishment of an official State process. This letter is reproduced as Attachment B to the OMB notice published in the January 27 **Federal Register** (48 FR 3929 (1983)). This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a State that transmits the result of the State review and coordination with recommendations that may differ from the proposal to TVA and other Federal agencies and to which TVA directs official communications (*e.g.*, explanations of nonaccommodation) to the State *under the order.* A State may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions under the order with TVA. However, there should be only one point of contact to officially transmit recommendations for change to Federal agencies under the order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the order become effective (they will be published on or about April 30, 1983), the existing Federal A-95 consultation system will no longer be in effect. Other existing TVA consultation and coordination processes are not affected by these proposed procedures, and TVA will continue to seek State and local

officials' and the public's views on the entire range of TVA's programs and activities under these other processes.

OMB will have general government-wide oversight responsibility for the implementation of the order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals of agency actions by non-Federal parties."

Development of Proposed Regulations

The Executive order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if a 30-day delay between the publication date of the final regulations and their effective date is observed. Consequently, TVA proposes to make the final regulations effective immediately upon publication on April 30. There would be no further rulemaking with respect to the Executive order.

As a matter of style, the proposed regulations use the present tense when describing TVA's obligations. For example, when the proposed regulation says that TVA "provides the State with a timely explanation," the provision requires TVA to do so.

In order to provide consistency among the various Federal agencies in their dealings with the States under the order, the agencies and OMB worked together to the extent feasible to arrive at common policy decisions and common regulatory language. This should assist the State in developing its procedures under the order for communicating with the various Federal agencies.

Removal of Procedures Implementing OMB Circular A-95

In connection with these proposed regulations, TVA is proposing to remove its existing procedures implementing former OMB Circular A-95 published at 42 FR 30,959-61 (1977). Executive Order No. 12372 directed OMB to revoke the circular itself, and the OMB directive revoking the circular told Federal agencies to leave their A-95 regulations or procedures in place only until new regulations implementing the order were published on or about April 30, 1983.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction

TVA has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with TVA and allow State and local governments to establish cost-effective consultation procedures. For this reason, TVA believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, TVA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 1311.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order No. 12372 and the Intergovernmental Cooperation Act, foster an improved system of intergovernmental consultation, and assist TVA in carrying out its responsibilities under the TVA Act. Paragraph (c) states the important point that the order, and these regulations, are intended only to improve TVA's internal management of its consultation with State and local governments. Neither the order nor these regulations are intended to create any right of judicial review of TVA's action.

Section 1311.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed regulations. "Order" means Executive Order No. 12372. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 States. Several other terms appearing in the order are not defined in this section, but are used in the regulations in a way that makes their operational meaning clear (*e.g.*, accommodate and explain in § 1311.7).

Section 1311.3 What programs and activities of TVA are subject to these regulations?

Paragraph (a) provides that TVA will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order No. 12372 regulations, listing the programs and activities that are subject to the regulations. Updated lists will be published when necessary in order to let States know which of TVA's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those Federal financial assistance and direct Federal development programs and activities that TVA proposes to exclude from coverage under these regulations. The reason for each proposed exclusion is also listed. TVA seeks comments on the proposed exclusions. After promulgation of the final rules, if TVA wants to exclude new or additional programs or activities from coverage under the regulations, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all TVA's other Federal financial assistance and direct Federal development programs will be subject to the regulations. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (*e.g.*, procurement or TVA's power program) are not subject to the order or the Intergovernmental Cooperation Act. Despite this, TVA does intend to coordinate its power-program construction activities with a State's single point of contact as a matter of policy if the State desires. As more fully explained in the exclusion attachment, TVA already widely coordinates these activities and will continue to do so. Also, the order and these regulations do not apply to proposed regulations, legislation, or budget formulation.

Even if a program or activity is excluded from the consultation system established by the order, State and local officials would still have an opportunity to have their views considered by TVA. The order's consultation system is only one of many opportunities TVA provides for State and local officials to inform TVA of their views on TVA programs and activities. Moreover, any official or member of the public has the opportunity to address the TVA Board at its Board meetings which are open to the public. There also are other statutory requirements for coordination with which TVA complies, such as the coordination process established under the National Environmental Policy Act.

Paragraph (b) simply states that TVA, to the extent permitted by law, will use a State's official process to determine official views of State and local officials. This commitment extends only to programs and activities subject to these procedures that a State has selected for coverage under § 1311.5 of these regulations. If at any time a State believes that TVA has not made appropriate use of the official State process, the State is invited to raise this directly with TVA's General Manager.

Section 1311.4 [Reserved].

Section 1311.5 What procedures apply to a State's choice of programs?

States may choose to consult with TVA under the order concerning any of TVA's Federal financial assistance and direct Federal development programs and activities that TVA's **Federal Register** notice lists as subject to the regulations. However, these regulations do not require States to consult with TVA concerning any particular program or activity.

TVA emphasizes that the choice of whether to cover a particular Federal financial assistance or direct Federal development program or activity listed in TVA's **Federal Register** notice is entirely up to each State. While TVA will be happy to discuss with States the most effective ways of carrying out consultation concerning these programs and activities, TVA will not attempt to constrain the State's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The State should notify TVA of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the program and activities of each that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to TVA.

Paragraph (b) provides that, once a State has established a process and made its program selections known to TVA, TVA will use the State's process concerning the programs and activities selected by the State as soon as feasible. While TVA will make every effort to use the State's process, there may be situations, on individual programs or projects, where TVA may not be able to do so for a time. TVA will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use the State process.

Paragraph (c) provides that TVA may establish deadlines by which States should inform TVA of changes in their program selection choices. A State may add or delete a program or activity from those it wishes to cover under the order at any time. However, in order for meaningful consultation to occur under the regulations, TVA may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, TVA may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the States that, for example, if they wished to have consultation under the order begin with respect to a particular program on a given date, they would have to inform TVA of their program selection change a certain time (*e.g.*, 30 days, 45 days) prior to that date.

Section 1311.6 How does TVA give States an opportunity to comment on proposed financial assistance and direct development?

Paragraph (a) points out that the order would apply not only to comments prepared pursuant to the official State process but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the order permits States to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opporutinity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated stands in the shoes of the official State process with respect to the order's consultation process. For example, efforts by TVA to reach a negotiated solution with the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to TVA under the order's process. Rather, the official would send the comment to TVA through the State single point of contact. TVA would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, TVA would explain the nonaccommodation to the single point of contact as well as to the local official. Routing the delegated comment through the State single point of contact would alert TVA to the fact that the local official's comments should be dealt with under these procedures and make unnecessary a separate communication from the State to TVA informing TVA that the comment was an official comment of the State.

Section 2(b) of the order requires Federal agencies to communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the order into these procedures. What the requirement means is TVA makes an effort to ensure that information on proposed actions or decisions of TVA is available to the States in sufficient time to be able to contribute meaningfully to TVA's decisionmaking process. For example, TVA would make sure that the State learned of a proposed Federal development project in time to make a meaningful response.

Paragraph (c) states that, as a general rule, States choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development activities before TVA commits itself to a given course of action. TVA, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are, for example, an emergency or a statutory deadline. Paragraph (c) also provides that TVA may establish deadlines or timeframes for comment on particular actions.

Paragraph (d) makes an important point with respect to the way that communications between States and TVA would work under the order's process. Under the order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between TVA and the official State process flow efficiently, TVA strongly encourages States to establish a "single point of contact" for State communications with Federal agencies under the order's process. Channeling communications from the States to Federal agencies and from agencies back to the States through

a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable TVA to know which communications to treat as official under the regulations. TVA needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it will respond under the provisions of these regulations. States' use of a single point of contact will permit TVA to make this necessary administrative distinction. In the absence of a State process, or with respect to a program that a State has not selected for coverage, the provisions of the order and these procedures will not apply, however.

As stated earlier, issuance of these procedures is not intended to displace the many other opportunities TVA provides for the public and State and local officials to communicate their views on TVA programs and activities. These opportunities extend to all of TVA's activities, including its power program activities, and are not limited to just Federal financial assistance and direct Federal development programs. To the extent the State desires to use the formal Executive order process to communicate its views on TVA's Federal financial assistance and direct Federal development activities and programs, these regulations provide it the opportunity of doing so. The choice is the State's.

In order to assist TVA in responding to a State's comments under the order and to make any comments as meaningful as possible, TVA encourages the States to take into account in their comments any statutory or regulatory requirements or criteria which apply to the proposed activity, to indicate the magnitude of the State's concerns, and to reconcile any differences of opinion among State agencies or State and local officials to the extent feasible.

Section 1311.7 How does TVA make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to TVA under the order and these regulations, TVA has three choices. First, TVA can accept the State's comments (*i.e.*, do as the State recommends). Second, TVA can reach a mutually agreeable solution with the State. This solution could differ from the original State position on the matter. Third, if TVA cannot accept the State's comments or reach a mutually agreeable solution, TVA will give the State a timely, simple explanation of TVA's reasons for not doing so. While TVA is not required to accept the State's comments or to begin discussions towards another solution, TVA does have an obligation under these procedures to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates TVA's reasons for its decision to the State. A telephone call, a meeting, or a letter would perform this function. TVA has the discretion to choose the most appropriate mode of communicating the explanation in each case. TVA will, however, always respond in writing to any correspondence from a Governor.

Subdivision (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from TVA. TVA will direct all such explanations to the single point of contact in each State that has one. Where accommodation discussions have occurred between TVA and another party in the State, the other party will also be provided such explanation.

Subparagraph (b)(1) provides that a nonaccommodation explanation will state that TVA will not implement its decision until 10 days after the explanation is provided to the single point of contact, except as provided in subparagraph (b)(2). This waiting period is intended to permit States to respond to TVA in cases of nonaccommodation before the program or activity is commenced. In a case in which TVA has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the 10-day period will start to run from the date of the original explanation to the single point of contact.

Subparagraph (b)(2) recognizes that there will be some situations in which TVA cannot observe the 10-day waiting period. These unusual circumstances could include, for example, a statutory deadline or an emergency that may make it infeasible for TVA to wait 10 days before implementing its decision. In a situation where TVA cannot observe the waiting period, the General Manager will review the decision before the nonaccommodation explanation is made and before TVA implements the decision. The nonaccommodation explanation will include TVA's reasons for determining that the 10-day waiting period is not feasible.

Section 1311.8 What are TVA's obligations in interstate situations?

In some cases, action taken by TVA in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, TVA has certain additional obligations. First, TVA will identify its direct Federal development of Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, TVA will, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official State process under the order. Except in unusual circumstances, TVA will provide the affected States an opportunity for comment of at least 45 days before TVA commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to TVA.

TVA, obviously, cannot require States to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, TVA strongly encourages each affected State to share its comments with and obtain the views of other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if there is not a single point of contact. TVA encourages States to reconcile differences where they exist so that the States can present TVA with a unified position. If the affected States provide TVA with conflicting recommendations, TVA will attempt to reconcile such conflicts before making a decision.

Section 1311.9 [Reserved].

Section 1311.10 May TVA waive any provision of these regulations?

This section allows TVA to waive any provision of these regulations in an emergency. TVA expects to use this provision sparingly, since TVA's policy is to carry out the order as fully as it can.

Attachment—List of Proposed Exclusions

TVA proposes to exclude the below listed categories of Federal financial assistance and direct Federal development activities from coverage under these procedures:

1. Agreements involving minor land uses—TVA's experience has been that these kinds of actions normally do not have a significant impact on area and community planning or on the physical environment.

2. Transfer or acquisition of land or landrights except transfers or acquisitions for major industrial, recreation or commercial developments—It has been TVA's experience that these kinds of actions normally do not have a significant impact on area or community planning.

3. Minor research or demonstration projects with State and local agencies or

private organizations—TVA's experience has been that these kinds of activities normally do not have a significant impact on area or community planning.

4. Technical and planning assistance activities—TVA's experience has been that these kinds of activities do not have a significant impact on area or community planning.

5. Approvals under section 26a of the TVA Act of minor structures, boat docks, or shoreline facilities—TVA's experience has been that these kinds of activities normally do not have a significant impact on area or community planning.

6. TVA's power program—TVA's power program is self-financing and does not use appropriated funds. It is neither a Federal financial assistance program nor a direct Federal development activity and, accordingly, not subject to the Executive order or these regulations. TVA presently coordinates with State and local governments all power program construction activities for which an environmental impact statement is prepared under TVA's NEPA procedures or which significantly affect the governmental responsibilities of a State or local government (those power-construction activities which would place potential demands on or impact State or local services such as police and fire protection, health care, sewage treatment, solid waste disposal, and transportation. TVA intends to continue to coordinate such activities and will include coordination with the State single point of contact if a State desires.

W. F. Willis,

General Manager.

List of Subjects in 18 CFR Part 1311

Intergovernmental relations.

It is proposed to amend Title 18 of the Code of Federal Regulations by adding Part 1311 as follows:

PART 1311—INTERGOVERNMENTAL REVIEW OF TENNESSEE VALLEY AUTHORITY FEDERAL FINANCIAL ASSISTANCE AND DIRECT FEDERAL DEVELOPMENT PROGRAMS

Sec.

Authority: Tennessee Valley Authority Act of 1933, 48 Stat 58, *as amended*, 16 U.S.C. 831–831dd (1976; Supp. V, 1981); section 401(b) of the Intergovernmental Cooperation Act, 42 U.S.C. 4231(b) (1976); Executive Order No. 12372.

§ 1311.1 What is the purpose of these regulations?

(a) The regulations implement Executive Order No. 12372, issued July 14, 1982, titled "Intergovernmental Review of Federal Programs" and the Intergovernmental Cooperation Act and are intended to assist TVA in carrying out its responsibilities under the TVA Act.

(b) Executive Order No. 12372 is intended 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 and direct Federal development.

(c) The order and these regulations are intended only to improve the internal management of TVA. Neither the order nor these regulations are intended to create any right or benefit enforceable at law by a party against TVA.

§ 1311.2 What definitions apply to these regulations?

"TVA" means the Tennessee Valley Authority.

"Order" means Executive Order No. 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

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

§ 1311.3 What programs and activities of TVA are subject to these regulations?

(a) TVA publishes in the **Federal Register** a list of TVA's programs and activities that are subject to these regulations. Except where specifically excluded, TVA's Federal financial assistance and direct Federal development programs and activities are subject to these regulations.

(b) With respect to programs and activities that are subject to these regulations and that a State chooses to cover under § 1311.5 of this part, TVA, to the extent permitted by law, uses the official State process to determine official views of State and local elected officials. TVA will utilize other means to respond to any substantive comments it receives on any of its other programs and activities.

§ 1311.4 [Reserved]

§ 1311.5 What procedures apply to a State's choice of programs under the order?

(a) Each State that adopts a process under the order notifies TVA of TVA's Federal financial assistance and Federal direct development programs that the State chooses to cover under the order.

(b) TVA uses a State's process under the order as soon as feasible, depending on individual programs and projects, after the State notifies TVA of its program choices.

(c) States may change their program choices under the order at any time. TVA may establish deadlines by which States are required to inform TVA of changes in their program choices.

§ 1311.6 How does TVA give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the order, including comments where the State has delegated to local elected officials the review, coordination, and communication with TVA. This section and the order's process supplement TVA's many other coordination processes and do not replace such processes.

(b) With respect to programs and activities that are subject to the order and these procedures and that a State chooses to cover under § 1311.5 of this Part, TVA, to the extent permitted by law, communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, TVA gives States at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 1311.8 of this Part for comment periods pertaining to interstate situations); and TVA may establish deadlines for States to complete their review of TVA programs and projects and submit their comments to TVA.

(d) TVA responds as provided in these regulations to all comments from a State that are provided through a State

office or official that acts as a single point of contact under the order between the State and all Federal agencies.

§ 1311.7 How does TVA make efforts to accommodate State and local concerns?

(a) If a State provides comments to TVA in accordance with § 1311.6(d) of this Part, TVA:

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3) (i) Provides the State with a timely explanation of the basis for TVA's decision;

(ii) TVA always responds in writing to correspondence from Governors.

(iii) If the State has designated a State office or official as a single point of contact between the State and all Federal agencies, TVA provides any explanation under paragraph (a)(3) of this section to that office or official as well as to any local official who acted for the State on the proposed action.

(b) In any explanation under subparagraph (a)(3) of this section, TVA informs the State that:

(1) TVA will not implement its decision for 10 days after the explanation is provided; or

(2) The General Manager has reviewed the decision and determined that, because of unusual circumstances, the 10-day waiting period should be waived.

§ 1311.8 What are TVA's obligations in interstate situations?

TVA is responsible for:

(a) Identifying proposed TVA Federal financial assistance and TVA direct Federal development that have an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 1311.9 [Reserved]

§ 1311.10 May TVA waive any provision of these regulations?

In an emergency, TVA may waive any provision of these regulations.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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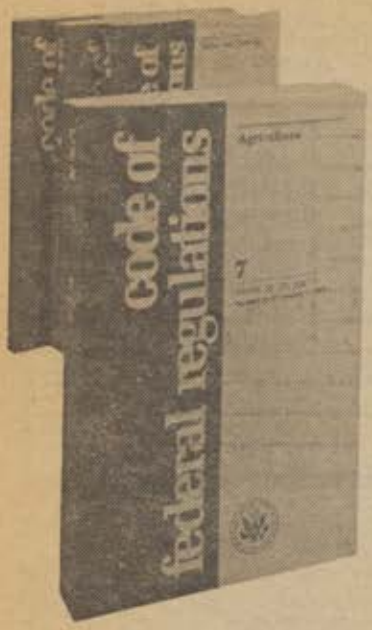

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